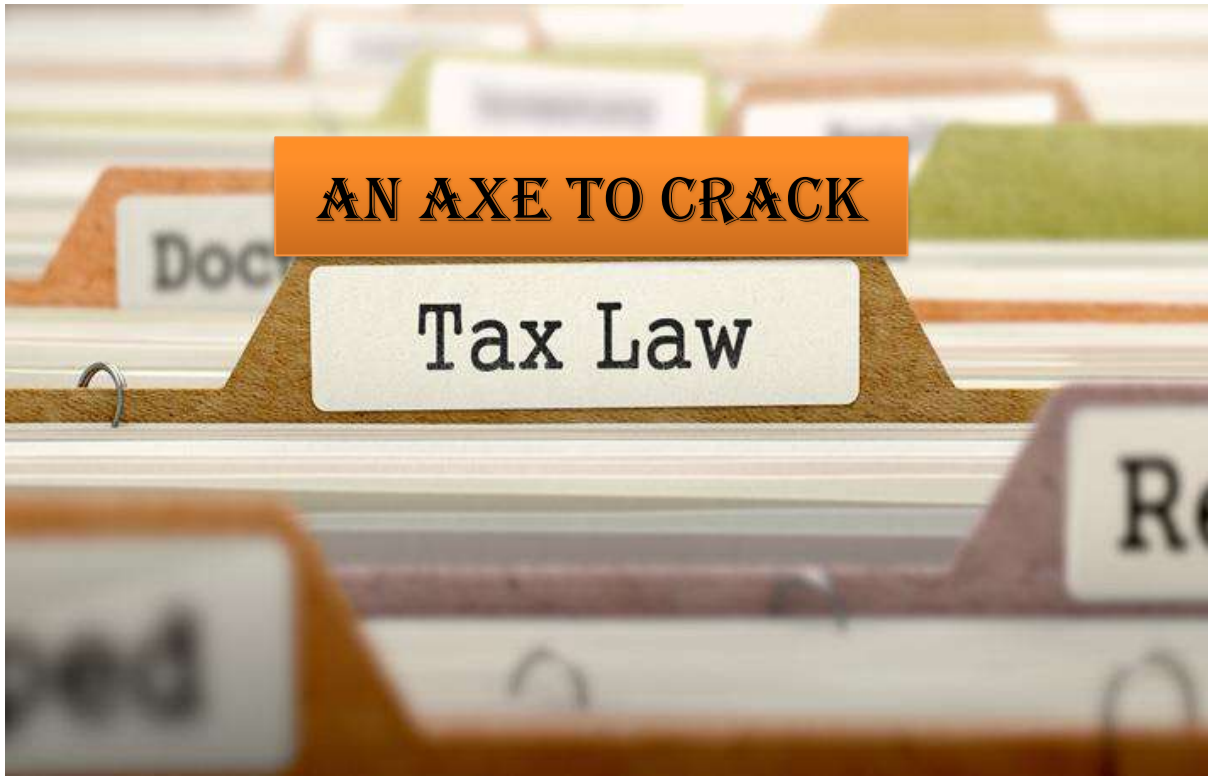


OM SAI RAM



**A SIMPLIFIED HANDBOOK
ON INCOME TAX
FOR CA-INTER**

Applicable for Assessment Year 2024-25

*As applicable for May'24 & November'24 exams
(New Syllabus)*

**COMPILED
BY:**

CA VIKAS GOWDA

E-Mail: cavikasgowda.edu@gmail.com

Name:

Target in Tax paper:

BEFORE WE BEGIN....!

“An Investment in Knowledge pays the best interest”

- Benjamin Franklin

Anything perceived with an objective behind doing it would yield us better results, Infact if you're devoted towards it nothing can stop you from grabbing it.

Your Facilitator's note:

Dear professional student,

I welcome you all to this professional world where you will be levelling up yourself in all nuances of life be it both personally and professionally.

This journey you will observe your true potential and approach on various facets of life.

My suggestion to you is to love what you do whole heartedly and respect the same. Because you all would know the simple strategy of mirror; ‘What you give, you get back in return’. I want you all to see the learning towards seeking knowledge rather than just to crack the exams, because ultimately what stays with you will always make you grow heights.

It also simply means that in this knowledge acquiring process our motive will definitely be to crack exams and score the best you deserve.

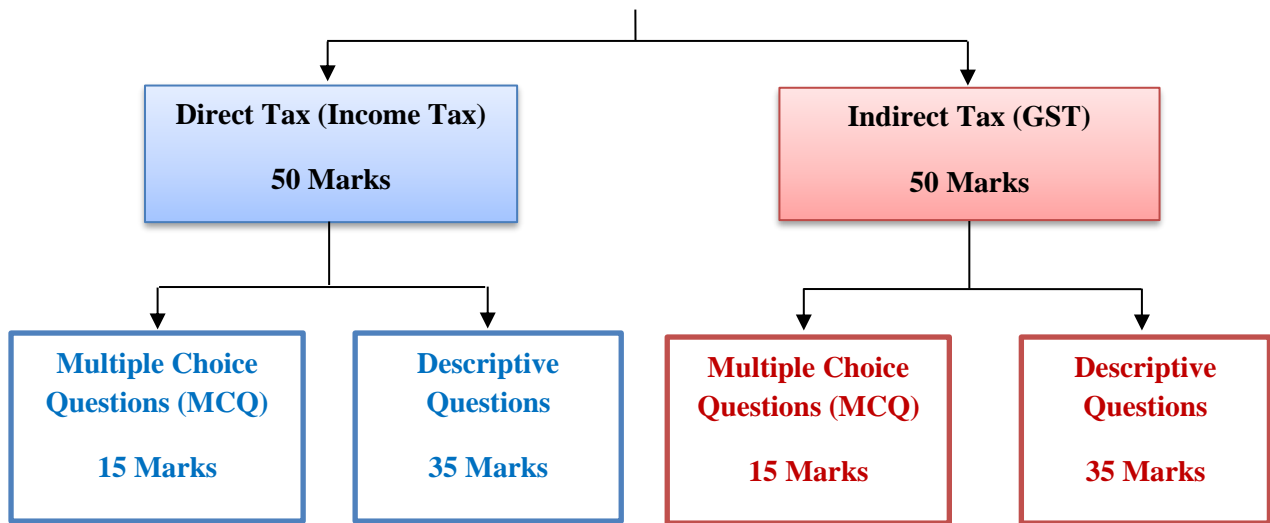
Work harder and build your professional life!

Keeping in view the precision what course demands, this handbook helps a student to understand the subject in a simple and easier way. This material is condensed in such a way that student can study the entire syllabus within a short period of time and can clear the exams with good marks. It also makes the student conceptually strong in the subject.



Question Paper Pattern

PAPER 3: TAXATION



SECTION A:

DIRECT TAX (50 MARKS)

INCOME TAX



CA-INTER

GROUP 1

• **PAPER 3: TAXATION**

SECTION A:

DIRECT TAX (50 MARKS)

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HAPPY

LEARNING

*“Teachers Open the Door, but you
must enter by yourself”*

ALL THE BEST

Never Give Up

CHAPTER-1

INTRODUCTION- BASIC CONCEPTS OF INCOME TAX

TAXES - AN INTRODUCTION:

Article 366(28) of the Constitution of India defines the term “Taxation” as follows –

“Taxation includes the imposition of any tax or impost, whether general or local or special, and tax shall be construed accordingly.”

Tax is a Compulsory payment which every person has to make to the government. Taxes are considered to be the “cost of living in a society”. The government collects tax in order to meet public expenditure like health, education, infrastructure, Public security etc.

A tax is imposed by law. So tax is compulsory payment to the governments from its citizens. Tax is duty from every citizen to bear his share for supporting the government. The tax is compulsory payment, refusal or objection for paying tax due leads to punishment or is an offence in the court of law. Government imposes tax when somebody buys commodities, or when uses services or earns income or any other condition for compulsion is found. The government practices its sovereign when levying the tax on its citizens.

The reason for levy of taxes is that they constitute the basic source of revenue to the Government. Revenue so raised is utilized for meeting the expenses of Government like defence, provision of education, health-care, infrastructure facilities like roads, dams etc.

There are two types of taxes-

- Direct taxes
- Indirect Taxes

Direct Tax:

Direct tax is levied directly on the income or wealth of a person. Direct tax is the one where impact and incidence is on the same person. Impact is burden of suffering tax whereas Incidence is the liability to pay tax. It is levied on persons. The person who pays the tax to the Government cannot recover it from somebody else i.e. the burden of a direct tax cannot be shifted.

It is difficult to collect since there is psychological resistance among the tax payers to pay the tax.

Income tax is one of the forms of Direct Taxes.

Indirect tax:

Indirect tax is levied on price of the goods or services. Indirect tax is the one where impact and incidence is on different persons. In case of indirect taxes, the person paying the tax passes on the incidence to another person.

It is easy to collect as a particular good or service cannot be obtained unless tax is paid.

Examples of Indirect taxes are GST or Customs Duty.

Differences between Direct and Indirect taxes:

Basis	Direct Tax	Indirect Tax
Incidence & Impact	The impact and incidence is on the same person	The impact and incidence is on different persons
Viability of payment	Direct taxes are lesser burden than Indirect taxes to people as direct taxes are based on Income earning ability of people.	Indirect taxes are borne by the consumers of commodities and services irrespective of financial ability as the MRP Includes all taxes.
Administrative viability	The administrative cost of collecting direct taxes is more and improper administration may result in tax evasion.	Cost of collecting Indirect taxes is very less as indirect taxes are wrapped up in prices of goods and services and cannot be evaded.
Tax Liability	It is levied on the assessee i.e. on the person who has earned income.	It is levied on supplier of Goods & Services.

TAX STRUCTURE IN INDIA:

Constitution of India:

The roots of every law in India lies in the Constitution, therefore understanding the provisions of Constitution is foremost to have clear understanding of any law. The authority to levy a tax is hence derived from the Constitution of India. Let us first understand what it talks about tax:

- **Article 265:** No tax shall be levied or collected except by the Authority of Law.
- **Article 246:** Distributes legislative powers including taxation, between the Parliament of India and the State Legislature.

Schedule VII: Enumerates powers under three lists-

- a) **Union List** - Parliament has the exclusive power to make laws on the matters contained in Union List.
- b) **Legislative List**- The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List.
- c) **Concurrent List**- Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list. In case of conflict; law made by Union Government prevails

Income-tax is the most significant direct tax. Entry 82 of the Union List i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income.

COMPONENTS OF INCOME TAX LAW:

The income-tax law in India consists of the following components –

- Income tax Act, 1961
- Relevant Finance Act
- Income Tax Rules, 1962
- Notifications & Circulars
- Judicial pronouncements (Legal Decisions)

Income Tax Act, 1961:

The present law of income tax in India is governed by the Income Tax Act, 1961 which is amended from time to time by the annual finance Act and other legislations pertaining to direct tax. The act which came into force on April 1, 1962, replaced the Indian income tax Act, 1922, which had remained in operation for 40 years. It extends to the whole of India. Furthermore, a set of rules known as Income Tax Rules, 1962 have been framed for implementing the various provisions of the Act.

Income Tax act contains sections 1 to 298 and XIV schedules.

1) A section may have sub-sections or clauses and sub-clauses.

When each part of the section is independent of each other and one is not related with other, such parts are called a “Clause”.

“Sub section”, on the other hand refers to such parts of a section where each part is related with other and all sub sections taken together completes the concept propounded in that section.

For example:

- a) the clauses of section 2 define the meaning of terms used in the Income-tax Act, 1961. Clause (1A) defines “agricultural income”, clause (1B) defines “amalgamation” and so on. Each one of them is independent of other clause of the same section.
- b) Likewise, the clauses of section 10 contain the exemptions in respect of certain income, like clause (1) provides for exemption of agricultural income and clause (2) provides for exemption of share income of a member of a hindu undivided family and so on.
- c) Section 5 defining the scope of total income has two sub- sections (1) and (2). Sub-section (1) defines the scope of total income of a resident and sub-section (2) defines the scope of total income of a non-resident. Each sub section is related with the other in the sense that only when one reads them all, one gets the complete idea related with scope of total income.

2) A section may also have Provisos and Explanations.

The Proviso(s) to a section/sub-section/clause spells out the exception(s)/condition(s) to the provision contained in the respective section/sub-section/clause, i.e., the proviso spells out the cases where the provision contained in the respective section/sub- section/clause would not apply or where the provision would apply with certain modification.

The Explanation to a section/sub-section/clause gives a clarification relating to the provision contained in the respective section/sub-section/clause.

For example:

- Sections 80GGB and 80GGC provides for deduction from gross total income in respect of contributions made to political parties or an electoral trust.
- The proviso to sections 80GGB and 80GGC provide that no deduction shall be allowed under those sections in respect of any sum contributed by cash to political parties or an electoral trust. Thus, the provisos to these sections spell out the circumstance when deduction would not be available thereunder in respect of contributions made.
- The Explanation below section 80GGC provides that for the purposes of sections 80GGB and 80GGC, “Political party” means a political party registered under section 29A of the Representation of the People Act, 1951.

Thus, the Explanation clarifies that the political party has to be a registered political party.

The Income-tax Act, 1961 undergoes change every year with additions and deletions brought out by the Annual Finance Act passed by Parliament. Sometime, Government brings Taxation Law Amendment Act also for amending the provisions of the Act.

Finance Act:

Every year a Budget is presented before the parliament by the Union Finance Minister. One of the important components of the Budget is the Finance Bill. The Bill contains various amendments such as the rates of income tax and other taxes. When the Finance Bill is approved by both the houses of parliament and receives the assent of President, it becomes the Finance Act. Amendments are made every year to the Income-tax Act, 1961 and other tax laws by the Finance Act.

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

- Part I of the First Schedule to the Finance Act specifies the rates of tax applicable for the current Assessment Year. Accordingly, Part I of the First Schedule to the Finance Act, 2023 specifies the rates of tax for A.Y. 2023-24.
- Part II specifies the rates at which tax is deductible at source for the current Financial Year. Accordingly, Part II of the First Schedule to the Finance Act, 2023 specifies the rates at which tax is deductible at source for F.Y. 2023-24
- Part III gives the rates for calculating income-tax for deducting tax from income chargeable under the head “Salaries” and computation of advance tax for F.Y. 2023-24 where the assessee exercises the option to shift out of the default tax regime provided under section 115BAC(1A).
- Part IV gives the rules for computing net agricultural income.

Note: Finance Act, 2023 are effective from 1st April, 2023, hence same is applicable for May'24 and November'24 exams.

Income Tax Rules:

The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT). The CBDT is empowered to make rules for carrying out the purposes of the Act. For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules may be called the Income-tax Rules, 1962. It shall come into force on the 1st day of April, 1962. Rules also have sub-rules, provisos and Explanations.

It is important to keep in mind that along with the Income-tax Act, 1961, these rules should also be studied.

Notifications:

Notifications are issued by the Central Government to give effect to the provisions of the Act. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications. Any notifications issued by CBDT and Central Government are binding on everyone i.e both department and assessee.

Circulars:

Circulars are issued by the CBDT to clarify the doubts regarding the scope and meaning of the provisions of the law and provide guidance to the Income Tax officers and assesseees. These circulars are binding on the department, not on the assessee but assessee can take benefit of these circulars.

Judicial Decisions or Legal decisions of Courts:

Case Laws refer to decision given by courts. It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assesseees and the department and give decisions on various issues.

Decisions pronounced by Supreme Court (apex court) become Judicial Precedent and are binding on all the courts, Appellate Tribunal, Income Tax Authorities and on assesseees.

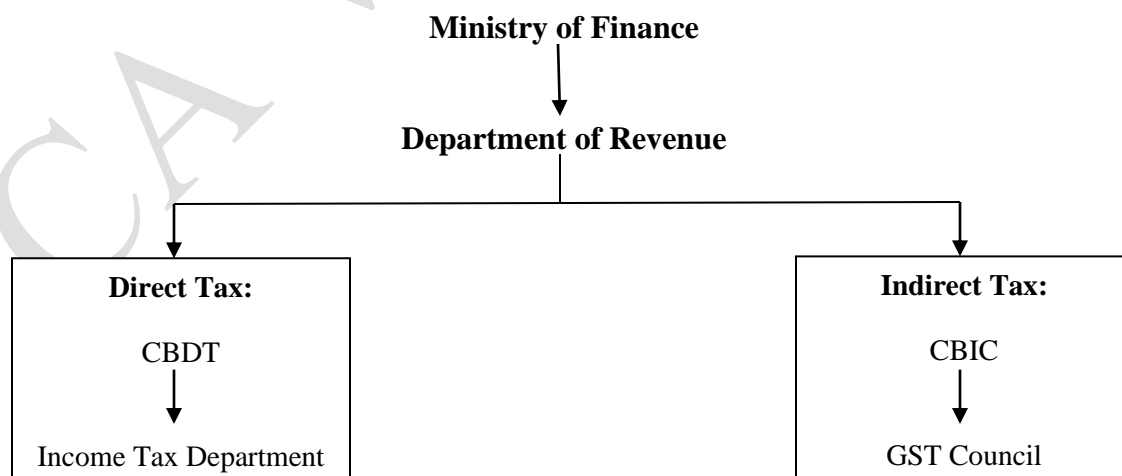
Further, High Court decisions are binding on assesseees and Income Tax Authorities which come under its jurisdiction unless it is overruled by a higher authority. The decision of a High Court cannot bind other High Court.

Note: Case laws are dealt with at the Final level.

ADMINISTRATION:

The Central Board of Revenue or Department of Revenue is the apex body charged with the administration of taxes. It is a part of Ministry of Finance which came into existence as a result of the Central Board of Revenue Act, 1924.

Initially the Board was in charge of both direct and indirect taxes. However, when the administration of taxes became too unwieldy for one Board to handle, the Board was split up into two, namely the Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs (CBEC) with effect from 1 January 1964.



BASIC CONCEPTS OF INCOME TAX:

Income-tax is one of the major sources of revenue for the Government. The responsibility for collection of income-tax vests with the Central Government. This tax is levied and collected under Income-tax Act, 1961 (hereinafter referred to as the Act).

The Income tax Act contains the provisions for determination of taxable income, determination of tax liability, procedure for assessment, appeal, penalties and prosecutions. It also lays down the powers and duties of various income tax authorities.

To levy income tax, one must have an understanding of the various concepts related to the charge of tax like Previous year, Assessment year, Income, Total income, Person etc.

Computation of Tax Liability include following steps:

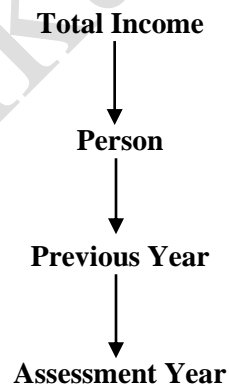
- 1) Determine the category of person.
- 2) Determine the residential status of the person as per section 6.
- 3) Calculate the Total income as per the provisions of Income tax Act.
- 4) Calculate the tax on income.

BASIS OF CHARGE:

Chargeability means incomes taxable under this act. There are two charging section, one is Section 4 which is general charging section which is applicable to entire act.

Specific charging Section- First section under each head of income is charging Section.

As per Section 4 “Total Income of a Person for the Previous Year is charged to tax in the next following Assessment Year.”



Incomes which are chargeable to tax under the Income tax act is defined by Section 2(24).

INCOME [Section 2(24)]:

The definition of income as per the Income-tax Act, 1961 begins with the words “Income includes”. Therefore, it is an inclusive definition and not an exhaustive one. Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of the term.

Income Includes-

- i. Profits & Gains of business or profession
- ii. Dividends
- iii. Voluntary Contributions received by Charitable or Religious Trust or Institutions or Associations or University or Hospitals or Electoral Trusts.
- iv. Value of any perquisite or profit in lieu of salary taxable u/s 17
- v. Any special allowance or benefit specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
- vi. Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
- vii. **Benefit or Perquisite to a Director:** The value of any benefit or perquisite, whether convertible into money or not, obtained from a company by (a) a director, or (b) a person having substantial interest in the company, or (c) a relative of the director or of the person having substantial interest, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid.
- viii. **Any Benefit or perquisite to a Representative Assessee:** The value of any benefit or perquisite (whether convertible into money or not) obtained by any representative assessee under Section 160(1) or beneficiary.
- ix. Any sum chargeable under section 28, 41 and 59
- x. Any capital gains chargeable under section 45.
- xi. Export Incentives
- xii. Any interest, Salary, Bonus, Commission or Remuneration earned by a partner of a firm from such Partnership firm.
- xiii. **Employees Contribution towards Provident Fund :** Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set-up under the provisions of the Employees State Insurance Act, 1948 or any other fund for the welfare of such employees.
- xiv. Any sum received under key man insurance policy including sum allocated by way of bonus on such policy.
- xv. Amount received for not carrying out any activity in relation to any business or profession.
- xvi. Fair market value of inventory which is converted into, or treated as a capital asset [Section 28(iva)].
- xvii. Winnings from lotteries, Crossword puzzles, races including Horse races, Card games & other games from gambling or betting of any form or nature.
- xviii. Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [Section 56(2)(ix)].
- xix. Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)].
- xx. Any consideration received for issue of shares exceeding the fair market value of shares referred u/s 56(2)(viib).
- xxi. Any compensation or payment in connection with termination of employment or the modification of the term and conditions relating thereto as referred u/s Section 56(2)(xi).

- xxii.** Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43.
- xxiii.** *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), to the extent the same exceeds the aggregate of the premium paid during the term of the policy, and not claimed as deduction under any other provision of the Act [Section 56(2)(xiii)];*

Concept of Income under the Income-Tax Act, 1961:

- **Regular receipt vis-a-vis Casual receipt:** Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 1961, even certain casual receipts which do not arise regularly are treated as income for tax purposes. Exp: Winnings from lotteries, crossword puzzles.
- **Revenue receipt vis-a-vis Capital receipt:** Income normally refers to revenue receipts. Capital receipts are generally not included within the scope of income in general parlance. However, the Income-tax Act, 1961 has specifically included certain capital receipts within the definition of income. Exp: Capital gains i.e., gains on sale of a capital assets like land.
- **Net receipt vis-a-vis Gross receipt:** Income means net receipts and not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts. The expenditure which can be deducted while computing income under each head is prescribed under the Income-tax Act, 1961.
- **Due basis vis-a-vis Receipt basis:** Income is taxable either on due basis or receipt basis. For computing income under the heads "Profits and gains of business or profession" and "Income from other sources", the method of accounting regularly employed by the assessee should be considered, which can be either cash system or mercantile system.
Some receipts are taxable only on receipt basis, like, income by way of interest received on compensation or enhanced compensation.

Income may be-

- a) In Cash or Kind
- b) On Receipt or Accrual basis
- c) Legal or Illegal
- d) Temporary or Permanent
- e) Lump sum or Installments
- f) Gifts
- g) Revenue or Capital receipt

CAPITAL VS REVENUE:

A receipt is taxable if it is of the nature of income. But receipts which are of capital nature are generally not taxable. The basic scheme of income-tax is to tax income not capital, and similarly to allow revenue expenditure. But this general rule is subject to certain exceptions.

The Act contemplates a levy of tax on income and not on capital and hence it is very essential to distinguish between capital and revenue receipts. Capital receipts cannot be taxed, unless they fall within the scope of the definition of “income” and so the distinction between capital and revenue receipts is material for tax purposes.

Certain capital receipts which have been specifically included in the definition of income are compensation for modification or termination of services, income by way of capital gains etc.

An amount referable to fixed capital is a capital receipt whereas a receipt referable to circulating capital would be a revenue receipt. While the latter is chargeable to tax, the former is not subject to income-tax unless otherwise expressly provided.

Fixed capital	Circulating Capital
Fixed capital is that which is not involved directly in the process of business but remains unaffected by the process. Example: Sale proceeds of building, machinery or plant will be capital receipt.	Circulating capital is that part of the capital which is turned over in the business and which ultimately results in profit or loss. Example: Proceeds of sale of stock-in-trade is a revenue receipt.
Fixed capital is a capital receipt and hence not taxable	Circulating capital is a revenue receipt and hence taxable

The Income-tax Act does not define the term “Capital receipt” & “Revenue receipt”. Also, it has not laid down the criterion for differentiating the capital and revenue receipt.

Income from transfer of capital asset or trading asset: Profits arising from the sale of a capital asset are chargeable to tax as capital gains under section 45 whereas profits arising from the sale of a trading asset being of revenue nature are taxable as income from business under section 28 provided that the sale is in the regular course of assessee’s business or the transaction constitutes an adventure in the nature of trade.

Revenue Receipts:

Profits and gains arising from the various transactions which are entered into in the ordinary course of the business of the tax payers or those which are incidental to or closely associated with his business would be revenue receipts chargeable to tax.

Revenue receipts are normally taxable unless specifically exempt.

For Example: Interest on fixed deposits, Rent received, Sale of goods, profits on purchase and sale of shares by a share broker on his own account, profits arising from dealings in foreign exchange by a banker or other financial institutions etc..

Examples for Revenue Receipts which are exempt from tax are- Specific Interest Income u/s 10(35), Agriculture Income u/s 10(1) etc..

Capital Receipts:

It is normally not taxable unless specifically included in the act.

For Example: Issue of shares, Loan from Bank/Friends etc..

Although the general principle of law is to tax only revenue receipts as income, there are exceptions to this rule under which capital receipts are also taxable as income-

- Compensation received on premature termination of employment is taxable as Salary Income though it is a Capital Receipt since it is specifically included in Section 17(3).
- Any compensation received for termination of Agency Contract.
- Income by way of Capital Gains.

The Income Tax Act, 1961 has defined five heads of income:

- 1) Income from Salaries
- 2) Income from House property
- 3) Profits & Gains of business or profession.
- 4) Capital Gains
- 5) Income from other sources

TOTAL INCOME [Section 2(45)]:

Total income is computed under the 5 heads of income. Income computed under each head of income is aggregated and the aggregate income is called as the Gross Total Income, certain deductions are allowed under Chapter VIA and the balance income taxable after deductions is called as Total Income.

PERSON [Section 2(31)]:

Person includes-

- i. An Individual
- ii. A Hindu Undivided Family
- iii. A Company
- iv. A Firm
- v. An Association of persons or Body of individuals, whether incorporated or not.
- vi. A Local Authority and
- vii. Every artificial juridical person, not falling within any of the preceding sub-classes.

ASSESSEE [Section 2(7)]:

Assessee means a person by whom any tax or any other sum of money is payable under this act and it includes –

- (i) Every person in respect of whom any proceeding has been initiated under the Act for the assessment of-
 - his income or
 - the income of any other person in respect of which he is assessable or
 - the loss sustained by him or by such other person or
 - the amount of refund due to him or to such other person.
- (ii) Every person who is deemed to be an Assessee under any provisions of the Act.
- (iii) Every person who is deemed to be an Assessee in default under any provisions of the Act.

Every Assessee is a Person, but every Person need not be Assessee under Income Tax.

ASSESSMENT [Section 2(8)]:

This is the procedure by which the income of an assessee is determined. It may be by way of a normal assessment or by way of reassessment of an income previously assessed.

Assessment Procedure will be dealt with in detail at the Final level.

ASSESSMENT YEAR [Section 2(9)]:

Assessment year means the period of 12 months commencing on 1st April every year and ending on 31st March of the next year.

The year in which income is earned is the previous year and such income is taxable in the immediately following year which is the assessment year.

Income earned in the previous year 2023-24 is taxable in the assessment year 2024-25.

PREVIOUS YEAR [Section 3]:

Previous year means the financial year immediately preceding the Assessment Year.

Income tax is payable on the income which is earned during the Previous Year and it is assessed in the immediately succeeding financial year which is called an Assessment Year.

Previous year applicable for May'24 & November'24 exams is 2023-24.

All assessees are required to follow a uniform previous year i.e. The Financial Year (1st April to 31st March) as their previous year. Although assessee may maintain books of accounts on calendar year basis (1st January to 31st December) but his previous year for income tax purposes shall be the Financial year.

In the following two circumstances previous year can be less than 12 months:

- a) In case of newly set up business or profession or a source of income newly coming into existence in the middle of the previous year.
- b) In case of discontinued business.

However Assessment year can never be less than 12 months.

General rule is that Income earned in the previous year is taxable in the Assessment year.

Exception to the General Rule:

However in the following cases the Income of the Assessee is taxable in the previous year itself-

a) Shipping business of Non-Resident [Section 172]:

In the case of a non-resident shipping company, which has no representative in India, any income derived from carrying passengers, livestock, mail or goods shipped at a port in India, will be taxed in the year of its earnings. 7.5% of the amount paid or payable on account of such carriage will be deemed to be the income. Such ship will be allowed to leave the port if the tax on such income has been paid or alternative arrangements to pay tax are made.

Income = 7.5% x Freight charges for carrying passengers, livestock, mail or goods from India.

b) Persons leaving India permanently [Section 174]:

When it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no intention of returning to India, the total income of such individual for the period from the expiry of the previous year upto the probable date of departure from India shall be chargeable to tax in that assessment year.

Example: Mr. X is leaving India for USA on 10.6.2023 and it appears to the Assessing Officer that he has no intention to return. Before leaving India, Mr. X may be asked to pay income-tax on the income earned during the P.Y. 2022-23 as well as on the total income earned during the period 1.4.2023 to 10.06.2023.

c) Association of persons or body of individuals or artificial juridical person formed for a particular event or purpose [Section 174A]:

Where an Association of Persons/ Body of Individuals is formed for a particular purpose and such purpose is likely to be achieved in the previous year itself, then Income of such Association/Body of Individuals shall be assessed in the previous year only.

d) Transfer of property to avoid tax [Section 175]:

If it appears to the Assessing Officer that during any current assessment year any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under Income-tax Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the Assessing Officer commences proceedings under this section shall be chargeable to tax in that assessment year.

e) Discontinued business [Section 176]:

Where any business is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year upto the date of such discontinuance may, at the discretion of Assessing Officer be charged to tax in that assessment year.

Discontinuance denotes the cessation of the business or profession. There can be no discontinuance when a business or profession is sold to another.

In the above four exceptions it is mandatory for the assessing officer to charge the tax on the income in the same previous year. But in exception fifth he has the discretionary power to charge tax in the same previous year or he may wait till the assessment year.

Previous year for Undisclosed sources of Income:

Normally, income earned in a previous year gets taxed in its assessment year.

However, in certain cases, where income is not disclosed by the taxpayer but is detected by the Income Tax department and the source for which is not satisfactorily explained by the assessee to the Assessing Officer, it is deemed to be the income of the year in which it is so detected.

Following are such cases -

a) Cash Credits [Section 68]:

Where any sum is found credited in the books of the assessee and the assessee offers no explanation about the nature and source or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged as income of the assessee of that previous year.

b) Unexplained Investments [Section 69]:

Where in any financial year, the assessee has made investments which are not recorded in the books of account and the assessee offers no explanation about the nature and the source of investments or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the value of the investments are taxed as deemed income of the assessee of such financial year.

c) Unexplained money etc. [Section 69A]:

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the books of account and the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the money and the value of bullion etc. may be deemed to be the income of the assessee for such financial year.

d) Amount of investments etc., not fully disclosed in the books of account [Section 69B]:

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

e) Unexplained expenditure [Section 69C]:

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

f) Amount borrowed or repaid on hundi [Section 69D]:

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

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

The above undisclosed incomes are chargeable to tax @78% [i.e., 60% plus surcharge @25% plus cess @4%] as specified under section 115BBE.

INDIA [Section 2(25A)]:

The term 'India' means –

- (i) the territory of India as per Article 1 of the Constitution,
- (ii) its territorial waters, seabed and subsoil underlying such waters,
- (iii) continental shelf,
- (iv) exclusive economic zone or
- (v) any other specified maritime zone and the air space above its territory and territorial waters.

Specified maritime zone means the maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

AGRICULTURE INCOME [Section 2(1A)]:

Agriculture Income means-

- a) Any rent or revenue derived from land which is situated in India and used for agricultural purpose.
- b) Any income derived from such land by agriculture or by the process employed to render the produce fit for market or by sale of such agricultural produce by the cultivator or receiver of rent in kind.
- c) Any income derived from farm building, provided the following conditions are satisfied-
 - i. The building is on or in the immediate vicinity of the agricultural land.
 - ii. It is occupied by the cultivator or receiver of rent or revenue.
 - iii. It is used as a dwelling house or store house or out house.
 - iv. The land is assessed to land revenue in India or be subject to a local rate assessed and collected by the officers of the Government OR it is not situated within the Specified area.

This definition is very wide and covers the income of not only the cultivators but also the land holders who might have rented out the lands. The amount received in money or in kind, by one person from another for right to use land is termed as Rent. The rent can either be received by the owner of the land or by the original tenant from the sub-tenant. It implies that ownership of land is not necessary.

Agricultural income may be received in cash or in kind.

Specified area means an area which satisfies the following condition-

Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year	Shortest aerial distance from the local limits of a municipality or cantonment board
> 10,000 ≤ 1,00,000	Upto 2 kilometers
> 1,00,000 ≤ 10,00,000	Upto 6 kilometers
> 10,00,000	Upto 8 kilometers

Section 10(1): Agricultural Income is exempt from tax provided such land is situated in India and used for agriculture purpose.

Examples of Agricultural Income:

- a) Income from sale of nursery plants, Seedlings & Saplings
- b) Income from Sale of flowers and creepers.
- c) Rent received from land used for grazing of cattle required for agricultural activities.
- d) Income from growing of bamboo.

Examples of Non-Agricultural Income:

- a) Sale of spontaneous growth of trees.
- b) Dairy farming, butter and cheese making, fishing, Cattle breeding, bee-hiving, poultry farming, breeding of livestock.
- c) Dividends from a company which is carrying on agricultural business.

Computation of Agricultural Income in Certain Specified Cases:

In case where assessee is growing and manufacturing rubber, coffee and tea in India, income derived there from shall be partly agricultural income and partly income from business and it is computed as below:

Rule	Nature of Income	Agricultural Income	Business Income
7A	Income from growing and manufacturing of rubber	65%	35%
7B(1)	Income derived from sale of coffee Grown and manufactured (cured) in India.	75%	25%
7B(1A)	Income derived from sale of coffee grown, cured, roasted and grounded in India	60%	40%
8	Income from sale of tea grown and manufactured in India.	60%	40%

Rule 7: Where in any other case the income is partially agricultural income and partially business income, the market value of any agricultural produce so raised by the assessee, which has been further utilised/processed in such business, will be considered as agricultural income and the same shall be allowed as a deduction while calculating business income.

PROBLEMS:

- 1) From the following transactions, identify whether it is a capital or revenue item-

Sl. No.	Particulars	Capital/Revenue
1)	Money received on issue of shares	
2)	Money received on sale of land	
3)	Compensation received for the loss of a capital asset	
4)	Compensation received for damage to or loss of a stock/trading asset.	
5)	Money received on sale of goods	
6)	Payment of Rs.50,000 as compensation for cancellation of a contract for the purchase of machinery with a view to avoid an unnecessary expenditure.	
7)	AB & Co. received Rs.2,00,000 as compensation from CD & Co. for premature termination of contract of agency	
8)	GST collected from the buyer of goods.	
9)	PQ Company Ltd. instead of receiving royalty year by year, received it in advance in lump sum.	
10)	Sale of shares by a share broker	
11)	Purchase of furniture by a furniture dealer	

- 2) Y sets up a new business on May 15, 2023. What is the previous year for the assessment year 2024-25?
- 3) A joins an Indian company on February 17, 2023. Prior to joining this Indian company he was not in employment nor does he have any other source of income. Determine the previous year of A for the assessment years 2023-24 and 2024-25.
- 4) Mr.R has estates in Rubber, Tea and coffee in Kerala. He derives Income from them. He also has a nursery wherein he grows plants and sells. For the previous year ending 31-3-2024, he furnishes the following particulars of his sources of income from estates and sale of plants. You are required to compute his business and agricultural income for the A.Y 2024-25.

Particulars	Amount
Manufacture of Rubber	6,00,000
Manufacture of Coffee grown and cured	3,50,000
Manufacture and growing of tea	8,00,000
Sale of plants grown in nursery	2,00,000

- 5) Tata Tea Ltd., is in the business of growing and manufacturing of tea in India. The total income derived from the activities for the year ending 31-3-2024 is Rs.50crores
- Compute the taxable Income of the assessee for the A.Y 2024-25.
 - Will your answer be different if the assessee is carrying on only the manufacturing of tea in India?

- 6) Nikhil manufactures latex from rubber plants grown by him in India. These are subsequently sold in the market at INR 50,00,000. The costs incurred are as under:
- Manufacturing Latex: INR 12,00,000
 - Growing Rubber Plants: INR 18,00,000

You are required to compute his business and agricultural income for the A.Y 2024-25.

- 7) Kundan Lal grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory.
40% of the sugarcane produce is sold for INR 15,00,000 and the cost of cultivation of this part is INR 8,00,000.
60% of the sugarcane produce is further subjected to manufacturing sugar and the Market Value (MV) of the same was INR 33,00,000 and the cost of cultivation of this part was INR 21,00,000.
Post incurring INR 3,00,000 in the manufacturing process for sugar, that the sugarcane was subjected to, the sugar was sold for INR 40,00,000.
You are required to compute his Agricultural and Business Income.

“In life nobody and nothing will help you until you start helping yourself”

Join my Telegram Channel- <https://t.me/cavikasgowda>

CHAPTER-2**SCOPE OF TOTAL INCOME AND RESIDENTIAL STATUS**

Section 4 of the Act implies that the total income of the previous year of every person shall be charged to Income-tax at the rates prescribed in the Finance act as applicable to the relevant Assessment Year. The meaning and scope of the expression of total income is contained in Section 5. The total income of an assessee cannot be determined unless we know the residential status in India during the previous year. **The scope of total income and consequently the liability to income-tax also depends upon the following facts:**

- (a) whether the income accrues or is received in India or outside,
- (b) the exact place and point of time at which the accrual or receipt of income takes place, and
- (c) the residential status of the assessee.

RESIDENTIAL STATUS [Section 6]:

The Incidence of tax of a person depends on residential status under Income tax act. An assessee's residential status must be determined with reference to the previous year in respect of which the income is sought to be taxed. Provisions in connection with residential status are given u/s 6 of this act.

An Individual is said to be resident in India in any previous year if he fulfills any one of the following two basic conditions u/s 6(1):

- 1) He/She is in India, in the previous year for a total period of 182 days or more
(OR)
- 2) He/She is in India for a total period of 60 days or more during the previous year & 365 days or more during 4 years preceding the previous year.

If an Individual fails to fulfill both the above condition, then He/She is treated as Non-Resident.

Exception to the basic condition:

Normally if an Individual satisfies any of the conditions given u/s 6(1) he would become resident.

In case of the following individual, second condition is not applicable-

- a) Indian citizen, who leaves India during the relevant previous year as a member of the crew of an Indian ship or for purposes of employment outside India, or
- b) Indian citizen or person of Indian origin engaged outside India in an employment or a business or profession or in any other vocation, who comes on a visit to India during the relevant previous year and his total income other than the income from foreign sources, is upto Rs.15 lakh in the previous year.

Person of Indian origin: If either the assessee (or) any of his parents (or) any of his grandparents were born in undivided India. (present India, Bangladesh & Pakistan). It may be noted that grandparents include both maternal and paternal grandparents.

Explanation: "Income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in India or a profession set up in India).

However, for the purpose of clause (b) as mentioned above, in case of Indian citizen or person of Indian origin having total income, other than the income from foreign sources, exceeding Rs.15 lakh during the previous year, then second condition is applicable and for the words “60 days”, “120 days” had been substituted. [Amendment vide Finance Act, 2020].

Note: Notwithstanding anything contained in section 6(1), an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding Rs.15 lakh during the previous year shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. [Section 6(1A) Amendment vide Finance Act, 2020]. **[Deemed Resident]**

Explanation: For the removal of doubts, it is hereby declared that section 6(1A) shall not apply in case of an individual who is said to be resident in India as per section 6(1).

According to Rule 126, for the purposes of section 6(1), an individual, being a citizen of India and a member of the crew of a ship, the period of stay in India in respect of an eligible voyage shall not include the period beginning from the date of joining till the date of signing off as mentioned in the Continuous Discharge Certificate under the Merchant Shipping Act, 1958.

Note: Eligible voyage means a voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where –

- for the voyage having originated from any port in India, has as its destination any port outside India; and
- for the voyage having originated from any port outside India, has as its destination any port in India.

Resident and Ordinarily Resident [Section 6(6)]:

Once the individual becomes the resident we have to check whether he is ordinarily resident (or) Not-ordinarily resident.

He would become ordinary resident if he satisfies both of the following conditions u/s 6(6):

- 1) He is resident in India for a period of atleast 2 years out of 10 previous years immediately preceding the relevant previous year, AND
- 2) He has been in India for 730 days or more during the 7 years immediately preceding the relevant previous year.

If an individual satisfies one (or) none of the conditions mentioned above, he shall become Not-Ordinary Resident.

An individual is not ordinarily resident in any previous year if –

- a) he has been a non-resident in India in 9 out of the 10 previous years preceding that year, or
- b) he has during the 7 previous years preceding that year been in India for a period of 729 days or less.
- c) a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding Rs.15 lakh during the previous year, who has been in India for a total period of 120 days or more but less than 182 days; or
- d) an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding Rs.15 lakh during the previous year shall be deemed to be resident in India in

that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

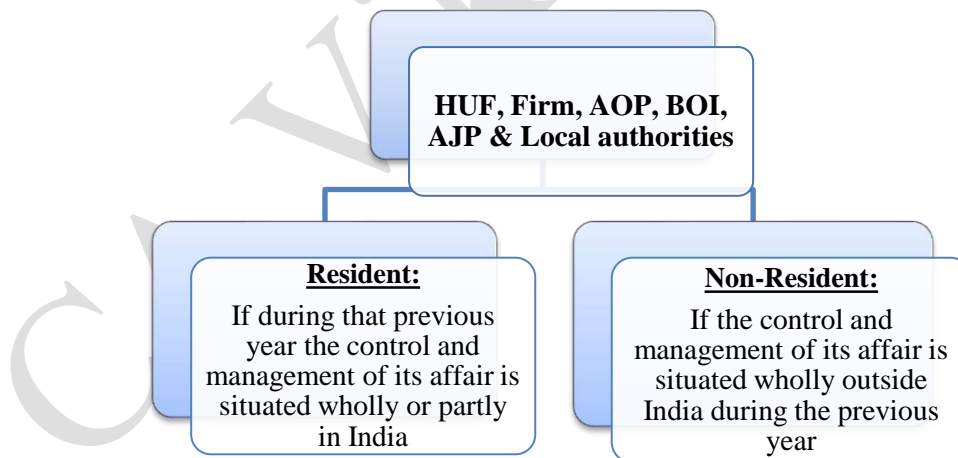
Notes:

1. The fact that an assessee is resident in India in respect of one year does not automatically mean that he would be resident in the preceding or succeeding years as well. Consequently, the residential status of the assessee should be determined for each previous year separately.
2. The residential status has got nothing to do with citizenship, nationality and place of birth or domicile. Hence a person can be a resident in more than one country.
3. For all practical purposes date of departure & date of arrival is taken to be in India.
4. Stay in India need not be continuous or active nor is it essential that the stay should be at the usual place of residence, business or employment of the individual. Purpose of stay is immaterial in determining the residential status.
5. The term "stay in India" includes stay in the territorial waters of India (i.e. 12 nautical miles into the sea from the Indian coastline). Even the stay in a ship or boat moored in the territorial waters of India would be sufficient to make the individual resident in India.

Residential Status of Hindu Undivided Family, AOP, Firms [Section 6(2)], BOI, AJP and Local authorities [Section 6(4)]:

The following persons are said to be Resident in India if the Control & Management of the affairs of the assessee concerned is wholly or partly situated in India during the relevant previous year.

However if the control & management is situated wholly outside India, then they are considered as Non-Resident.



The expression control and management refers to the functions of decision-making and issuing directions but not the places from where the business is carried on.

In other words, the Control and Management means taking policy decisions relating to business. Policy decisions are concerning finance, marketing, production, advertising, personnel etc. It does not mean day

to day operations of the concern/assessee. The control and management is situated at that place where policy decisions are taken.

A Resident HUF would become Ordinarily Resident if Karta of such resident HUF satisfy or fulfill both the conditions mentioned u/s 6(6) (as applicable in case of Individual).

If Karta fails to satisfy any of the conditions specified u/s 6(6), then the HUF would become Not-Ordinarily Resident in the relevant previous year.

Notes:

1. It is immaterial whether Karta is Resident or Non-Resident during relevant previous year, for the purpose of determining whether HUF is ROR or RNOR. If Karta satisfies both the additional conditions, then HUF will be ROR, otherwise RNOR,
2. Firms, association of persons, local authorities and other artificial juridical persons can be either resident (ordinarily resident) or non-resident in India but they cannot be not ordinarily resident in India.
3. It is entirely irrelevant where the business is done and where the income has been earned. What is relevant and material is from which place that business has been controlled and managed
4. The mere fact that all the partners are resident in India does not necessarily lead to the conclusion that the firm is resident in India because there may be cases where even though the partners are resident in India, control and management of the affairs of the firm is exercised from outside India.
5. A Hindu Undivided Family would generally be presumed to be resident in India unless the assessee proves to the tax authorities that the control and management of its affairs is situated wholly outside India during the relevant accounting year.

Residential Status of Companies [Section 6(3)]:

A Company is said to be resident in India, if in any previous year:

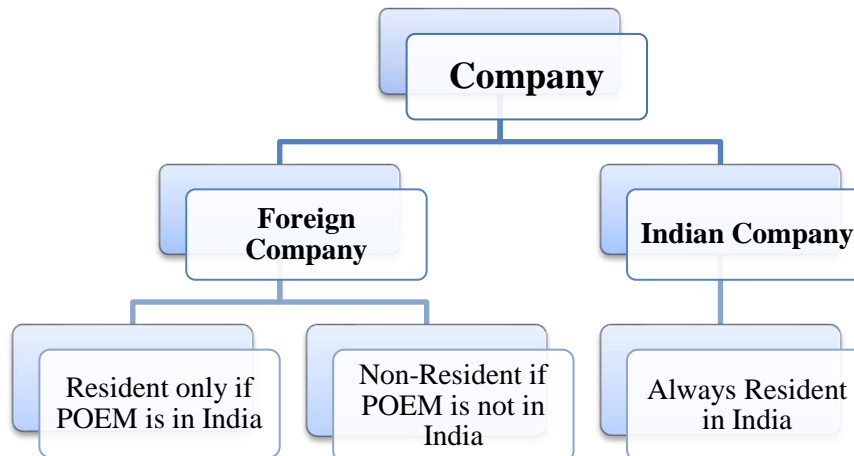
- a) It is an Indian company; and
- b) In case of other companies (i.e foreign company), where its place of effective management [POEM] in that year, is in India.

In any other case the Company shall be considered as Non-Resident. There is no question of Ordinary & Not-Ordinary Resident in case of Companies.

Notes:

- a) Indian company is always a resident company irrespective of where its POEM functions. The concept of POEM is relevant only in case of Foreign Company.
- b) From Assessment Year 2017-18 a foreign company will be resident in India if its Place of Effective Management (POEM) during the previous year is in India.

For this purpose, the Place of Effective Management means a place where Key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.



Point to remember:

It must be noted that only an Individual or a HUF can be ordinary resident, not ordinarily resident or non-resident in India. All other assessee's can be either resident or non-resident in India but cannot be not-ordinarily resident in the matter of their residential status for all purposes of income tax.

Section 6(5):

One residential status for all sources of income in an assessment year i.e residential status of assessee will not change for different sources of income and residential status of any assessee will be checked for every assessment year separately.

Company [Section 2(17)]:

Company means-

- a) Any Indian company (or)
- b) Any Body Corporate incorporated outside India or Under the laws of a Foreign Country (or)
- c) Any Institution, Association or Body whether incorporated or not and whether Indian or Non-Indian which is declared by general or special order of the CBDT to be a Company.

Domestic Company [Section 2(22A)]:

Domestic Company means-

- a) An Indian company (or)
- b) Any other Company in respect of its Income liable to income tax has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, payable out of such income.

Foreign Company [Section 2(23A)]:

Foreign Company means a Company which is not a Domestic Company.

Indian Company [Section 2(26)]:

It means a Company formed and registered under Companies Act and the registered office or the principal office of the company should be in India.

The expression 'Indian Company' also includes the following provided their registered or principal office is in India:

- a) A Company formed and registered under any law relating to the companies formerly in force in any part of India.
- b) A Corporation established by or under a Central, State or Provincial Act (like Financial Corporation or a State Road Transport Corporation);
- c) Any Institution, Association or Body which is declared by the Board to be a Company u/s 2(17).
- d) A Company formed and registered under any law for time being in force in the state of Jammu & Kashmir.
- e) A Company formed and registered under any law for time being in force in the Union Territories of Dadra & Nagar Haveli, Daman & Diu, Pondicherry and State of Goa.

Closely held company:

A Company in which the public is not substantially interested is known as a closely held company.

Note: Certain restriction has been imposed on closely held company in Income Tax.

SCOPE OF TOTAL INCOME [Section 5]:

Particulars	Resident & Ordinarily Resident Section 5(1)	Resident & Not-Ordinarily Resident Section 5(1)	Non-Resident Section 5(2)
Income received in India or deemed to be received in India(section 7), irrespective of where it is earned	Taxable	Taxable	Taxable
Income which accrues or arises in India or deemed to accrue or arise in India(section 9), irrespective of where it is received	Taxable	Taxable	Taxable
Income which accrues or arises outside India during the previous year if it is derived from- <ul style="list-style-type: none"> ➤ Business controlled from India or Profession set up in India ➤ Any other source. 	Taxable Taxable	Taxable Not Taxable	Not Taxable Not Taxable

Explanation 1: Income accruing or arising outside India shall not be deemed to be received in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

Explanation 2: For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

Notes:

1. Income is to be included in the total income of the assessee immediately on its actual or deemed receipt. The receipt of income refers to only the first occasion when the recipient gets the money under his control. Therefore, when once an amount is received as income, remittance or transmission of that amount from one place or person to another does not constitute receipt of income in the hands of the subsequent recipient or at the place of subsequent receipt.
2. Any past untaxed foreign income, if brought into India is not taxable in the hands of any assessee.
3. Any exempt income will be excluded from the total income of every assessee.

Points to remember:

- a) In case of Resident & Ordinarily Resident, global income is taxable i.e income earned and received anywhere in the world.
- b) In case of Non-Resident, only income earned or received in India is taxable.

Incomes deemed to be received in India [Section 7]:

In addition to the income actually received by the assessee or on his behalf, certain other incomes not actually received by the assessee and/or not received during the relevant previous year, are also included in his total income for income tax purposes. Such incomes are known as income deemed to be received.

Some of the examples of such income are:

- a) Annual accretion to Recognised Provident Fund (RPF) to the extent taxable i.e Contribution in excess of 12% of salary to RPF or interest credited in excess of 9.5% p.a.
- b) Transferred balance from Unrecognised Provident Fund (URPF) to RPF to the extent taxable.
- c) Contribution by the Central Government or any other employer in the P.Y. under a pension scheme referred u/s 80CCD.

Income deemed to Accrue or Arise in India [Section 9]:

Accrue refers to the right to receive income, whereas due refers to the right to enforce payment of the same. For e.g. salary for work done in December will accrue throughout the month, day to day, but will become due on the salary bill being passed on 31st December or 1st January.

Similarly, on Government securities, interest payable on specified dates arise during the period of holding, day to day, but will become due for payment on the specified dates.

Certain types of income are deemed to accrue or arise in India even though they may actually accrue or arise outside India.

The following Income shall be deemed to accrue or arise in India-

- (i) Any income accruing or arising to an assessee in any place outside India whether directly or indirectly-
 - i. through or from business connection in India
 - ii. through or from Property in India
 - iii. through or from any asset or source of Income in India
 - iv. through the transfer of Capital asset situated in India [Section 9(1)(i)].
- (ii) Income, which falls under the head "Salaries", if it is earned in India. Salary payable for service rendered in India would be treated as earned in India. Further, any income under the head "Salaries" payable for rest period or leave period which is preceded and succeeded by services rendered in India, and forms part of the service contract of employment, shall be regarded as income earned in India [Section 9(1)(ii)].
- (iii) Income from Salaries which is payable by the Government to a citizen of India for services rendered outside India (However, allowances and perquisites paid outside India by the Government is exempt) [Section 9(1)(iii)].
- (iv) Dividend paid by Indian Company outside India would be taxable in the hands of shareholders at normal rates in India [Section 9(1)(iv)].
- (v) Interest [Section 9(1)(v)]
- (vi) Royalty [Section 9(1)(vi)]
- (vii) Fees for technical services [Section 9(1)(vii)]
- (viii) **Any sum of money paid by a resident Indian to a non-corporate non- resident or foreign company [Section 9(1)(viii)]:** Income arising outside India, being any sum of money paid, without

consideration, by a Indian resident person to a non-corporate non-resident or foreign company would be deemed to accrue or arise in India if the same is chargeable to tax under section 56(2)(x) i.e., if the aggregate of such sums received by a non- corporate non-resident or foreign company exceeds Rs.50,000.

BUSINESS CONNECTION:

Business connection is defined to include any business activity carried out by any Non-Resident in India through Agent.

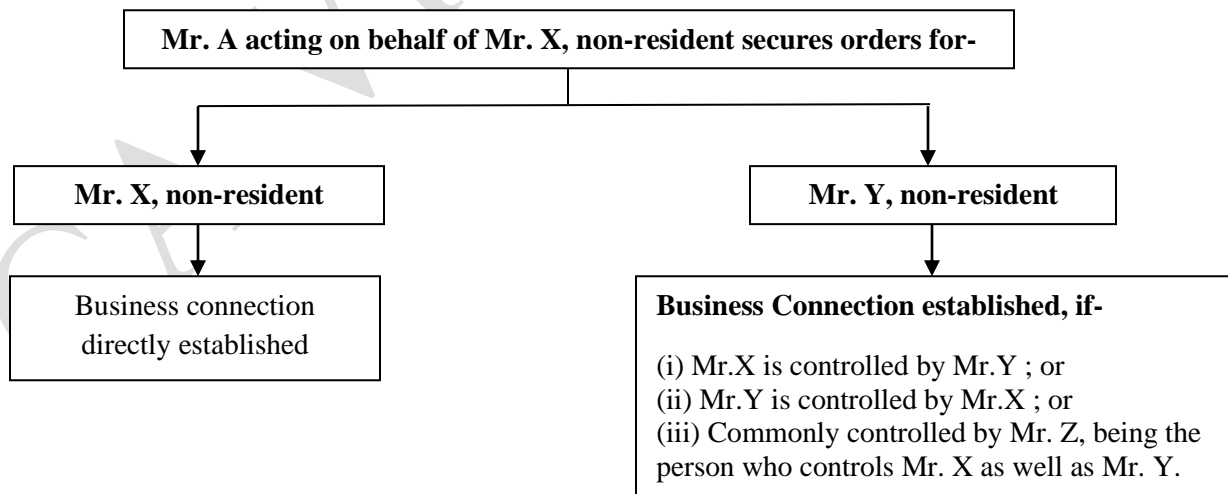
If agent performs any of the following 3 activities, business connection is established for Non-resident-

- a) He has habitually exercised in India, an authority to conclude Contracts.
- b) Where he has no such authority, he habitually maintains a stock of goods or merchandise in India & from which he regularly delivers goods & merchandise on behalf of the non-resident, a business connection is established.
- c) He habitually secures orders from India mainly or wholly for the Non-Resident or various Non-Residents.

Further, there may be situations when the person acting on behalf of the non- resident secure order for other non-residents. In such situation, business connection for other non-residents is established if,

- a) such other non-resident controls the non-resident or
- b) such other non-resident is controlled by the non-resident or
- c) such other non-resident is subject to same control as that of non- resident.

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



Agents having independent status are not included in Business Connection: Business connection, however, shall not be established, where the non-resident carries on business activity through a broker, general commission agent or any other agent having an independent status, if such a person is acting in the ordinary course of his business.

A broker, general commission agent or any other agent shall be deemed to have an independent status where he does not work mainly or wholly for the non-resident.

He will, however, not be considered to have an independent status in the three situations explained above, where he works mainly or wholly on behalf of such a non-resident.

Exceptions:

In the case of a non-resident, the following shall not, however, be treated as business connection in India [Explanation 1 to Section 9(1)(i)]:

- a) In the case of a business of which all the operations are not carried out in India, the income of the business deemed to accrue or arise in India shall be only such part of income as is reasonably attributable to the operations carried out in India. Therefore, it follows that such part of income which cannot be reasonably attributed to the operations in India, is not deemed to accrue or arise in India.

Income attributable to the operations carried out in India includes:

- Income from advertisement targeting customers residing in India or accessing advertisement through IPA located in India
 - Income from sale of data collected from persons residing in India or using IPA located in India
 - Income from sale of goods and services using data collected from persons residing in India or using IPA located in India.
- b) No Income of a Non-Resident shall be deemed to accrue or arise in India by mere purchase of goods in India for the purpose of export.
 - c) If the Non-Resident is running a news agency or publish of newspapers, magazines or journals, no income shall be deemed to accrue or arise in India from mere collection of news/views in India and transmitting it out of India.
 - d) No Income shall be deemed to accrue or arise in India, through or from Operations confined to the shooting of cinematograph film in India by Non-Resident-
 - Individual who is not citizen of India or
 - Firm not having any partner who is citizen of India or resident in India or
 - Company not having any share holder who is citizen or resident in India.
 - e) In the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unsorted diamonds in any special zone notified by the Central Government in the Official Gazette in this behalf.

Income through transfer of a Capital asset situated in India:

Capital gains arising through the transfer of a capital asset situated in India would be deemed to accrue or arise in India in all cases irrespective of the fact whether-

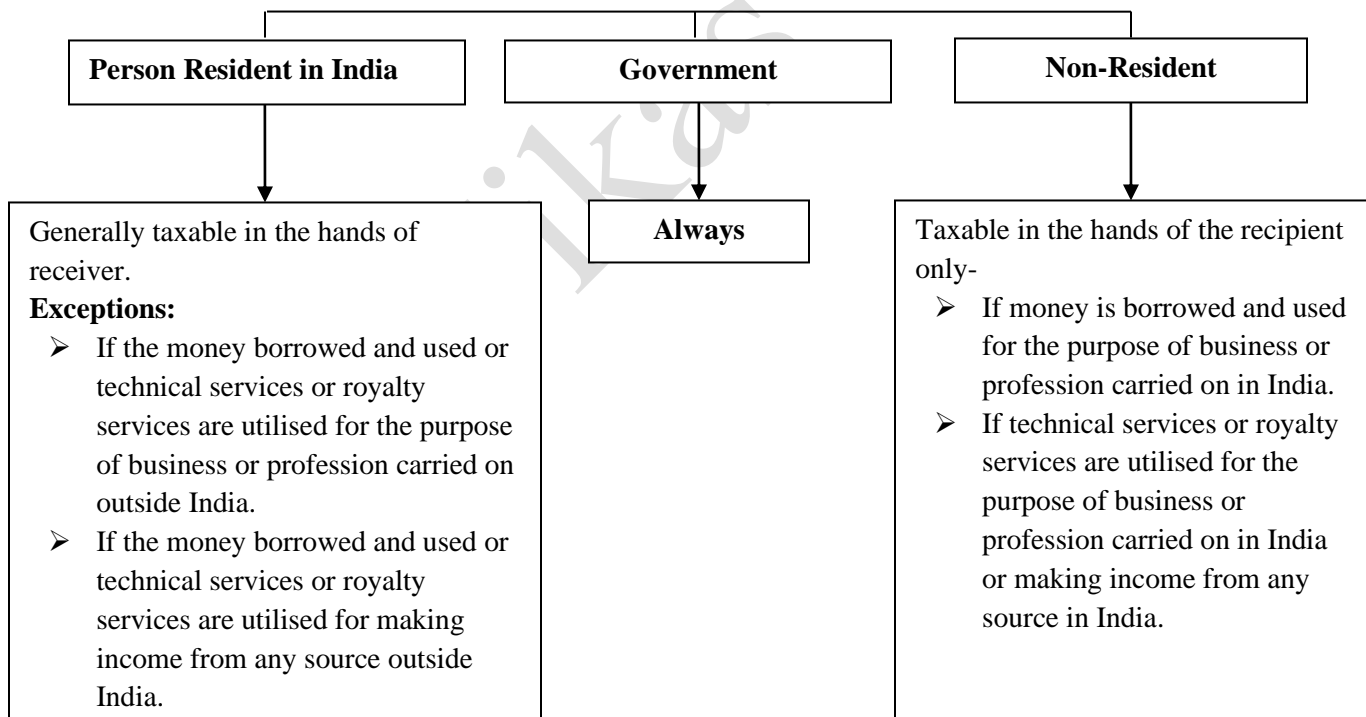
- the capital asset is movable or immovable, tangible or intangible;
- the place of registration of the document of transfer etc., is in India or outside; and
- the place of payment of the consideration for the transfer is within India or outside.

Further, an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India. [Explanation 5 to section 9(1)(i)].

However dividends declared and paid by a foreign company outside India in respect of shares which derive their value substantially from assets situated in India would NOT be deemed to be income accruing or arising in India by virtue of the provisions of section 9(1)(i).

Interest, Royalty and Fees for Technical Services:

Interest [Section 9(1)(v)], Royalty [Section 9(1)(vi)] & Fees for technical services [Section 9(1)(vii)] is deemed to accrue or arise in India for the recipient (non-resident) if it is payable by -



Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services to be taxed irrespective of territorial nexus (Explanation to section 9).

Income Tax

Income by way of interest, royalty or fees for technical services which is deemed to accrue or arise in India by virtue of clauses (v), (vi) and (vii) of section 9(1), shall be included in the total income of the non-resident, whether or not –

- a) the non-resident has a residence or place of business or business connection in India; or
- b) the non-resident has rendered services in India.

In effect, the income by way of fees for technical services, interest or royalty, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India.

PROBLEMS:

- 1) Mr. Rishi, a British national, comes to India for the first time during 2019-20. During the previous years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 he stayed in India for 55days, 60days, 80days, 160days and 70days respectively.

Determine his residential status for A.Y 2024-25

Solution:

Applicable Provision:

As per section 6(1), an Individual is said to be resident in India in any previous year if he fulfills any one of the following two basic conditions-

- 1) He/She is in India, in the previous year for a total period of 182 days or more
(OR)
- 2) He/She is in India for a total period of 60 days or more during the previous year & 365 days or more during 4 years preceding the previous year.

If an Individual fails to fulfill both the above condition then He/She is treated as Non-Resident.

Facts and Analysis of the case:

In the given case, Mr. Rishi has stayed for 70days in India during the previous year 2023-24 and for 355 days [55 + 60 + 80 + 160] during 4 years preceding the previous year.

So Mr. Rishi fails to fulfill both the conditions given u/s 6(1) for the previous year 2023-24.

Conclusion:

Therefore, Mr. Rishi is non-resident in India for assessment year 2024-25.

- 2) Mr. Ram, an Indian Citizen, is living in Delhi since 1960, he left for Japan on July 1, 2018 and comes back on August 7, 2023 for a visit.

Determine his residential status for the assessment year 2024-25.

Solution:

An Individual is said to be resident in India in any previous year if he fulfills any one of the following two basic conditions u/s 6(1):

- 1) He/She is in India, in the previous year for a total period of 182 days or more
(OR)
- 2) He/She is in India for a total period of 60 days or more during the previous year & 365 days or more during 4 years preceding the previous year.

If an Individual fails to fulfill both the above condition then He/She is treated as Non-Resident.

However if an Indian citizen engaged outside India in an employment or a business or profession has come to India on a visit during the relevant previous year, then second condition u/s 6(1) is not applicable for him to determine his residential status.

In the given case, Mr. Ram, an Indian Citizen, who was living in Delhi since 1960, had left for Japan on July 1, 2018 and comes back to India for visit on August 7, 2023 i.e during the previous year.

Mr. Ram is covered in the exception category for whom second condition u/s 6(1) is not applicable. So he has to satisfy first condition given u/s 6(1) to be a resident in India for the previous year 2023-24.

Mr. Ram has stayed for 238 days in India during the previous year 2023-24.

Hence Mr. Ram is resident in India for the assessment year 2024-25.

Mr. Ram would become ordinary resident if he satisfies both the following conditions u/s 6(6):

1. He is resident in India for a period of atleast 2 years out of 10 previous years immediately preceding the relevant previous year, AND
2. He has been in India for 730 days or more during the 7 years immediately preceding the relevant previous year.

As Mr. Ram left India on July 1, 2018, it is assumed that prior to that he was staying completely in India.

So it is understood that Mr. Ram satisfy both the conditions given u/s 6(6).

Therefore, Mr. Ram is Ordinary resident in India for assessment year 2024-25.

- 3) Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years.
 - a) Find out his residential status for the assessment year 2024-25.
 - b) Would your answer change if the above facts relate to Srinath, an Indian citizen who resides in Australia and represents the Australian cricket team?
 - c) What would be your answer if Srinath had visited India for 120 days instead of 100 days every year, including P.Y. 2023-24?
- 4) Dr. Shetty, an Indian Citizen and a Professor in IIM, Lucknow, left India on September 15, 2023 for USA to take up Professor's job in MIT, USA.
Determine his residential status for the assessment year 2024-25.
- 5) Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2023. From the following details for the P.Y. 2023-24, determine the residential status of Mr. Anand for A.Y. 2024-25, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2023-24) is 400 days and last seven previous years (preceding P.Y. 2023-24) is 750 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6th June, 2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9th December, 2023

Solution:**Applicable Provision:**

As per section 6(1), Indian citizen who leaves India during the relevant previous year as a member of the crew of an Indian ship is said to be resident in India only if he is in India during the previous year for 182 days or more.

According to Rule 126, an individual, being a citizen of India and a member of the crew of a ship, the period of stay in India in respect of an eligible voyage shall not include the period beginning from the date of joining till the date of signing off as mentioned in the Continuous Discharge Certificate.

Facts and Analysis of the case:

In the given case, the voyage is undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e. Chennai port) and having its destination at a port outside India (i.e. Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1).

Therefore, the period beginning from 6th June, 2023 and ending on 9th December, 2023, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India.

Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y. 2023-24 would be 179 days [i.e., 366 days – 187 days].

Conclusion:

Mr. Anand is a Non-Resident for A.Y. 2024-25 since his period of stay in India during the P.Y. 2023-24 is less than 182 days.

- 6) Mr. Rocky is a Indian citizen, working in USA with Microsoft Inc. During the P.Y 22-23 and 23-24 he visited India for 179 days and 155 days respectively. His stay in India for P.Y 19-20, 20-21, 21-22 is 120 days, 100 days and 155 days respectively.

His income for P.Y 23-24 is as follows:

Income from Salary, Rent & Interest earned in USA Rs.25,00,000

Income from Business in USA (Controlled from USA) Rs.21,00,000

Income from Business in UK (Controlled from India) Rs.8,00,000

Interest on bank FD in SBI bank at Mumbai Rs.10,00,000

LIC Premium paid in India Rs.1,40,000

Determine his residential status for A.Y 24-25.

Solution:**Residential status for A.Y 24-25:**

As per section 6(1), In case of Indian citizen or person of Indian origin engaged outside India in an employment, who comes on a visit to India during the relevant previous year and having total income, other than the income from foreign sources, exceeding Rs.15 lakh during the previous year, is said to be resident in India if he is in India for a total period of 120 days or more during the previous year and 365 days or more during 4 years preceding the previous year.

Mr. Rocky stayed in India for 155 days in the P.Y 23-24 and for 554 days during 4 years preceding the previous year. And also his total income, other than the income from foreign sources is Rs.16,60,000 [8,00,000 + 10,00,000 – 1,40,000 (80C)].

Therefore, Mr. Rocky is Resident but not ordinary resident in India for assessment year 2024-25 as he has satisfied second condition u/s 6(1).

- 7) Would it make any difference Mr. Rocky is a US citizen but his grandfather was born in a village near Peshawar in 1945?

Solution:

No, the answer would remain same as the above provision is applicable for Indian citizen as well as person of Indian origin. Mr. Rocky is a person of Indian origin as his grandfather was born in a village near Peshawar in 1945.

- 8) Suppose in question 6, Mr. Rocky's Bank Interest is Rs.8,20,000 instead of Rs.10,00,000. What will be your answer?

Solution:

As per section 6(1), In case of Indian citizen or person of Indian origin engaged outside India in an employment, who comes on a visit to India during the relevant previous year and his total income other than the income from foreign sources, is upto Rs.15 lakh in the previous year is said to be resident in India if he is in India during the previous year for 182 days or more.

Second condition u/s 6(1) is not applicable for him as he is covered under exception category.

Mr. Rocky stayed in India for 155 days in the P.Y 23-24 and his total income, other than the income from foreign sources is Rs.14,80,000 [8,00,000 + 8,20,000 – 1,40,000 (80C)].

Therefore, Mr. Rocky is Non-Resident in India for assessment year 2024-25.

- 9) Mr. Pushpa is an Indian Citizen. Currently he is in employment with an entity in Japan. During the P.Y he visited India for 58 days. During P.Y 23-24 he is not taxable in Japan or any other country by reason his domicile or residence.

Determine his residential status for A.Y 24-25, if his total income other than foreign source income is-

- a) Rs.22,00,000
- b) Rs.14,50,000

Solution:

- a) **Total income other than foreign source income is Rs.22,00,000(> Rs.15,00,000):**

As per Section 6(1A), an Indian citizen having total income, other than the income from foreign sources, exceeding Rs.15 lakh during the P.Y shall be deemed to be resident in India in that P.Y, if he is not liable to tax in any other country.

Mr. Pushpa is deemed to be Resident but not-ordinary resident in India for A.Y 24-25 as he is covered under the above provision.

- b) **Total income other than foreign source income is Rs.14,50,000(< Rs.15,00,000):**

Mr. Pushpa is Non-Resident in India for A.Y 24-25 as his total income, other than the income from foreign sources, is less than Rs.15 lakh during the P.Y and hence he fails to satisfy the first condition given u/s 6(1A).

- 10) ABC HUF's whole affairs of business are completely controlled from India.

Determine its Residential status for A.Y 2024-25-

- If Karta is Ordinary Resident in India for that year
- If Karta is Non-Resident in India but he satisfies both the additional conditions
- If Karta is Not Ordinary Resident in India.

Solution:

HUF would be Resident in India as Control and Management is wholly situated in India.

Determination of whether HUF is ROR or RNOR:

- HUF is ROR in India as Karta would be satisfying both the additional conditions (because he is ROR).
- HUF is ROR in India as Karta is satisfying both the additional conditions. Karta's Residential status during relevant previous year is irrelevant.
- HUF is RNOR as Karta does not satisfy both the additional conditions.

- 11) Hindu Undivided Family is being managed partly from Mumbai and partly from Japan. The Karta of HUF is a foreign citizen and comes to visit in India every year since 1980 in the month of April for 105 days.

Determine residential status of HUF for AY 2024-25.

Solution:

Since the control and management of the affairs of HUF is partly managed from Mumbai, HUF is resident in India.

Further, the Karta of HUF is also satisfying both of additional conditions of section 6(6) and hence HUF is resident and ordinarily resident in India during the A.Y 2024-25.

- 12) XY & Co. is a partnership firm whose operations are carried out in India. However, all meetings of partners take place outside India as all the partners are settled abroad.

Determine Residential status of firm for AY 2024-25.

Solution:

AB & Co. is Non-Resident in India during previous year 2023-24 as Control and Management (place where meetings are held) is wholly situated outside India.

- 13) The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the Karta of the HUF, who was born in Kolkata, visits India during the P.Y. 2023-24 after 15 years. He comes to India on 1.4.2023 and leaves for Australia on 1.12.2023.

Determine the residential status of Mr. E and the HUF for A.Y. 2024-25.

Income Tax

- 14) State whether the following Incomes is taxable in the hands of assessee if he is (i) resident and ordinarily resident in India, (ii) resident and not ordinarily resident in India, and (iii) non-resident in India during the previous year

Particulars	Resident or Resident & Ordinarily Resident	Resident but not Ordinarily Resident	Non-Resident
Income received in India (Whether accrued in or outside India)			
Income deemed to be received in India (Whether accrued in or outside India)			
Income accruing or arising in India (Whether received in India or outside India)			
Income deemed to accrue or arise in India (Whether received in India or outside India)			
Income received and accrued outside India from a business controlled or a profession set up in India			
Income received and accrued outside India from a business controlled from outside India or a profession set up outside India			
Past untaxed foreign profits			
Agricultural Income in India [Exempt u/s 10(1)]			
Gifts from relatives or on marriage or under will etc. (or gifts from others upto Rs.50,000 in a year)			

15) A had the following income during the previous year ended 31st March, 2024:

- a) Salary Received in India for three Months – Rs.9,000
- b) Income from house property in India- Rs.13,470
- c) Interest on Saving Bank Deposit in State Bank of India- Rs.1,000
- d) Amount brought into India out of the past untaxed profits earned in Germany- Rs.20,000
- e) Income from agriculture in Indonesia being invested there-Rs.12,350
- f) Income from business in Bangladesh, being controlled from India- Rs.10,150
- g) Dividends received in Belgium from French companies, out of which Rs.2,500 were remitted to India-Rs.23,000

You are required to compute his total income for the assessment year 2024-25 if he is: (i) a resident; (ii) a not ordinarily resident, and (iii) a Non-resident.

Solution:

Computation of Total Income of Mr.A for the A.Y 2024-25:

Sl.No.	Resident or Resident & Ordinarily Resident	Resident but not Ordinarily Resident	Non- Resident
a)			
b)			
c)			
d)			
e)			
f)			
g)			
Gross Total Income			
Less: Deduction			
Total Income			

Income Tax

18) Mr. X earns the following income during the previous year ended 31st March, 2024. Determine the income liable to tax for the assessment year 2024-25 if Mr. A is (i) resident and ordinarily resident in India, (ii) resident and not ordinarily resident in India, and (iii) non-resident in India during the previous year ended 31st March, 2024.

- a) Profits on sale of a building in India but received in Holland- Rs.20,000
- b) Pension from former employer in India received in Holland- Rs.14,000
- c) Interest on U.K. Development Bonds (1/4 being received in India) – Rs.20,000
- d) Income from property in Australia and received in U.S.A. – Rs.15,000
- e) Income earned from a business in USA which is controlled from UK (Rs.30,000 received in India) – Rs.70,000
- f) Profits not taxed previously brought into India- Rs.40,000
- g) Profits from a business in Nagpur which is controlled from Holland- Rs.27,000
- h) Pension for services rendered in India, but received in Pakistan- Rs.30,000
- i) Profits earned from a business in Tamilnadu controlled from Pakistan – Rs.50,000
- j) Profits earned from a business in U.K. controlled from Delhi- Rs.30,000.
- k) Interest on moneys lent outside India Rs.5,00,000 to a non-resident for the purpose of business within India say, at Mumbai.
- l) Royalty of Rs.25,000 paid by a resident in respect of a business carried on outside India.

Solution:

Sl.No.	Resident or Resident & Ordinarily Resident	Resident but not Ordinarily Resident	Non- Resident
a)			
b)			
c)			
d)			
e)			
f)			
g)			
h)			
i)			
j)			
k)			
l)			
Total Income			

- 16) Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practising in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy is related to a project in India with possible Ceylonese collaboration.

Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India?

Solution:

A non-resident is chargeable to tax in respect of income received outside India only if such income accrues or arises or is deemed to accrue or arise to him in India.

The income deemed to accrue or arise in India under section 9 comprises, inter alia, income by way of fees for technical services, which includes any consideration for rendering of any managerial, technical or consultancy services. Therefore, payment to a management consultant relating to project financing is covered within the scope of “fees for technical services”.

The Explanation for section 9(2) clarifies that income by way of, inter alia, fees for technical services, from services utilized in India would be deemed to accrue or arise in India in case of a non-resident and be included in his total income, whether or not such services were rendered in India or whether or not the non-resident has a residence or place of business or business connection in India.

In the instant case, since the services were utilized in India, the payment received by Mr. Kulasekhara, a non-resident, in Colombo is chargeable to tax in his hands in India, as it is deemed to accrue or arise in India.

*“Don’t ruin a good today by thinking about a bad yesterday.
Let it go”*

CHAPTER-2.1

TAX RATES for different types of Assessee's for A.Y 2024-25

CHARGE OF INCOME TAX:

Section 4 of the Income-tax Act, 1961 is the charging section which provides that:

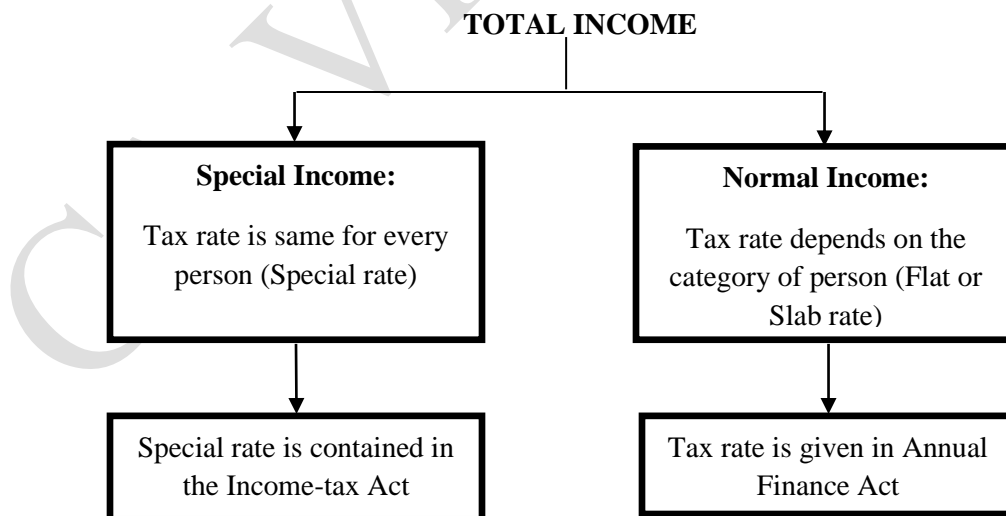
- i. Tax shall be charged at the rates prescribed for the year by the Annual Finance Act.
- ii. The charge is on every person specified under section 2(31);
- iii. Tax is chargeable on the total income earned during the previous year and not the assessment year. (There are certain exceptions provided by sections 172, 174, 174A, 175 and 176);
- iv. Tax shall be levied in accordance with and subject to the various provisions contained in the Act.

RATES OF TAX:

Income-tax is to be charged on every person at the rates prescribed for the year by the Annual Finance Act or the Income-tax Act, 1961 or both.

Tax rate depends upon -

- the category of person
- Amount of income
- Residential status of person
- Age of individual
- Type of Income



INCOME TAXABLE AT NORMAL RATES (GROSS/BASE RATE):

Individuals/HUF/AOPs/BOIs and Artificial Juridical Persons can pay tax at concessional rates under the default tax regime under section 115BAC.

However, he/it has to forego certain exemptions and deductions under this regime.

Alternatively, they can exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act at the tax rates prescribed by the Annual Finance Act of that year.

Default tax regime under section 115BAC of the Income-tax Act, 1961:

I. Concessional tax rates:

Category of Person	Income Tax Rates	
Any Individual (resident or non-resident), every HUF/AOP//BOI/Artificial Juridical Person	Total Income from all Sources except Incomes Taxable at Specified Rates (Normal Income)	Income Tax Rates (Slab Rates)
	Upto Rs.3,00,000 (Basic Exemption Limit)	NIL
	Rs.3,00,001 to Rs.6,00,000	5%
	Rs.6,00,001 to Rs. 6,00,000	10%
	Rs. 9,00,001 to Rs.12,00,000	15%
	Rs.12,00,001 to Rs. 15,00,000	20%
	Above Rs.15,00,000	30%

II. Conditions to be satisfied:

The following are the conditions to be satisfied:

- 1) **Section 115BAC(2) provides that while computing total income, the following deductions/exemptions would not be allowed:**
 - a) Leave travel concession [Section 10(5)]
 - b) House rent allowance [Section 10(13A)]
 - c) Official and personal allowances (other than those as may be prescribed) [Section 10(14)]
 - d) Allowances to MPs/MLA's [Section 10(17)]
 - e) Allowances for income of minor [Section 10(32)]
 - f) Deduction for units established in Special Economic Zones (SEZ) [Section 10AA];
 - g) Entertainment allowance [Section 16(ii)]
 - h) Professional tax [Section 16(iii)]
 - i) Interest on housing loan for self-occupied property [Section 24(b)]
 - j) Additional depreciation in respect of new plant and machinery [Section 32(1)(ia)];
 - k) Deduction for donation made to approved scientific research association, university college or other institutes for doing scientific research which may or may not be related to business [Section 35(1) (ii)];
 - l) Deduction for payment made to an Indian company for doing scientific research which may or may not be related to business [Section 35(1)(ia)];

- m) Deduction for donation made to university, college, or other institution for doing research in social science or statistical research [Section 35(1) (iii)];
- n) Deduction for donation made for or expenditure on scientific research [Section 35(2AA)];
- o) Deduction in respect of capital expenditure incurred in respect of certain specified businesses, i.e., cold chain facility, warehousing facility, etc. [Section 35AD];
- p) Deduction for expenditure on agriculture extension project [Section 35CCC];
- q) Deductions under Chapter VI-A from section 80C to 80U other than specified under Section 80CCD(2), 80CCH(2) and 80JJAA.

2) **Certain losses not allowed to be set-off:**

While computing total income, set-off of any loss -

- carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (1) above; or
 - under the head house property with any other head of income; or
- would not be allowed.

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.

3) **Depreciation or additional depreciation:**

Depreciation u/s 32 is to be determined in the prescribed manner. Depreciation in respect of any block of assets entitled to more than 40%, would be restricted to 40% on the written down value of such block of assets.

Additional depreciation u/s 32(1)(iia), however, cannot be claimed.

4) **AMT liability not attracted:**

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

5) **Exemption or deduction for allowances or perquisite:**

While computing total income, any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being force in India would not be allowed.

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

a) **In case of an assessee having no income from business or profession:**

Where an assessee is not having income from business or profession, it can exercise an option to opt out of the default tax regime under this section and such option has to be exercised along with the return of income to be furnished under section 139(1) for a previous year.

In effect, such person can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. He may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.

b) In case of an assessee having income from business or profession:

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

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

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

Note: It may be noted that in case of Individual/HUF/AOP/BOI or Artificial Juridical person not having income from business or profession, the total income and tax liability 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 and accordingly such person may decide whether to pay tax under default tax regime under section 115BAC or exercise the option to shift out and pay tax under normal provisions of the Act for that year.

Tax rates prescribed by the Annual Finance Act for optional tax regime:

The slab rates applicable to an Individual/HUF/AOP/BOI/ Artificial Juridical Person, which has exercised the option of shifting out of the default tax regime, are as follows:

Category of Person	Income Tax Rates	
Any Individual (resident or non-resident), every HUF/AOP//BOI/Artificial Juridical Person	Total Income from all Sources except Incomes Taxable at Specified Rates (Normal Income)	Income Tax Rates (Slab rates)
	Upto Rs.2,50,000 (Basic Exemption Limit)	NIL
	Rs.2,50,001 to Rs.5,00,000	5%
	Rs.5,00,001 to Rs.10,00,000	20%
	Above Rs.10,00,000	30%
Resident Individual (who is of 60 years or more but less than 80 years at any time during the previous year)- Senior Citizen	Upto Rs.3,00,000 (Basic Exemption Limit)	NIL
	3,00,001 to 5,00,000	5%
	5,00,001 to 10,00,000	20%
	Above 10,00,000	30%
Resident Individual (who is of 80 years or more at any time during the previous year)- Super Senior Citizen	Upto 5,00,000 (Basic Exemption Limit)	NIL
	5,00,001 to 10,00,000	20%
	Above 10,00,000	30%

Note: CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. Therefore a resident individual, whose 60th / 80th birthday falls on 1st April, 2024 would be treated as having attained the age of 60 years/80 years in the P.Y. 2023-24.

The tax rates applicable for other category of assessee, are as follows:

Category of Person	Income Tax Rates on Normal Income	
Firms/LLP/Local Authority	A firm/LLP/ Local Authority are taxable at the rate of 30% on Total Income.	
Companies:	Domestic Company:	
	Where it opted for Section 115BAA	22%
	Where it opted for Section 115BAB [In case of a domestic manufacturing company set up and registered on or after 1.10.2019 and commences manufacture of article or thing ⁶ before 31.3.2024.]	15%
	Note: Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions. The total income of such companies would be computed without giving effect to deductions under section 10AA, 33AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA), 35(2AB), 35AD, 35CCC, 35CCD, Chapter VI-A (except section 80JJAA or section 80M), additional depreciation under section 32(1)(iia) etc. and without set-off of brought forward loss and unabsorbed depreciation attributable to such deductions. These sections will be dealt with in detail at Final Level.	
	Where it has not opted for Section 115BAA and the total turnover or Gross receipts of the company in the previous year 2021-22 does not exceeds Rs.400 crore	25%
	Any other domestic company	30%
	All Foreign Company	40%
Co-operative society	Upto 10,000	10%
	10,001 to 20,000	20%
	Above 20,000	30%
	Note: A manufacturing co-operative society, resident in India, can opt for concessional rates of tax under section 115BAE and other co-operative societies, resident in India, can opt for concessional rates of tax under section 115BAD.	

Tax rate in case of a manufacturing co-operative society, resident in India (set up and registered on or after 1.4.2023 and commences manufacture of article or thing before 31.3.2024) opting for concessional tax regime u/s 115BAE- 15% of income derived from or incidental to manufacturing or production of an article or thing.

Tax rate in case of other resident co-operative society opting for concessional tax regime u/s 115BAD- 22% of total income

Income Tax

Note: Co-operative society, resident in India, can opt for concessional rate of tax u/s 115BAD or 115BAE, as the case may be, subject to certain conditions.

The total income of such co-operative societies would be computed without giving effect to deduction under section 10AA, 33AB, 33ABA, 35(1)(ii)/(ia)/(iii), 35(2AA), 35AD, 35CCC, additional depreciation under section 32(1)(ia), deductions under Chapter VI-A (other than section 80JJAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions.

The provisions of alternate minimum tax under section 115JC would not be applicable to a co-operative society opting for section 115BAD or 115BAE.

This section will be dealt with in detail at Final level.

INCOME TAXABLE AT SPECIAL RATES (SPECIAL INCOME):

For certain special Income (like Long Term Capital Gains, Lottery Income, Specified Short Term Capital Gains etc.), above (slab/normal) rates are not applicable. These incomes are taxable at special rates for all category of assessee. While slab/normal rates are given in Annual Finance Act, special rates are contained in the Income-tax Act itself.

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

Section No.	Income	Tax Rate						
112	Long term capital gains (other than LTCG taxable as per section 112A)	20%						
112A	Long term capital gains on transfer of – <ul style="list-style-type: none"> ➤ Equity share in a company ➤ Unit of an Equity Oriented Fund ➤ Unit of Business Trust Condition for availing the benefit of this concessional rate is Securities Transaction tax should have been paid– <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th style="text-align: center;">In case of (Capital Asset)</th> <th style="text-align: center;">Time of payment of STT</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Equity shares in a company</td> <td style="text-align: center;">Both at the time of acquisition and transfer</td> </tr> <tr> <td style="text-align: center;">Unit of Equity Oriented Fund or Unit of Business Trust</td> <td style="text-align: center;">at the time of transfer</td> </tr> </tbody> </table> <p>Note: LTCG exceeding Rs.1 lakh is taxable @10%.</p>	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%
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							
111A	Short term capital gains on transfer of – <ul style="list-style-type: none"> ➤ Equity share in a company ➤ Unit of an Equity Oriented Fund ➤ Unit of Business Trust Condition for availing the benefit of this concessional rate are – <ul style="list-style-type: none"> ➤ the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and ➤ such transaction should be chargeable to securities transaction tax. <p>Note: All other Short term capital gains are taxable at normal rates applicable for the assessee.</p>	15%						
115BB (Casual Income)	Winnings from- <ul style="list-style-type: none"> ➤ Lotteries; ➤ Crossword puzzles; ➤ Races including horse races; ➤ Card games and other games of any sort; ➤ Gambling or betting of any form or nature (other than winning from any online game)	30%						
<i>115BBJ</i>	<i>Net winnings from online games</i>	30%						
115BBE	Unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D [Refer Note below]	60%						

Note:

Unexplained money, investments etc. to attract tax @ 60% [Section 115BBE]-

- In order to control laundering of unaccounted money, the unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be taxed at the rate of 60% plus surcharge @ 25% of tax. Thus, the effective rate of tax (including surcharge @25% of tax and cess @4% of tax and surcharge) is 78%.
- No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.
- Further, no set off of any loss shall be allowable against income taxable u/s 115BBE.

Rebate from Income Tax to Resident Individual [Section 87A]:

In order to provide tax relief to the Individual tax payers, section 87A provides a rebate from the tax payable by an assessee, being an Individual resident in India.

Rebate to resident individual paying tax under default tax regime u/s 115BAC:

If total income of such individual does not exceed Rs.7,00,000, the rebate shall be equal to the amount of income-tax payable on his total income for any assessment year or an amount of Rs.25,000, whichever is less.

If total income of such individual exceeds Rs.7,00,000 and income-tax payable on such total income exceeds the amount by which the total income is in excess of Rs.7,00,000, the rebate would be as follows.

Step 1: Total income (-) Rs.7 lakhs (A)

Step 2: Compute income-tax liability on total income (B)

Step 3: If $B > A$, rebate under section 87A would be a $B - A$.

Rebate to a Resident Individual paying tax under optional tax regime (normal provisions of the Act):

If total income of such individual does not exceed Rs.5,00,000, the rebate shall be equal to the amount of income-tax payable on his total income for any assessment year or an amount of Rs.12,500, whichever is less.

Notes (common for both):

- a) The amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee.
- b) Rebate shall be computed before Health & Education cess.
- c) Rebate under section 87A is, however, not available in respect of tax payable @10% on long-term capital gains taxable under section 112A.

SURCHARGE: (additional tax on Gross tax amount)

Surcharge is an additional tax payable over and above the income- tax. Surcharge is levied as a percentage of income-tax.

Category of Person	Particulars		
Individual/HUF/AOP/ BOI and Artificial Juridical Person pays tax under default tax regime under section 115BAC	Where		Rate of Surcharge on income tax
	Total income exceeds Rs.50 lakhs but does not exceed Rs.1 Crore (Illustration 1)		10%
	Total income exceeds Rs.1 Crore but does not exceed Rs.2 Crore (Illustration 2)		15%
	Total income exceeds Rs.2 Crore (excluding Capital gains taxable u/s 111A, 112 & 112A and Dividend Income)		25%
	Income Taxable under section 111A, 112, 112A and Dividend Income (Illustration 3 and 5)		15%
	Total income exceeds Rs.2 Crore (including Capital gains taxable u/s 111A, 112 & 112A and Dividend Income) but not covered in above case. (Illustration 4)		15%
Individual/HUF/AOP /BOI and Artificial Juridical Person exercises the option to shift out of the default tax regime	Where		Rate of Surcharge on income tax
	Total income exceeds Rs.50 lakhs but does not exceed Rs.1 Crore (Illustration 1)		10%
	Total income exceeds Rs.1 Crore but does not exceed Rs.2 Crore (Illustration 2)		15%
	Total income exceeds Rs.2 Crore but does not exceed Rs.5 Crore (excluding Capital gains taxable u/s 111A, 112 & 112A and Dividend Income)		25%
	Income Taxable under section 111A, 112, 112A and Dividend Income (Illustration 3)		15%
	Total income exceeds Rs.5 Crore (excluding Capital gains taxable u/s 111A, 112 & 112A and Dividend Income)		37%
	Income Taxable under section 111A, 112, 112A and Dividend Income (Illustration 6)		15%
	Total income exceeds Rs.2 Crore (including Capital gains taxable u/s 111A, 112 & 112A and Dividend Income) but not covered in above 2 cases. (Illustration 4)		15%
Other Assessee's	Type of Assessee	Total Income more than Rs.1 Crore but upto 10 Crore	Total Income is more than Rs.10 crore
	Firms/ LLP/Local Authority	12%	
	Foreign Company	2%	5%
	Domestic Company & Co-Operative Society	7%	12%

	<p>Note: The rate of surcharge in case of a domestic company opting for taxability u/s 115BAA or 115BAB shall be 10% irrespective of amount of total income. The rate of surcharge in case of a Co-operative society opting for taxability u/s 115BAD or 115BAE shall be 10% irrespective of amount of total income.</p>	
<p>In case of AOP consisting of only companies as members (for both Default and Optional tax regime)</p>	Where	Rate of Surcharge on income tax
	Total income exceeds Rs.50 lakhs but does not exceed Rs.1 Crore	10%
	Total income exceeds Rs.1 Crore	15%

Illustrations:

Sl. No.	Components of Total Income	Applicable rate of Surcharge
1	<ul style="list-style-type: none"> ➤ STCG u/s 111A Rs.30 lakhs; ➤ LTCG u/s 112A Rs.25 lakhs; and ➤ Other income Rs.40 lakhs <p>Total Income Rs.95 lakhs</p>	Surcharge would be levied @ 10% on income-tax computed on total income of Rs.95 lakhs.
2	<ul style="list-style-type: none"> ➤ STCG u/s 111A Rs.60 lakhs; ➤ LTCG u/s 112 Rs.65 lakhs; and ➤ Other income Rs.50 lakhs <p>Total Income Rs.1.75 crores</p>	Surcharge would be levied @ 15% on income-tax computed on total income of Rs.1.75 crores.
3	<ul style="list-style-type: none"> ➤ Dividend Income Rs.54 lakhs; ➤ LTCG u/s 112A Rs.55 lakhs; and ➤ Other income Rs.3 crores <p>Total Income Rs.4.09 crores</p>	<p>Surcharge would be levied @ 15% on income-tax on:</p> <ul style="list-style-type: none"> ➤ Dividend Income of Rs.54 lakhs; and ➤ LTCG of Rs.55 lakhs taxable u/s 112A. <p>Surcharge @ 25% would be leviable on income-tax computed on other income of Rs.3 crores included in total income.</p>
4	<ul style="list-style-type: none"> ➤ STCG u/s 111A Rs.60 lakhs; ➤ LTCG u/s 112A Rs.50 lakhs; ➤ LTCG u/s 112 Rs.5 lakhs and ➤ Other income Rs.1.10 crores <p>Total Income Rs.2.25 crore</p>	Surcharge would be levied @ 15% on income-tax computed on total income of Rs.2.25 crore.
5	<ul style="list-style-type: none"> ➤ STCG u/s 111A Rs.50 lakhs; ➤ LTCG u/s 112 Rs.65 lakhs; and ➤ Other income Rs.6 crores ➤ Total Income Rs.7.15 crores <p style="text-align: center;">[Section 115BAC]</p>	<p>Surcharge @ 15% would be levied on income-tax on:</p> <ul style="list-style-type: none"> ➤ STCG of Rs.50 lakhs taxable u/s 111A; and ➤ LTCG of Rs.65 lakhs taxable u/s 112. <p>Surcharge @ 25% would be leviable on the income-tax computed on other income of Rs.6 crores included in total income.</p>
6	<ul style="list-style-type: none"> ➤ STCG u/s 111A Rs.50 lakhs; ➤ LTCG u/s 112 Rs.65 lakhs; and ➤ Other income Rs.6 crores ➤ Total Income Rs.7.15 crores <p style="text-align: center;">[Optional Scheme]</p>	<p>Surcharge @ 15% would be levied on income-tax on:</p> <ul style="list-style-type: none"> ➤ STCG of Rs.50 lakhs taxable u/s 111A; and ➤ LTCG of Rs.65 lakhs taxable u/s 112. <p>Surcharge @ 37% would be leviable on the income-tax computed on other income of Rs.6 crores included in total income.</p>

HEALTH AND EDUCATION CESS:

The amount of income-tax as computed including surcharge thereon shall be increased by an-

- a) Education Cess by 2% for the purpose of fulfilling the commitment of the Central Government to provide and finance universalized basic education and
- b) Secondary and Higher Education Cess shall also be charged @ 1%.
- c) Health Cess at 1% to fulfill the commitment of the Government to provide and finance quality health services.

Combinedly Health and Education Cess on income tax + surcharge is levied @ 4% in the case of all assesses.

Rounding off Total Income [Section 288A]:

The amount of total income computed in accordance with the provisions of the act shall be rounded off to the nearest multiple of ten rupees. For this purpose, Paise shall be ignored and five and above shall be rounded off to the next multiple of ten.

Rounding off of Tax Payable & Refund Due [Section 288B]:

Any amount of tax payable or refund due under the provisions of Income tax act shall be rounded off to the nearest multiple of ten rupees.

FORMAT FOR COMPUTING THE TAX LIABILITY

Particulars	Amount
Tax on Special Incomes @ specified tax rates	XXXX
Add: Tax on Balance Income @ Slab Rate/Flat Rate (as applicable)	XXXX
Gross Tax Liability	XXXX
Less: Rebate u/s 87A (if applicable)	(XXXX)
Tax Liability after rebate	XXXX
Add: Surcharge (if applicable) on gross tax liability	XXXX
Tax Liability after Surcharge	XXXX
Add: Health & Education Cess on above @ 4%	XXXX
Tax Liability	XXXX
Add: Interest under Section 234A/234B/ 234C	XXXX
Net Tax Liability	XXXX
Less: Taxes paid by way of-	
a) Tax deducted at source (TDS)	(XXXX)
b) Advance tax	(XXXX)
c) Self-Assessment Tax	(XXXX)
d) Double Taxation Relief	(XXXX)
Final Tax Payable/Refundable	XXXX

Average Rate of Income-tax:

As per section 2(10), "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.

$$\text{Average rate of tax} = \frac{\text{Income-tax on Total Income}}{\text{Total Income}}$$

PARTIAL INTEGRATION OF AGRICULTURAL INCOME WITH NON-AGRICULTURAL INCOME:

As discussed in first chapter we have seen that agricultural income is exempt subject to conditions mentioned in section 2(1A). This concept is known as partial integration of agricultural income with non-agricultural income under which the tax computation is as follows:

SL No.	Particulars	Amount
A	Agricultural Income	XXX
B	Non-Agricultural Income	XXX
C	Total of A+B	XXX
D	Tax on C (before Surcharge & Cess)	XXX
E	A+ Basic exemption limit as applicable	XXX
F	Tax payable on E (before Surcharge & Cess)	XXX
G	Net Tax payable (D - F)	XXX
	Less: Rebate (if Non-agriculture income is upto Rs.5 Lakhs)	(XXX)
		XXX
	Add: Surcharge, if applicable	XXX
		XXX
	Add: Health and Education Cess @ 4%	XXX
	Final Tax Payable	XXX

Note: This concept applies only to those assessee's being an Individual, HUF, AOP or BOI who simultaneously have both -

- Net agricultural income exceeding Rs.5,000 and
- Taxable non-agricultural income exceeds the basic exemption limit of Rs.2,50,000 or Rs.3,00,000 or Rs.5,00,000 as the case may be.

It may be noted that aggregation provisions do not apply to Company, LLP, Firm, Co-operative society and Local authority.

The object of aggregating the net agricultural income with non-agricultural income is to tax the non-agricultural income at higher rates.

MARGINAL RELIEF:

It is applicable in case of all the assessee where surcharge is applicable. Marginal relief has to be checked only when total income is little bit more than Rs.50 Lakhs/1Crore/2Crore/5Crore/10Crore as the case may be.

It is computed as follows:

Total Income	XXXX
Tax on Total Income	XXXX
Add: Surcharge as applicable	XXXX
Total (A)	XXXX
Tax on Rs.50 Lakhs/1Crore//2Crore/5Crore/ 10Crore	XXXX
Add: Surcharge if Total income crosses second or higher limit	XXXX
Total Income- Rs.50Lakhs/1Crore//2Crore/5Crore/ 10Crore	XXXX
Total (B)	XXXX
Lower of A or B	XXXX
Add: Health & Education Cess on above @ 4%	XXXX
Tax Liability	XXXX
Marginal Relief (A-B)	<u>XXXX</u>

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.

PROBLEMS:

- 1) Mr. X has a total income of Rs.16,00,000 for P.Y.2023-24, comprising of income from house property and interest on fixed deposits.
Compute his tax liability for A.Y.2024-25 under the default tax regime under section 115BAC.

- 2) Mr. A a resident has a total income of Rs.14,50,000 comprising of his salary income and interest on fixed deposit.
Compute his tax liability for A.Y.2024- 25 assuming his age is –
 - a) 45 years
 - b) 63 years
 - c) 82 years
 Assume that Mr. A has exercised the option to opt out of the default tax regime.

- 3) Mr. Z aged below 60 years, has derived a total income of Rs.14,25,000 for the F.Y 2023-24.
Compute his Tax liability for the A.Y 2024-25 if-
 - A. **Option 1:** Assessee has opted for Section 115BAC
 - B. **Option 2:** Assessee has opted out of Section 115BAC

Solution:

Computation of Tax liability of Mr. Z for the A.Y 2024-25:

Option 1: Assessee has opted for Section 115BAC

Income	Tax Rate	Working	Tax Amount
Upto 3 Lakh			
> 3 to 6 Lakh			
> 6 to 9 Lakh			
> 9 to 12 Lakh			
> 12 to 14.25 Lakh			
<u>Add:</u> H & E Cess @ 4%			
Final Tax Payable			

Option 2: Assessee has opted out of Section 115BAC

Income	Tax Rate	Working	Tax Amount
Upto 3 Lakh			
> 3 to 5 Lakh			
> 5 to 10 Lakh			
> 10Lakh			
<u>Add:</u> H & E Cess @ 4%			
Final Tax Payable			

- 4) Mr. Raghav aged 26 years and a resident in India, has a total income of Rs.6,50,000, comprising his salary income and interest on bank fixed deposit.

Compute his tax liability for A.Y.2024-25 under default tax regime under section 115BAC.

Solution:

Computation of Tax liability of Mr. Raghav for the A.Y 2024-25:

Income	Tax Rate	Working	Tax Amount
Upto 3 Lakhs			
> 3 to 6 Lakhs			
> 6 Lakhs to 6.5 Lakhs			
<u>Less:</u> Rebate u/s 87A			
Final Tax Payable			

Income Tax

- 5) Mr. Pawan aged 35 years and a resident in India, has a total income of Rs.7,15,000, comprising his salary income and interest on bank fixed deposit.

Compute his tax liability for A.Y.2024-25 under default tax regime under section 115BAC.

Solution:

Computation of Tax liability of Mr. Pawan for the A.Y 2024-25:

Particulars	Amount
Step 1: Total Income in excess of 7,00,000 [7,15,000 - 7,00,000]	
Step 2: Tax on total income of Rs.7,15,000	
Step 3: Since $B > A$, rebate u/s 87A would be $B - A$ [26,500 - 15,000]	
<u>Add:</u> HEC@4%	
Final Tax Payable	

- 6) Mr. Piyush, aged 35 years and a resident in India, has a total income of Rs.4,60,000, comprising his salary income and interest on bank fixed deposit.

Compute his tax liability for A.Y.2024-25 if he exercises the option to shift out of the default tax regime.

Solution:

Computation of Tax liability of Mr. Piyush for the A.Y 2024-25:

Income	Tax Rate	Working	Tax Amount
Upto 2.5Lakh			
> 2.5 to 4.60 Lakhs			
<u>Less:</u> Rebate u/s 87A			
Final Tax Payable			

Income Tax

- 7) The total Non-agricultural income of Mr.D aged 40 years is Rs.15,00,000. The agricultural income earned is Rs.75,000 and expenses incurred for earning agricultural income is Rs.5,000. Compute the tax payable by Mr.D for A.Y 2024-25 under the default tax regime.
- 8) Mr.Asim, a 50 years old individual, is engaged in the business of roasting and grounding of coffee, derives income Rs.10,00,000 during the F.Y 2023-24. Compute the tax payable by him Assessment Year 2024-25 under the default tax regime.
- 9) Compute the tax liability of Mr. A (aged 42), having total income of Rs.51 lakhs for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit.
- a) As per Section 115BAC
 - b) Mr. A has exercised the option to shift out of section 115BAC.
- 10) Compute the tax liability of Mr. D (aged 65) in a most beneficial manner. He is having total income of Rs.5,01,00,000 for the Assessment Year 2024-25. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit and is the same under both tax regimes.
- 11) Total Income of TCS Ltd an Indian Company for F.Y 2023-24 is Rs.1,01,00,000. Compute the amount of Marginal Relief.

Solution:

Computation of the amount of Marginal Relief of TCS Ltd for the A.Y 2024-25:

Total Income	
Tax on Total Income	
Add: Surcharge as applicable	
Total (A)	
Tax on Rs.1Crore	
Total Income - Rs.1Crore	
Total (B)	
Lower of A or B	
Add: Health & Education Cess on above @ 4%	
Tax Liability	
Marginal Relief (A-B)	-

12) Total Income of Infosys Ltd an Indian Company for F.Y 2023-24 is Rs.10,02,30,000.
Compute the amount of Marginal Relief.

Solution:

Computation of the amount of Marginal Relief of Infosys Ltd for the A.Y 2024-25:

Total Income	
Tax on Total Income	
<u>Add:</u> Surcharge as applicable	
Total (A)	
Tax on Rs.10Crore	
<u>Add:</u> Surcharge as applicable	
Total Income - Rs.10Crore	
Total (B)	
Lower of A or B	
<u>Add:</u> Health & Education Cess on above @ 4%	
Tax Liability	
Marginal Relief (A-B)	-

“Your success is measured by the strength of your desire; the size of your dream; and how you handle your disappointment along the way.”

CHAPTER-3

COMPUTATION OF INCOME UNDER VARIOUS HEADS

The taxability of income of a person depends on the chargeability of such income under the Income tax Act 1961. The total income of an assessee (subject to statutory exemptions) is chargeable under Section 4. The scope of the total income, which varies with the residential status, is defined in Section 5. Section 14 enumerates the heads of income under which the income of an assessee will fall. The rules for computing income and the permissible deductions under different heads of income are dealt in different sections of the Act.

The heads of income, along with their corresponding set of sections for the purpose of computation of income, are given below:

- Income From Salary (Section 15 to 17)
- Income From House Property (Section 22 to 27)
- Profits & Gains of Business or Profession (Section 28 to 44D)
- Capital Gains (Section 45 to 55A)
- Income From Other Sources (Section 56 to 59)

First section under each head of income is charging section which specifies what income is taxable under the respective head.

For calculation of income, amount received is classified under 5 heads of income; it is then to be adjusted with reference to the provisions of the Income Tax laws in the following manner-

Computation of Taxable/Total Income

Particulars	Amount
Income from Salary	XXXX
Income from House Property	XXXX
Profits & Gains of Business or Profession	XXXX
Capital Gains	XXXX
Income from Other Sources	XXXX
	XXXX
Adjustment in respect of:	
Add: Clubbing of Income	XXXX
Less: Set off and carry forward of losses	(XXXX)
Gross Total Income	XXXX
Less: Deductions Under Chapter VI-A	(XXXX)
Total/Taxable Income	XXXX

UNIT-1

INCOME FROM SALARY

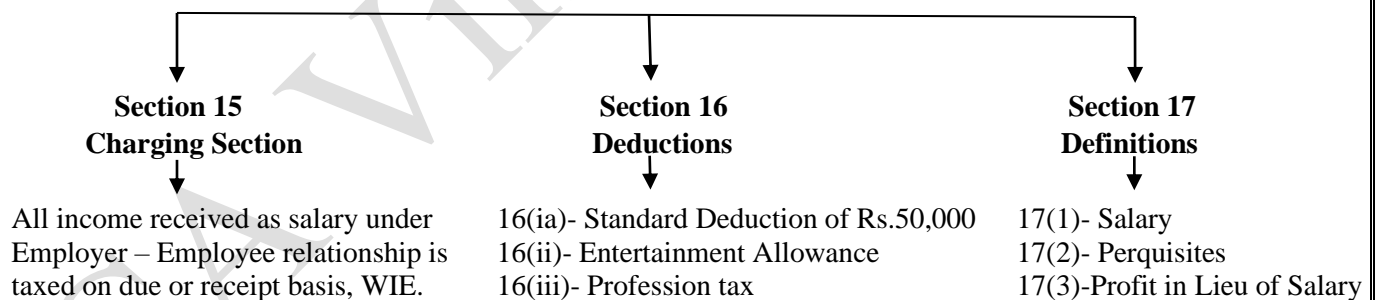
(Section 15 to17)

Computation of Taxable Salary

Particulars	Amount
Basic Pay	XXXX
Dearness Allowance (D.A)	XXXX
Bonus	XXXX
Commission	XXXX
City Compensatory Allowance	XXXX
Medical Allowance	XXXX
All taxable allowances (Working Note)	XXXX
All taxable Perquisites (Working Note)	XXXX
Gross Salary	XXXX
Less: Deductions u/s 16-	
(i) Standard Deduction of Rs.50,000	(XXXX)
(ii) Entertainment Allowance	(XXXX)
(iii) Profession tax	(XXXX)
Total Taxable Salary	XXXX

SALARY INCOME

(Section 15 to17)



All income received by an employee as salary under Employer – Employee relationship is taxed under this head on due or receipt basis, whichever is earlier.

Employers must withhold tax compulsorily (subject to section 192), if income exceeds minimum exemption limit, as tax deducted at source (TDS), and provide their employees Form 16 which shows the total amount of tax deducted from his net income.

The question whether a particular person receives the income in his capacity as an employee or not has to be decided from the facts of each case.

Let's examine the following cases, whether payments are chargeable under head salaries;

- a) **Professor:** The professor of university would be receiving income by way of monthly salary from the university which is taxable under this head. But this does not mean that every item of income received by the employee from his employer would be taxable under this head. Thus, income by way of examinership fees received by a professor from the same university in which he is employed would not be chargeable to tax under this head but must be taxed as Income from other sources under section 56. This is because of the fact that the essential condition that the income in question must be received for services rendered in the ordinary course of employment would not be fulfilled in the case of examinership fees.
- b) **Director:** A director of a company may, in some cases, be an employee of a company where there is a specific contract of employment between him and the company. The fact that the same person has dual capacity in his relationship with the company does not mean that he cannot be taxed under this head. Every item of income arising to such a director who is also an employee of the company (e.g. a managing director or other whole-time director) by virtue of his employment would be taxable as his income from salary. Thus, income by way of remuneration received by a managing director would be taxable as his salary income whereas the income received by him as director's fees in his capacity as director for attending the Board meetings would be assessable under the head "Income from other sources".
- c) **Manager:** Remuneration received by a manager of a company even if he is wrongly designated as a director or by any other name would be chargeable to tax under this head regardless of the fact that the amount is payable to him monthly or is calculated at a certain percentage of the company's profits.
- d) **Partner of a firm:** Salary paid to a partner by a firm is nothing but appropriation of profits. Any salary, bonus, commission, or remuneration by whatever name called due to or received by partner of a firm shall not be regarded as salary but has to be charged as income from business. It is because of the fact that the relationship between the firm and its partner is not of employer and employee.
- e) **Member of Parliament:** The salary received by a person as Member of Parliament will not be chargeable to income-tax under the head "Salaries" but as "Income from other sources" because a Member of Parliament is not an employee of the Government but only an elected representative of the people.
- f) **Person carrying on a profession or vocation:** Income derived by any person from carrying on a profession or vocation must be taxed as business income and not as salary income because employment is different from profession.

But, if an employee receives any money from his employer as part of the terms of employment for not carrying on any profession, such income must be taxed as salary income.

For instance, the allowance given by employer to a doctor employed by him for not carrying on a profession in addition to the employment would be income arising from employment in accordance with the terms and conditions of such employment and must, therefore, be taxed as salary income.

If an employee gets money from persons other than his employer and if such money is not in any way related to the contract of services with the employer under whom he is working, the receipts, if taxable as income, must be assessed under the head "Income from other sources".

However, gratuity, bonus, commission or other items of payment made by the employer without any specific stipulation in the contract of employment to this effect, would still be taxable as salary, because they are paid by the employer for the services rendered by the employee.

BASIS OF CHARGE [Section 15]:

As per Section 15, the income chargeable to income tax under the head salaries would include- Any salary due to an employee from an employer or a former employer during the previous year irrespective of the fact whether it is paid or not. Therefore, it is only logical to note that if it has already been taxed on due basis, the same cannot be taxed again when it is paid. Similarly, if a salary which was paid in advance, if it has already been taxed in the year of payment, it cannot subsequently be taxed when it becomes due.

Arrears of salary paid or allowed to the employee during the previous year by or on behalf of an employer or a former employer would be chargeable to tax during the previous year in cases where such arrears were not charged to tax in any earlier year.

Salary received in advance: Where salary is received in advance by an employee which is chargeable to tax as and when it is received although the salary is not due to him. But in order to ensure that there is no double taxation of the same item of income in the hands of the same employee, the explanation to Section 15 specifically provides that where an item of a salary income received by an employee in advance is taxed as and when it is received, it shall not again be charged to tax when it becomes due to the assessee.

Basic Criteria for salary income is “**Employer-Employee Relationship**”.

The basis of liability under the head salaries is the employer-employee relationship. Employer may be an individual, firm, and association of persons, company, corporation, Central Government, State Government, public body or a local authority. Likewise, employer may be operating in India or abroad. The employee may be full time employee or part-time employee.

Place of accrual of salary: Under section 9(1)(ii), salary earned in India is deemed to accrue or arise in India even if it is paid outside India or it is paid or payable after the contract of employment in India comes to an end.

If an employee is paid pension abroad in respect of services rendered in India, the same will be deemed to accrue in India. Similarly, leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.

SALARY [Section 17(1)]:

Salary would include wages, allowances, annuity, pension, gratuity, fees, commission, advance, leave encashment and also perquisites and profits in lieu of salary etc. It includes monetary as well as non-monetary items.

Foregoing of Salary Vs Surrender of Salary:

Once salary accrues, the subsequent waiver by the employee does not absolve him from liability to income-tax. Such waiver is only an application and hence, chargeable to tax.

Example:

Mr. A, an employee instructs his employer that he is not interested in receiving the salary for April 2023 and the same might be donated to a charitable institution.

In this case, Mr. A cannot claim that he cannot be charged in respect of the salary for April 2023. It is only due to his instruction that the donation was made to a charitable institution by his employer. It is only an application of income.

Hence, the salary for the month of April 2023 will be taxable in the hands of Mr. A. He is, however, entitled to claim a deduction under section 80G for the amount donated to the institution.

However, if an employee surrenders his salary, in the public interest, to the Central Government under section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, the salary so surrendered would be exempt while computing his taxable income.

ALLOWANCES:

An allowance is defined as a fixed amount of money given periodically in addition to the salary for the purpose of meeting some specific requirements connected with the service rendered by the employee or by way of compensation for some unusual conditions of employment. It is taxable on due/accrued basis. These allowances are generally taxable and are to be included in the gross salary unless a specific exemption has been provided in respect of allowances provided under the following sections:

PARTLY TAXABLE ALLOWANCES:

1) House Rent Allowances [Section 10(13A)]:

Any special allowance specifically granted to an employee by his employer to meet expenditure actually incurred on payment of rent in respect of residential accommodation occupied by the assessee, is exempt to the extent of least of the following:

- a) Actual amount of such allowance received in respect of the relevant period
- b) Rent paid over 10% of salary [Rent paid – 10% of salary]
- c) an amount equal to:
 - i. 50% of the salary due to the assessee in respect of the relevant period, where such accommodation is situated at Chennai, Delhi, Mumbai, or Kolkatta (CDMK), and
 - ii. 40% of the salary due to the assessee in respect of the relevant period, where such accommodation is situated at any other place.

Notes:

- Salary = Basic Pay + D.A. (if forming part of salary/retirement benefit) + Commission (if it is expressed as a fixed % of turnover).
- 'Relevant period' means the periods during which the said accommodation was occupied by the assessee during the previous year.
- Exemption is not available for the assessee who lives in his own house for which he doesn't pay any rent.
- House rent allowance provided to High Court and Supreme Court Judges during their service period is exempt from income-tax.

2) Special allowances for performance of Official duty [Section 10(14)(i)]:

These allowances are specifically granted to meet expenses wholly and exclusively incurred in the performance of official duty. These are exempt to the extent such expenses are actually incurred or the amount received, whichever is less.

These allowances are travelling & Conveyance allowance, Daily allowance, Helper allowance, Research Allowance, Uniform Allowance etc.

$$\text{Taxable Allowance} = \text{Actual amount received} - \text{Actual amount utilized}$$

3) Allowance to meet Personal expenses [Section 10(14)(ii)]:

Special allowances granted to an assessee either to meet his personal expenses at the place of duty or to compensate for increased cost of living. Allowances which are granted to meet personal expenses are exempt to the extent of amount received or the limits specified whichever is less.

The allowances is as follows-

Sl. No	Name & Nature of allowance	Purpose	Extent to which allowance is exempt
1)	Tribal / Schedule/ Agency area allowance	Specified area of: Madhya Pradesh, Tamil Nadu, Uttar Pradesh, Karnataka, Tripura, Assam, West Bengal, Bihar, Orissa.	Rs.200 per month
2)	Children education allowance	To meet the education expenses of employee's children.	Rs.100 per month per child up to a maximum of two children
3)	Hostel expenditure allowance	To meet the hostel expenses of employee's children.	Rs.300 per month per child up to a maximum of two children.
4)	Transport allowance	Expenditure to meet commuting between place of work to residence.	Rs.3,200 per month only for physically challenged. (blind or deaf and dumb or orthopedically handicapped with disability)
5)	Allowance for transport of employees	Allowance granted to employee working in transport system to meet his personal expenditure while performing duties provided that such employee is not in receipt of daily allowance.	70% of such allowance or Rs.10,000 per month, whichever is less.

Besides the above there are compensatory allowances for hilly areas and for work in difficult conditions too.

FULLY TAXABLE ALLOWANCES:

- 1) Dearness Allowance, Additional Dearness Allowance and Dearness Pay
- 2) Fixed Medical Allowance
- 3) Tiffin/Meal Allowance
- 4) Servant Allowance
- 5) Non-practising Allowance
- 6) Warden Allowance and Proctor Allowance
- 7) Deputation Allowance
- 8) Overtime Allowance
- 9) Other Allowances like Family allowance, Project allowance, Marriage allowance, City Compensatory allowance, Dinner allowance, Telephone allowance etc.

FULLY EXEMPT ALLOWANCES:

- 1) Any allowance paid to a Judge of a High Court and Supreme Court.
- 2) Any Allowance paid by the UNO to its employees.
- 3) **Allowances payable outside India [Section 10(7)]:** Allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for services rendered outside India are exempt from tax.
Students may remember that in such cases under section 9(1)(iii), the income chargeable under the head 'Salaries' is deemed to accrue in India. The residential status of the recipient will, however, not affect this exemption.

PERQUISITES [Section 17(2)]:

Any facility / benefit that is granted by the employer, the use of which is enjoyed by the employee or any member of the employee's household, is construed as a perquisite under the Income Tax Act, and hence attracts tax.

Perquisite may be provided in cash or in kind.

Reimbursement of expenses incurred in the official discharge of duties is not a perquisite.

Perquisite may arise in the course of employment or in the course of profession. If it arises from a relationship of employer-employee, then the value of the perquisite is taxable as salary.

However, if it arises during the course of profession, the value of such perquisite is chargeable as profits and gains of business or profession.

The term "Perquisite" is defined by section 17(2).

Taxable Perquisites:

- 1) Rent Free Residential Accommodation
- 2) Interest Free / Concessional Loan
- 3) Use of movable assets by employee / any member of his household
- 4) Transfer of movable assets
- 5) Provision of gas / electricity / water
- 6) Provision of free / concessional educational facilities
- 7) Free or concessional tickets
- 8) Sweat Equity Shares
- 9) Credit Card Expenses
- 10) Club expenditure
- 11) Health Club, Sports, Similar facilities

VALUATION OF TAXABLE PERQUISITES:

We need to understand the valuation of perquisites. The table appended below, summarises the taxable value of various perquisites in the hands of the employee assessee.

Valuation of Taxable Perquisite in respect of unfurnished accommodation for private employees:

Population of the City (as per 2001 census)	Accommodation owned by employer	Accommodation hired/leased by employer
Upto 10Lakhs	7.5% of salary in respect of period during which accommodation is occupied by employee	Amount of lease rent paid or payable or 15% of salary, whichever is less. (For the period during which accommodation is occupied by employee)
Exceeding 10Lakhs but upto 25Lakhs	10% of salary in respect of period during which accommodation is occupied by employee	
Exceeding 25Lakhs	15% of salary in respect of period during which accommodation is occupied by employee	
	reduced by the rent, actually paid by the employee (if any).	

Salary for this purpose: Basic + D.A (if provided in terms of employment) + Bonus + Commission + Any fees + all taxable allowances.

However salary doesn't include employer's contribution to the provident fund account of the employee, value of perquisites & lump sum payments received at the time of termination.

Valuation of Taxable Perquisite in respect of unfurnished accommodation for Central or State government employees:

Value of perquisites of accommodation for Central or State government employees is equal to Licence fee determined by Central or State government in accordance with rules framed by respective government for allotment of houses as reduced by the rent actually paid by the employee (if any).

Exception: Rent free accommodation provided to Judge of High court or Supreme Court, Officials working in parliament, union ministers, leader of opposition party & serving members or chairman of UPSC shall be exempted.

Valuation of Perquisite in respect of furnished accommodation:

1) Furnished accommodation not being a hotel:

- Find out the value of perquisites on an assumption that accommodation is unfurnished as stated above.
- To the value above add-
 - a) 10% of cost of furniture per annum, if furniture is owned by employer.
 - b) Actual hire charges paid or payable, if furniture is hired by the employer.

2) Furnished accommodation in a hotel:

- 24% of salary or
- Actual hire charges paid or payable,
Whichever is lower is the value of taxable perquisite.

Note: If rent or part of the rent is paid by the employee, then it has to be reduced from the value of perquisites in all the cases.

Perquisites which are not taxable:

- a) Accommodation provided in the remote area is 100% exempt. Remote area means area located 40kms away from town & having population less than 20,000.
- b) Hotel accommodation upto 15days on account of transfer of employee.
- c) If an employee is provided with accommodation, on account of his transfer from one place to another, at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower perquisite value, as calculated above, for a period not exceeding 90 days and thereafter, the value of perquisite shall be charged for both such accommodations.

Valuation of perquisite in respect of Interest Free / Concessional Loan:

Where the employer grants a loan to an employee or any member of his household, exceeding INR 20,000, the interest at the rate charged by SBI, as on the first date of the relevant PY, at maximum outstanding monthly balance as reduced by the Interest actually charged to the employee; would be the taxable value of the perquisite.

$$\text{Taxable perquisite} = \text{Loan Amount} \times (\text{SBI Interest Rate} - \text{Actual Interest Rate charged})$$

However, no value would be charged if such loans are made available for medical treatment in respect of prescribed diseases.

Value of perquisite in respect of Use of any Movable Asset by employee / any member of his household (other than motor car):

Valuation mode	Laptop/Computer	Other assets owned by employer	Other assets hired by employer
Cost to the Employer	Nil	10% of actual cost of asset	Actual hire charges paid or payable
Less:	Nil	Amount recovered from employee	Amount recovered from employee
Taxable perquisite	Nil	Balance	Balance

Value of perquisite in respect of moveable asset sold by an employer to his employee:

Valuation mode	Electronic Equipment's	Motor Car	Other Asset
Find out the actual Cost to the Employer	Cost to the Employer	Cost to the Employer	Cost to the Employer
Less: Depreciation	50% p.a as per WDV method	20% p.a as per WDV method	10% p.a as per SLM method
Less: Sale Value	Amount recovered from employee	Amount recovered from employee	Amount recovered from employee
Taxable perquisite	Balance	Balance	Balance

Notes:

1. Electronic equipment's refer to computer, chips, hard disk, printer etc...
2. Depreciation is for each completed year for which asset was used by the employer.
3. If asset is more than 10years old, then it's not taxable as perquisite.

Perquisite value in respect of Sweeper, Gardener, Watchman or a Personal Attendant:

- a) The perquisite value in respect of services of sweeper, a gardener, a watchman or personal attendant employed by the employer, shall be the actual cost to the employer. The actual cost in such a case shall be the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount recovered by the employee for such services (only for specified employee).

- b) If the employer pays salary for the domestic servants employed by the employee, the actual amount borne by the employer is chargeable to tax as perquisite in the case of all employees.

Perquisite value in respect of Gas, Electric Energy or Water supply for household consumption:

If gas, electricity or water connections are taken by the employee and employer paid or reimbursed the employee for such expenses, it will be perquisite in the hands of all employees.

But if the gas, electricity or water connections are taken in the name of employer and facility of such supplies are provided to the employee, it will be perquisite in the hands of specified employees only.

The value of benefit to the employee resulting from the provision of gas, electricity or water supplied by the employer shall be determined as follow:

Mode of valuation	Amenities purchased by employer	Amenities from own source
Cost of the employer	Amount paid or payable to outside agency	Manufacturing cost
Less:	Amount recoverable or recovered	Amount recoverable or recovered
Taxable Value of perquisite	Balance amount	Balance amount

Value of perquisite in respect of Free Education or Concessional Education:

If school fees of children of employee or any member of employee's household is paid or reimbursed by the employer on employee's behalf, it will be perquisite in the hands of all employees.

But if the education facility is provided in the school maintained by the employer or in any school by reason of his being employment at free of cost or at concessional rate, it would be perquisite in the hands of specified employees only.

- Training expenses of employee is not a perquisite.
- Fixed Education allowance is taxable u/s 10(14)(ii).
- Actual amount of school fees paid or reimbursed by the employer for the children of employee is chargeable to tax as perquisite in the hands of employee.
- However reimbursement of tuition fee can be claimed as deduction u/s 80C.
- **Education facility provided in educational institution owned by the employer or free educational facilities are allowed in any other educational institution by reason of his being in employment of that employer: (specified employees only)**
 - a) Where the cost of education or value of benefit in a similar institution in or near the locality is upto Rs.1,000 per month per child(no limit for number of child), taxable value of perquisite will be nil.
 - b) Where the cost of education or value of benefit in a similar institution in or near the locality exceeds Rs.1,000 per month per child, the entire amount is taxable as perquisite.

Notes:

1. While calculating the amount of perquisite, any amount paid or recovered from the employee in this connection shall be reduced.
2. The exemption of Rs.1,000 p.m is allowed only in case of education facility provided to the children of the employee not in case of education facility provided to other household members.
3. Scholarship received by employee's children from the employer is a perquisite in the hands of employee and the same is exempt from tax u/s 10(16).

Free or Concessional tickets:

The value of any benefit or amenity resulting from the provision by an employer-

- who is engaged in the carriage of passengers or goods,
- to any employee or to any member of his household for personal or private journey free of cost or at concessional fare,
- in any conveyance owned, leased or made available by any other arrangement by such employer for the purpose of transport of passengers or goods

shall be taken to be the value at which such benefit or amenity is offered by such employer to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit or amenity.

However, there would be no such perquisite to the employees of an airline or the railways.

Value of perquisite in respect of Specified security or Sweat Equity Shares:

Value of perquisite = FMV of shares issued on the date of exercising the option – Amount paid by employee to acquire the shares.

Fair Market Value:

- **If shares are listed on recognized stock exchange** - the fair market value shall be the average of the opening price and closing price of the share on that date on the said stock exchange.
- **If shares are listed on more than one recognized stock exchange**- the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.
- **If shares are not listed on recognized stock exchange**- the fair market value shall be such value as determined by a merchant banker on the specified date.

Value of perquisite in respect of Free Meals or Concessional Meals:

The value of free food and non-alcoholic beverages provided by the employer to an employee shall be the amount of expenditure incurred by such employer. The amount so determined shall be reduced by the amount, if any, paid or recovered from the employee for such benefit or amenity.

However the following shall not be taxable as perquisite-

- a) Free meals and non-alcoholic beverages provided by the employer-
 - during the office hours at office or business premises.
 - through paid vouchers which are not transferrable and usable at eating joints.

to the extent the value thereof either case does not exceed Rs.50 per meal.

- b) Tea or snacks provided by employer during office hours.
- c) Free meals provided during the working hours in remote area.

Value of perquisite in respect of Gifts:

The value of gift or voucher in lieu of such gift received by the employee or by member of his household on ceremonial occasions or otherwise, shall be equal to actual amount of gift. If the value of such gift or voucher in lieu of gift is below Rs.5,000, the perquisite value of gift shall be taken as Nil.

However if the aggregate value of gift is Rs.5,000 or more, then the entire amount is taxable including Rs.5,000 as perquisite.

Gifts in Cash are always fully taxable.

Value of perquisite in respect of Credit Card Expenses:

Membership fees / Annual fees incurred by the employer, on a card provided to the employee, would be the taxable value of perquisite net of the amount, if any, recovered from him.

However, such expenses incurred wholly and exclusively for official purposes would not be treated as a perquisite if the following conditions are fulfilled-

- a) complete details in respect of such expenditure are maintained by the employer which may, inter alia, include the date of expenditure and the nature of expenditure;
- b) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

Value of perquisite in respect of Club expenditure:

Cost incurred by the employer at actual, net of recovery from the employee would be the taxable value of perquisite.

However, in case the employee enjoys Corporate Membership in a club, the value of benefit wouldn't include the initial membership paid by the Employer to acquire the corporate membership.

Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be treated as a perquisite provided the following conditions are fulfilled:-

- a) complete details in respect of such expenditure are maintained by the employer which may, inter alia, include the date of expenditure, the nature of expenditure and its business expediency;
- b) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

Value of perquisite in respect of Health Club, Sports, Similar facilities:

No perquisite if provided uniformly by the employer to all employees.

Valuation of perquisite in respect of use of Motor Car:

Sl No	Circumstances	Value of perquisites
1.	<p>WHERE CAR IS OWNED BY THE EMPLOYEE:</p> <p>A. When car expenses are met by the employee</p> <p>B. When running and maintenance expenses are met or reimbursed by the employer-</p> <p>(i) If the car is used wholly for official purposes</p> <p>(ii) If the car is used wholly for personal purposes</p> <p>(iii) If the car is partly used for official and partly for personal purposes.</p>	<p>A. It is not a perquisite, hence not taxable.</p> <p>B.</p> <p>(i) In this case, there is no perquisite.</p> <p>(ii) Value of perquisite shall be actual expenditure incurred by the employer less amount recovered by employee (if any).</p> <p>(iii) Value of perquisite shall be actual expenditure incurred by the employer less amount used for official purposes i.e @1800 per month where the c.c (cubic capacity) of the engine is upto 1.6 litres or Rs.2400 if such c.c exceeds 1.6 litres and Rs.900 p.m if driver is provided less amount recovered from the employee.</p>
2.	<p>WHEN CAR IS OWNED OR HIRED BY EMPLOYER:</p> <p>A. When running and maintenance expenses are met or reimbursed by the employer-</p> <p>(i) If the car is used wholly for official purposes.</p> <p>(ii) If the car is used wholly for personal purposes.</p> <p>(iii) If the car is partly used for official purposes and partly for personal purposes.</p> <p>B. When running and maintenance expenses of car are met by the employee-</p> <p>(i) If the car is used wholly for official purposes</p> <p>(ii) If the car is used wholly for personal purposes.</p> <p>(iii) If the car is partly used for official purposes and partly for personal purposes.</p>	<p>A.</p> <p>(i) In this case, there is no perquisite.</p> <p>(ii) Value of perquisite shall be the actual expenditure incurred by the employer plus 10% of the actual cost of car or hire charges if car is taken on hire less amount recovered from the employee.</p> <p>(iii) Value of perquisite shall be Rs.1800 p.m where the c.c of the engine upto 1.6 litres or Rs.2400 p.m if such c.c exceeds 1.6 litres and Rs.900 p.m if driver is provided.</p> <p>B.</p> <p>(i) It is not a perquisite, hence not taxable.</p> <p>(ii) Value of perquisite shall be 10% of the actual cost of car or hire charges if car is taken on hire plus salary of driver if any paid or payable by the employer.</p> <p>(iii) Value of perquisite shall be Rs.600 p.m where the c.c of the engine upto 1.6 litres or Rs.900 p.m if c.c exceeds 1.6 litres and Rs.900 p.m if driver is provided.</p>

Note: Perquisite value of motor car is taxable only in case of specified employees if motor car is provided by the employer to the employee.

However, where the motor car is owned by the employee and used by him or members of his family wholly for personal purpose and for which employer reimburses the running and maintenance expenses of the car, the perquisite value of motor car is taxable in case of all employees.

Specified employees:

Specified employees includes-

- **Director employee:** An employee of a company who is also a director is a specified employee irrespective of whether he is a full-time director or part-time director.
- **An employee who has substantial interest in the company:** An employee of a company who has substantial interest (20% or more of the voting power) in that company is a specified employee.
- Employee whose income chargeable under the head 'salaries' exceeds Rs.50,000 is a specified employee. The above salary is to be considered exclusive of the value of all benefits or amenities not provided by way of monetary payments.

Tax-free Perquisites (in all cases):

The value of the following perquisites is not to be included in the salary income of an employee:

- 1) **Medical Facilities-** Explained below
- 2) **Refreshment:** The value of refreshment provided by the employer during office hours and in office premises is fully exempt.
- 3) **Recreational facilities:** The value of recreational facilities provided is exempt. However, the facility should not be restricted to a selected few employees.
- 4) **Subsidized lunch or dinner:** Subsidized lunch provided to an employee during working hours at office or business premises provided the value of such meal is upto Rs.50.
- 5) **Telephone facility:** Telephone facility provided at the residence of the employee is exempt to the extent of the amount of telephone bills paid by the employer when it is used for official and personal purposes of the employee.
- 6) **Transport:** Transport provided by the employer to the employees as a group (and not to any individual or a few employees alone) from their place of residence to the place of work
- 7) **Perquisites allowed outside India by the Government:** Any Perquisites allowed outside India by the Government to a citizen of India for rendering services outside India.
- 8) **Employer's contribution to staff group health insurance scheme:** Employer's contribution to staff group health insurance scheme is exempt in the hands of employee.
Whereas premium paid by employer on the life insurance policy of the employee is taxable as perquisite in the hands of employee.
- 9) **Personal accident insurance:** Payment of annual premium by employer on personal accident policy effected by him to his employee is exempt in the hands of employee.
- 10) **Amount spent on training of employees:** Amount spent by the employer on training of employees or amount paid for refresher management course including expenses on boarding and lodging is exempt.
- 11) **Free rations:** The value of free rations given to the armed forces personnel is exempt.

- 12) **Computer/laptops:** Computer/laptops provided only for use, where ownership is retained by the employer is exempt.
- 13) **Rent free houses / conveyance:** Rent free houses / conveyance to High Court & Supreme Court Judges Officer of Parliament, Union Minister and a Leader of Opposition in Parliament are exempt.
- 14) Tax paid by employer on non-monetary perquisites of employee is exempt in the hands of employee under section 10(10CC).

Value of perquisite in respect of Medical facility:

- Fixed medical allowance is always fully taxable.
- For this purpose, family includes- Spouse, Parents, children's, brothers & sisters of the individual, wholly or mainly dependent on individual.

The following medical facilities provided by the employer are not chargeable to tax:

- a) The value of any Medical facility provided to an employee or his family member in any hospitals, clinics, etc. maintained by the employer.
- b) Reimbursement of expenditure actually incurred by the employee on medical treatment for self or for his family members in any hospitals, dispensaries etc. maintained by the Government or local authority or in a hospital approved under the Central Health Scheme or any similar scheme of the State Government.
- c) Reimbursement of expenditure actually incurred by the employee for medical treatment in of him or any member of his family in respect of any illness relating to COVID-19 any hospital would not be treated as a perquisite subject to conditions notified by the Central Government.
- d) Any premium paid or reimbursed by an employer in relation to the health of the employees (including family members of the employees). However, any such scheme should be approved by the Central Government or the Insurance Regulatory Development Authority (IRDA).
- e) **Medical Facility outside India:**
Expenditure incurred towards medical facilities by the employer or medical reimbursement of an employee or family members of such employee outside India are taxable as per the following conditions:
 - Cost of Medical treatment of an employee or family members of such employee outside India, exemption is available only to the extent amount permitted by RBI.
 - Cost of stay of the employee or any family member of the employee outside India is exempt up to the limit permitted by RBI.
 - Cost on the travel of employee or any member of his family outside India, shall be excluded from perquisite if gross total income of employee before including such expenditure doesn't exceed Rs.2,00,000.

LEAVE TRAVEL CONCESSION [Section 10(5)]:

An employee can claim exemption under section 10(5) in respect of Leave Travel Concession. Exemption u/s 10(5) is available to all employees (i.e. Indian as well as foreign citizens). Exemption is available in respect of value of any travel concession or assistance received or due to the employee from his employer (including former employer) for himself and his family members in connection with his proceeding to any place in India either on leave or after retirement from service or after termination of his service.

Amount of Exemption:

- a) **Where journey is performed by air:** Amount of exemption will be lower of amount of economy class air fare of the National Carrier by the shortest route or actual amount spent.
- b) **Where journey is performed by rail:** Amount of exemption will be lower of amount of air-conditioned first-class rail fare by the shortest route or actual amount spent.
- c) **Where the place of origin and destination are not connected by rail and journey is performed by any mode of transport other than by air:**

The exemption will be as follows:

- i. **If recognised public transport exists:** Exemption will be lower of first class or deluxe class fare by the shortest route or actual amount spent.
- ii. **If no recognised public transport exists:** Exemption will be lower of amount of air-conditioned first class rail fare by the shortest route (considering as if journey is performed by rail) or actual amount spent.

Block: Exemption is available for 2 journeys in a block of 4 years. The block applicable for current period is calendar year 2022-25. The previous block was of calendar year 2018-21.

Carry over: If an employee has not availed of travel concession or assistance in respect of one or two permitted journeys in a particular block of 4 years, then he is entitled to carry over one journey to the next block. In this situation, exemption will be available for 3 journeys in the next block.

Family: Family will include spouse and children of the individual, whether dependent or not and parents, brothers, sisters of the individual or any of them who are wholly or mainly dependent on him. Exemption is restricted to only 2 surviving children born after October 1, 1998 (multiple births after first single child will be considered as one child only).

Value of Leave travel concession provided to the High Court judge or the Supreme Court Judge and members of his family are completely exempt without any conditions.

Salary paid tax-free:

This means that the employer bears the burden of the tax on the salary of the employee. In such a case, the income from salaries in the hands of the employee will consist of his salary income and also the tax on this salary paid by the employer.

However, as per section 10(10CC), the income-tax paid by the employer on non-monetary perquisites on behalf of the employee would be exempt in the hands of the employee.

Other benefit or amenity:

The value of any other benefit or amenity, service, right or privilege provided by the employer shall be determined on the basis of cost to the employer under an arms' length transaction as reduced by the employee's contribution, if any.

GRATUITY [Section 10(10)]:

Gratuity is normally paid in lieu of the long-term service of an employee (usually > 5 years), but is a voluntary payment by the employer, as an appreciation of the long-standing services. Now-a-days gratuity has become a normal payment applicable to all employees. In fact, Payment of Gratuity Act, 1972 is a statutory recognition of the concept of gratuity.

The Gratuity so received at the time of retirement or termination of employment or death of employee, is exempt as under:

Government Employee	Non-Government Employee	
	Employee covered under Payment of Gratuity act,1972	Others
100% Exempt	Least of the following is exempt- <ul style="list-style-type: none"> ➤ Actual gratuity received ➤ Statutory limit of Rs.20Lakh ➤ $15/26 \times \text{Last drawn salary} \times \text{No. of years of service completed}$ (Round off) 	Least of the following is exempt- <ul style="list-style-type: none"> ➤ Actual gratuity received. ➤ Statutory limit of Rs.20Lakh ➤ $1/2 \times \text{Average salary of last 10 months} \times \text{No. of years of service completed}$ (No Round off)
	Salary = Basic pay + DA	Salary = Basic pay + DA(only to the extent of forming part of the retirement benefits) + Commission(if expressed as a fixed % of sales)

Notes:

1. Gratuity received during the period of service is fully taxable.
2. Where gratuity is received from 2 or more employers in the same previous year, then, aggregate amount of gratuity exempt from tax cannot exceed Rs.20,00,000.
3. Where gratuity is received in any earlier previous year from former employer and again received from another employer in the current previous year, the limit of Rs.20,00,000 will be reduced by the amount of gratuity exempt earlier.
4. If employee has not received gratuity from any of his past employer, then the period of past employment shall also be considered for calculating years of service.

COMMUTED PENSION [Section 10(10A)]:

Pension is generally paid by the Government or a Company to the employee for his past service and this too is payable after the retirement.

Taxability of Commuted pension is as follows:

Government Employee	Non-Government Employee	
	Employee receives any gratuity	Employee does not receive any gratuity
100% Exempt	One-third(1/3) of the commuted pension which he would have received had he commuted the whole pension. $1/3 \times (\text{Committed pension received} \div \text{commutation \%})$	One-half(1/2) of the commuted pension which he would have received had he commuted the whole pension. $1/2 \times (\text{Committed pension received} \div \text{commutation \%})$

Notes:

1. Uncommuted monthly pension is fully taxable in the hands of both government & non-government employee.
2. Judges of the Supreme Court and High Court will be entitled to exemption of the commuted portion.
3. Any commuted pension received by an individual out of annuity plan of the Life Insurance Corporation of India (LIC) from a fund set up by that Corporation will be exempted.

Exemption in respect of pension received by recipient of gallantry awards [Section 10(18)]

Any income by way of pension received by an individual is exempt from income- tax if –

- (a) such individual was an employee of Central or State Government and
- (b) has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award notified by the Central Government in this behalf.

In case of the death of such individual, any income by way of family pension received by any member of the family of such individual shall also be exempt under this clause.

The entire disability pension, i.e., “disability element” and “service element” of pension granted to members of naval, military or air forces who have been invalided out of naval, military or air force service on account of bodily disability attributable to or aggravated by such service would be exempt from tax.

LEAVE SALARY/ENCASHMENT [Section 10(10AA)]:

Leave encashment means getting salary equivalent to the number of leaves which were entitled to an employee but not availed (i.e. earned).

Leave Encashment taken at the time of retirement is exempted as follows-

Government Employee	Non-Government Employee
100% Exempt	Least of the following is exempt- <ul style="list-style-type: none"> ➤ Actual leave encashment received ➤ <i>Statutory limit of Rs.25 Lakhs</i> ➤ Average salary of last 10 months preceding retirement x 10 months ➤ Average salary of last 10 months preceding retirement x Leave Credit (Calculated at 30days credit for each completed year of service)

Notes:

- a) Salary = Basic pay + DA (only to the extent of forming part of the retirement benefits) + Commission (if expressed as a fixed % of sales).
- b) 'Average salary' will be determined on the basis of the salary drawn during the period of ten months immediately preceding the date of his retirement
- c) Leave Credit = Leave eligible as per IT act (i.e 30 days for each year of service) – Leave taken.
- d) Leave Encashment taken during employment is fully taxable for all employees.
- e) Where leave salary is received from two or more employers in the same previous year, then the aggregate amount of leave salary exempt from tax cannot exceed Rs.25,00,000.
- f) Where leave salary is received in any earlier previous year from a former employer and again received from another employer in the current previous year, the limit of Rs.25,00,000 will be reduced by the amount of leave salary exempt earlier.

Note: For Gratuity, Pension and Leave encashment, Government Employee means employees of the Central Government/ Local authorities/ Statutory Corporation/ Members of the Civil Services/ Defence Services.

RETRENCHMENT COMPENSATION [Section 10(10B)]:

As per section 10(10B), Compensation received at the time of retrenchment is exempt from tax to the extent of lower of the following:

- Rs.5,00,000; or
- An amount calculated in accordance with the provisions of section 25F of the Industrial Dispute Act, 1947;

15/26 x 3 months average salary x completed years of service and part thereof in excess of 6 months
[As provided by the Industrial Disputes Act,1947]

Note: The above limit is not applicable, if the workman receives such compensation under the scheme approved by Central Government for extending special protection to workmen under certain circumstances.

VOLUNTARY RETIREMENT SCHEME [Section 10(10C)]:

As per section 10(10C), any compensation received at the time of voluntary retirement or termination of service is exempt from tax.

Least of the following is exempt-

- Actual Compensation received.
- Statutory limit Rs.5,00,000
- Last drawn salary p.m x 3months x Completed years of service (fraction ignored)
- Last drawn salary p.m x Remaining months of service left

Notes:

- a) Exemption can be claimed an employee who has completed 10 years of service or completed 40 years of age and retiring employee of a company shall not be employed in another company or concern belonging to the same management.
- b) Where any relief has been allowed to assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under section 10(10C) shall be allowed to him in relation to such or any other assessment year.
- c) Exemption can be claimed once in lifetime.

TAX TREATMENT OF PROVIDENT FUND:

Provident fund scheme is a scheme intended to give substantial benefits to an employee at the time of his retirement.

Under this scheme, a specified sum is deducted from the salary of the employee each month or at regular intervals as his contribution towards the fund. The employer also generally contributes the same amount out of his pocket, to the fund. The contributions of the employer and the employee are invested in approved securities.

Interest earned thereon is also credited to the account of the employee.

Thus, the credit balance in a provident fund account of an employee consists of the following:

- Employee's contribution
- Interest on employee's contribution
- Employer's contribution
- Interest on employer's contribution.

The accumulated balance 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.

Tax Treatment of Provident Fund:

Particulars	Employees Contribution	Employer Contribution	Interest
Statutory Provident Fund (Note-1)	Deduction u/s 80C	Fully Exempt u/s 10(11)	Fully Exempt u/s 10(11)
Recognized provident fund (Note-2)	Deduction u/s 80C	Exempt u/s 10(12) upto 12% of salary	Exempt u/s 10(11) upto 9.5% p.a on the balance standing to the credit of the employee.
Unrecognized provident fund (Note-3)	Not eligible for Deduction u/s 80C	Not taxed yearly (taxed at the time withdrawal)	Not taxed yearly (taxed at the time withdrawal)
Public Provident Fund (Note-4)	Deduction u/s 80C	Not applicable	Fully Exempt u/s 10(11)

As per section 10(11), any payment from a Provident Fund (PF) to which Provident Fund Act, 1925, applies or from Public Provident Fund would be exempt.

Accumulated balance due and becoming payable to an employee participating in a Recognized Provident Fund (RPF) would be exempt under section 10(12).

However, the exemption under section 10(11) or 10(12) would not be available in respect of income by way of interest accrued during the previous year to the extent it relates to the amount or the aggregate of amounts of contribution made by that person/employee exceeding Rs.2,50,000 in any previous year in that fund, on or after 1st April, 2021.

If the contribution by such person/employee is in a fund in which there is no employer's contribution, then, a higher limit of Rs.5,00,000 would be applicable for such contribution, and interest accrued in any previous year in that fund, on or after 1st April, 2021 would be exempt upto that limit.

Notes:

1. Statutory Provident Fund applies to employees of government, railways, semi-government institutions, local bodies, universities and all recognised educational institutions.
2. Recognised provident fund means a provident fund recognised by the Commissioner of Income-tax for the purposes of income-tax.
3. A fund not recognised by the Commissioner of Income-tax is Unrecognised Provident Fund.
4. PPF 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.
An individual may contribute to the fund on his own behalf as also on behalf of a minor of whom he is the guardian. (a minimum of Rs.500 p.a and maximum of Rs.1,50,000)
5. Withdrawal of amount from RPF before the continuous service of 5 years is taxable, but it is not taxable in case of disablement or ill-health, contraction or discontinuance of employer's business.
6. Salary = Basic pay + D.A(if provided in terms of employment) + Commission(if expressed as a fixed % of turnover).

The contribution made by the Central Government or any other employer in the previous year to the account of an employee under a pension scheme referred to in section 80CCD:

National Pension scheme is a scheme approved by the Government for Indian citizen aged between 18-60 years. Subscriber of the NPS account contributes some amount in their account. In case of any employee, being a subscriber of the NPS account, employer may also contribute into the employee's account.

Employer's contribution to NPS account would form part of salary of employees under section 17(1).

However, while computing total income of the employee-assessee, a deduction under section 80CCD is allowed to the assessee in respect of the employer's as well as employee's contribution under a pension scheme referred therein.

The contribution made by the Central Government in the previous year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 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.

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

Central Government's contribution to Agniveer Corpus Fund account would form part of salary of employees under section 17(1).

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

Perquisite:

Total of following in excess of Rs.7,50,000 during P.Y will also be taxable under the head salary w.e.f. 01.04.2020 [Amendment vide Finance Act, 2020]- Section 17(2)(vii)

- Employer contribution to Recognised Provident Fund
- Employer contribution to Approved Superannuation Fund
- Employer contribution to National Pension Scheme

Annual accretion to the balance at the credit of the recognised provident fund/NPS/approved superannuation fund which relates to the employer's contribution and included in total income on account of the same having exceeded Rs.7,50,000 would be taxable as perquisite under Section 17(2)(viiia).

Any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year 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 previous year under section 17(2)(vii) computed in prescribed manner [Section 17(2)(viiia)].

In other words, interest, dividend or any other amount of similar nature on the amount which is included in total income under section 17(2)(vii) would also be treated as a perquisite as per Section 17(2)(viiia).

The CBDT has, vide Rule 3B, notified the following manner to compute the annual accretion by way of interest, dividend or any other amount of similar nature during the previous year-

$$TP = (PC \div 2) \times R + (PC1 + TP1) \times R$$

Where,

TP	Taxable perquisite under section 17(2)(viiia) for the current previous year
PC	Amount or aggregate of amounts of employer's contribution in excess of Rs.7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund during the previous year.
PC1	Amount or aggregate of amounts of employer's contribution in excess of Rs.7.5 lakh to recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund for the previous year or years commencing on or after 1st April, 2020 other than the current previous year
TP1	Aggregate of taxable perquisite under section 17(2)(viiia) for the previous year or years commencing on or after 1st April, 2020 other than the current previous year
R	I/ Favg
I	Amount or aggregate of amounts of income accrued during the current previous year in recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund
Favg	(Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 1st April, 2023 + Amount or aggregate of amounts of balance to the credit of recognized provident fund, national pension scheme u/s 80CCD and approved superannuation fund on 31st March, 2024) ÷ 2

Where the amount or aggregate of amounts of TP1 and PC1 exceeds the amount or aggregate of amounts of balance to the credit of the specified fund or scheme on 1st April, 2023, then, the amount in excess of the amount or aggregate of amounts of the said balance shall be ignored for the purpose of computing the amount or aggregate of amounts of TP1 and PC1.

Exemption in respect of payment from superannuation funds [Section 10(13)]:

Any payment received by any employee from an approved superannuation fund shall be entirely excluded from his total income subject to certain conditions.

PROFITS IN LIEU OF OR IN ADDITION TO SALARY [Section 17(3)]:**It includes-**

- i. The amount of any compensation due to or received by an assessee from the employer or former employer at or in connection with the termination of his employment or modification of the terms and conditions of the employment.
- ii. Any amount due to or received, whether in lump sum or otherwise, by any assessee from any person –
 - before joining any employment with that person; or
 - after cessation/termination of his employment with that person.
- iii. Any payment other than the following payment due to or received by assessee from an employer or a former employer or from a provident or other fund, to the extent to which it does not consist of contribution by the assessee or interest on such contributions
- iv. any sum under keyman Insurance Policy.

DEDUCTIONS [Section 16]:**1) Standard Deduction [Section 16(ia)]:**

A Standard deduction of Rs.50,000 or the amount of gross salary, whichever is lower, is to be provided to all employees.

2) Entertainment Allowance [Section 16(ii)]:

The deduction is allowed to government employees only. Non- Government employees will not be eligible for this deduction.

The entire amount of entertainment allowance will be added to gross salary first & then deduction can be claimed only by government employees. It is a deduction & not exemption.

The least of the following shall be available as deduction in case of Government employees:

- Actual amount of entertainment allowance received during the year
- 20% of Basic pay
- Rs.5,000.

3) Professional Tax [Section 16(iii)]:

Professional tax or taxes on employment levied by a State under Article 276 of the Constitution is allowed as deduction only when it is actually paid by the employee during the previous year. The total amount by way of professional tax payable in respect of any one person shall not exceed Rs.2,500 per annum. However, the amount paid during the previous year can be more than Rs.2,500 as the employee may have paid the professional tax of an earlier year during the previous year.

If professional tax is reimbursed or directly paid by the employer on behalf of the employee, the amount so paid is first included as salary income and then allowed as a deduction u/s 16.

Salary from United Nations Organisation:

Section 2 of the United Nations (Privileges and Immunities) Act, 1947 grants exemption from income-tax to salaries and emoluments paid by the United Nations to its officials.

Besides salary, any pension covered under the United Nations (Privileges and Immunities) Act and received from UNO is also exempt from tax.

Important Note:

For the purpose of this chapter, Salary = Basic Pay + D.A. (if provided in terms of employment) + Commission (if it is expressed as a fixed % of turnover).

It changes only in the following cases-

- Gratuity covered under the gratuity act: Salary = Basic Pay + D.A.
- Entertainment allowance: Salary = Basic Pay
- Perquisites: Salary = Basic Pay + D.A (if provided in terms of employment) + Bonus + Commission + Any fees + all taxable allowances.

Difference between advance salary and advance against salary:

Loan is different from salary. When an employee takes a loan from his employer, which is repayable in certain specified installments, the loan amount cannot be brought to tax as salary of the employee.

Similarly, advance against salary is different from advance salary. It is an advance taken by the employee from his employer. This advance is generally adjusted with his salary over a specified time period. It cannot be taxed as salary.

Relief when salary is paid in arrears or in advance [Section 89]:

Where by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year, salary for more than twelve months or a payment of profit in lieu of salary under section 17(3), his income is assessed at a rate higher than that at which it would otherwise have been assessed, the Assessing Officer shall, on an application made to him in this behalf, grant such relief as prescribed. The procedure for computing the relief is given in Rule 21A.

Computation of Relief under section 89:

Tax Liability in the PY in which advance / arrears are received-	
a) Including advance / arrears	A
b) Excluding advance / arrears	B
Differential	A-B
Tax Liability of the PY to which such additional salary relates	
a) Including advance / arrears	C
b) Excluding advance / arrears	D
Differential	C-D
Relief u/s 89	(A-B)-(C-D)

Similar tax relief is extended to assesseees who receive arrears of family pension as defined in the Explanation to clause (iia) of section 57.

No relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, if exemption under section 10(10C) in respect of such compensation received on voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee in respect of the same assessment year or any other assessment year.

Impact of Section 115BAC under the head Income from Salary:

Finance act, 2020 has introduced a New Default tax System u/s 115BAC of the income tax act, 1961 to provide for concessional rate of Slab rates to be applied on Total Income calculated without claiming specified deductions and exemptions.

Hence, there are two operative tax systems –

1. One is the pay tax at concessional rates under the default tax regime under section 115BAC.
2. Second one is to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act.

The below list contains the exemptions and deductions not available under default tax regime related to income under the head Salary-

Nature of Exemption/Deduction relating to Income from Salary	Optional tax regime	Default tax regime under section 115BAC
Allowances Exemptions		
House rent allowance u/s 10(13A)	Allowed	Not Allowed
Any allowance paid to High Court/Supreme Court Judges and paid by the UNO to its employees.	Allowed	Not Allowed
Any Allowances payable outside India u/s 10(7)	Allowed	Allowed
1. Exemption u/s 10(14)(i):		
Travelling allowance	Allowed	Allowed
Conveyance allowance		Allowed
Daily allowance		Allowed
Helper allowance		Not Allowed
Any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions		Not Allowed
Uniform allowance		Not Allowed
2. Exemption u/s 10(14)(ii):		
Children education allowance	Allowed	Not Allowed
Hostel expenditure allowance		Not Allowed
Other allowances (any Special Compensatory Allowance)		Not Allowed
Transport allowance to Handicapped/deaf/dumb/Blind employee		Allowed
Perquisites		
Free food and beverage through vouchers provided to the employee upto Rs.50/meal/tea & snacks	Allowed	Not Allowed
Leave Travel Concession u/s 10(5)	Allowed	Not Allowed
Rent-free official residence and Leave travel concession provided to a High Court or Supreme Court Judge.	Allowed	Not Allowed
Other exemptions from perquisites Exp: use of Computers,	Allowed	Allowed

laptops, cars etc.		
Retirement Benefits Exemptions		
Gratuity u/s 10(10)	Allowed	Allowed
Commutation of Pension u/s 10(10A)		Allowed
Pension received by recipient of gallantry awards or any family member in case of the death of such person u/s 10(18).		Allowed
Leave Salary u/s 10(10AA)		Allowed
Retrenchment Compensation u/s 10(10B)		Allowed
VRS Compensation u/s 10(10C)		Allowed
Provident Fund u/s 10(11) & 10(12)		Allowed
Deductions u/s 16		
Standard deduction u/s 16(ia)	Allowed	Allowed
Entertainment allowance u/s 16(ii)		Not Allowed
Professional tax u/s 16(iii)		Not Allowed

Similarly, deductions & exemptions not available under the default tax system and which are related to other heads are provided in other chapters.

TDS under section 192:

Section 192 casts an obligation on employer for paying any income chargeable to tax under the head 'Salaries' to deduct income-tax at the time of payment on the amount payable.

An employer, has to seek information from each of its employees having income under section 192 regarding their intended tax regime and each such employee would intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor has to compute his total income, and deduct tax at source thereon according to 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. Accordingly, in such a case, the employer has to deduct tax at source, on income under section 192, in accordance with the rates provided under section 115BAC(1A).

It is also clarified that the intimation to employer would not amount to exercising option under section 115BAC and the person shall be required to do so separately in accordance with the provisions of section 115BAC.



PROBLEMS:

- 1) Mr. X is an employee of Y Ltd. His salary is Rs.25,000 per month. Salary becomes due on last day of each month. In March, 2024, he received salary of April and May in Advance.
Compute taxable amount for AY 2024-25 and A.Y 2025-26.

- 2) A joins the service in the grade of 10,000-1000-15,000-2,000-25,000 on 01.08.2019 at a salary of Rs.13,000.
Compute taxable salary for A.Y 2024-25.

- 3) Mr. Raj Kumar has the following receipts from his employer:

Basic pay	Rs.40,000 p.m.
Dearness allowance (D.A.)	Rs.6,000 p.m.
Commission	Rs.50,000 p.a.
House rent allowance	Rs.15,000 p.m.

Find out the amount of HRA eligible for exemption to Mr. Raj Kumar assuming that he paid a rent of Rs.16,000 p.m. for his accommodation at Kanpur. DA forms part of salary for retirement benefits.
Mr. Raj Kumar exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

- 4) ABC Ltd. provided the following perquisites to its employee Srinivasan, for the FY 2023-24.
 - Leased accommodation provided to the employee. Hire Charges INR 50000 pm; recovered from employee INR 20000 pm
 - Accommodation was furnished and the actual hire charges paid by the Employer was INR 4050/- pm
 - He was also provided a Hyundai Santro whose C.C is upto 1.6 which is used partly for Official & partly for Personal with Chauffeur and a Gift Voucher worth INR 9000/-
 - Salary for the purposes of valuation of perquisites is INR 25,00,000/-.Compute the taxable value of the perquisites.

- 5) Mr. Ravi retired on 15.6.2023 after completion of 26 years 8 months of service and received gratuity of Rs.15,00,000. At the time of retirement, his salary was:

Basic Salary	Rs.50,000 p.m.
Dearness Allowance	Rs.10,000 p.m. (60% of which is for retirement benefits)
Commission	1% of turnover (turnover in the last 12 months was Rs.1,20,00,000)
Bonus	Rs.25,000 p.a.

Compute his taxable gratuity assuming:

 - a) He is private sector employee and covered by the Payment of Gratuity Act, 1972.
 - b) He is private sector employee and not covered by Payment of Gratuity Act, 1972.
 - c) He is a Government employee.

- 6) Calculate taxable pension includible in the salary income in the following cases for the AY 2024-25 -
- a) Mr. Ram Singh retired from the Indian Revenue Service on 16.03.2021. He gets pension of Rs.4000 p.m upto 31.12.2023. With effect from 01.01.2024 he gets 25% of his pension commuted for Rs.75000.
 - b) Mr.Sundar retires from RG Co. on 31.03.2023. He is paid Rs.1,800p.m as pension. On his request RG Co. pays Rs.36,000 in lieu of 50% of pension from 01.12.2023. He has also received gratuity.
- 7) Mr. X, an employee of Y Ltd., receives Rs.80,000 as leave salary at the time of his retirement on 28.02.2024. Average salary drawn during last 10 months Rs.3000. Last drawn salary is Rs.3200. Duration of service is 24 years and 7 months; leave taken while in service is 9 months. Leave entitlement as per employer's rules is 1.5 months for each completed year of service. Calculate the taxable leave salary for AY 2024-25.
- 8) Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.5.2022. His basic salary is Rs.5,50,000 p.m. He is paid 10% as D.A. He contributes 11% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount. The accumulated balance in recognized provident fund as on 1.4.2023 and 31.3.2024 is Rs.15,35,000 and Rs.33,55,000.
Compute the perquisite value chargeable in the hands of Mr. X u/s 17(2)(vii) and 17(2)(viii) for the P.Y. 2023-24.
- 9) Mr. X is employed in ABC ltd. getting basic pay Rs.60,000 p.m. and dearness allowance Rs.10,000 p.m. (forming part of salary). Employer has paid bonus Rs.20,000 during the year. Commission was allowed @ 2% of sales turnover of Rs.50,00,000. The employer and employee both are contributing Rs.11,000 p.m. (each) to the recognised provident fund. During the year interest of Rs.1,00,000 was credited to the RPF @ 10% p.a.
Compute tax liability of Mr. X for A.Y. 2024-25 under-
- A. **Option 1:** Regular provisions of the Act (Optional Scheme)
 - B. **Option 2:** Default tax regime as per Section 115BAC
- 10) Mr. Ramamoorthy, an college employee in Chennai receives during the previous year ended March 31, 2024 the following payments:

Particulars	Amount	Amount
Basic Salary		40,000
Dearness allowance (Not forming part of retirement benefit)		3,000
Leave Salary		5,400
Professional tax paid by employer	1,000	
Fair rent of the flat provided by employer	6,000	
Rent paid for furniture	1,000	

Rent recovered by employer	3,000	
Employee's Contribution to Statutory Provident Fund	4,000	
Employer's contribution to Statutory Provident Fund	4,000	

Compute his taxable income for the Assessment Year 2024-25 under-

- A. Option 1:** Regular provisions of the Act (Optional Scheme)
- B. Option 2:** Default tax regime as per Section 115BAC

11) Niteen is an employee of XYZ Ltd. He was appointed on 1st Mar 2023 at a scale of 50000 – 5000 – 70000. He is paid DA (which form part of retirement benefits) @ 15% of Basic Pay. He contributes 18% of his Basic + DA to a recognised provident fund, and the contribution is matched by the employer.

He is provided rent free accommodation, hired by the employer, @ 25,000 pm.

He is also provided the following benefits / amenities:

- a) Medical Treatment of his dependant spouse in private hospital INR 40,000
- b) Monthly salary to housekeeper INR 4,000
- c) Telephone Allowance INR 1,200 pm
- d) Gift Voucher of INR 4,500 on account of his marriage anniversary
- e) Medical Insurance Premium for Niteen, paid by his employer INR 15,000
- f) Motor Car owned and driven by Niteen, and engine capacity within 1.6 L; used partly for official and partly for personal purposes. Running & maintenance expenses borne by the employer INR 36,600/-.
- g) Lunch during office hours valued at INR 2,200/-.
- h) He was also allotted 2000 sweat equity shares in Sep 2023. The shares were allotted @ INR 227 per share against the FMV of INR 377 per share as on the date of exercise of the Option.

Compute the Salary Chargeable to tax-

- A. Option 1:** Regular provisions of the Act (Optional Scheme)
- B. Option 2:** Default tax regime as per Section 115BAC

“Education is our passport to the future, For tomorrow belongs to the people who prepare for it Today”

UNIT-2**INCOME FROM HOUSE PROPERTY****(Section 22 to 27)**

The provisions for computation of Income from house property are covered under sections 22 to 27. This chapter deals with the provisions for computation of Income from house property. Section 22 is the charging section that identifies the basis of charge wherein the annual value is prescribed as the basis for computation of Income from House Property. The process of computation of “Income from House Property” starts with the determination of annual value of the property. The concept of annual value and the method of determination are laid down in section 23. The admissible deductions available from house property are mentioned in section 24.

CHARGEABILITY [Section 22]:

- 1) The annual value of property comprising of building or land appurtenant there to, of which assessee is the owner is chargeable to tax under the head “Income from House property”.

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

- Portions of property occupied by the assessee for the purpose of any business or profession carried on by him.
 - Properties of an assessee engaged in the business of letting out of properties.
- 2) “Income from House Property”, deals with self-occupied or let out properties for residential/commercial use.
 - 3) Notional Income provisions are applicable under this head i.e Assessee is taxed even when there is no income.
 - 4) It should be specifically noted that the annual value of the building property is taxable under this head but not the rental income. No doubt, the rental income is considered for determination of annual value but Fair rent plays an important role in case of let out property in determination of annual value.

Exceptions:

1. Income from letting out a vacant land is chargeable to tax under the head "Income From Other Sources"
2. If the property is sub-let by the tenant, the income derived by tenant from such subletting is charged under the head “Income from other Sources” & not under the head “Income from House property” as he is not the owner.

CONDITIONS FOR CHARGEABILITY:

- 1) **Property should consist of any building or land appurtenant thereto:**
 - a) Buildings include not only residential buildings, but also factory buildings, offices, shops, godowns and other commercial premises.
 - b) Land appurtenant means land connected with the building like garden, garage etc.

- 2) **Assessee must be the owner of the property:**
 - a) Owner is the person who is entitled to receive income from the property in his own right.
 - b) The requirement of registration of the sale deed is not warranted.
 - c) Ownership includes both free-hold and lease-hold rights.
 - d) Ownership includes deemed ownership
 - e) The person who owns the building need not also be the owner of the land upon which it stands.
 - f) The assessee must be the owner of the house property during the previous year. It is not material whether he is the owner in the assessment year.
 - g) If the title of the ownership of the property is under dispute in a court of law, the decision as to who will be the owner chargeable to income- tax under section 22 will be of the Income-tax Department till the court gives its decision to the suit filed in respect of such property.
However, in case of recovery of unrealized rent and arrears of rent, ownership of that property is not relevant.

- 3) **Use of property:**
 - a) The property may be used for any purpose i.e. commercial or residential purpose, but it should not be used by the owner for the purpose of any business or profession carried on by him.
 - b) The income earned by an assessee engaged in the business of letting out of properties on rent would be taxable as business income.

COMPOSITE RENT:

Meaning of composite rent: The owner of a property may sometimes receive rent in respect of building as well as –

- a) other assets like say, furniture, plant and machinery.
- b) for different services provided in the building, for exp: Lifts; Security; Power backup;

The amount so received is known as "composite rent".

Treatment of Composite Rent is done as under:

Where rent of property (building) and rent of services / assets can be Separated		Where rent of property (building) and rent of services / assets cannot be separated
Rent of letting of property	Rent of service, other assets	
Taxable under House Property	Taxable under Other sources or PGBP	Taxable under Other sources or PGBP

INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA:

Income from property situated outside India-

- a) is taxable in case of a resident in India (resident and ordinarily resident in case of individuals and HUF), irrespective of whether such income is brought into India or not.
- b) is taxable in case of a non-resident or resident but not ordinarily resident in India, only if such income is received in India.

COMPUTATION OF INCOME [Section 23, 24 & 25]:

All house properties are divided into following three categories for the purpose of computation:

- 1) Let Out Property [Section 23(1)]
- 2) Self-Occupied Property or Unoccupied property [Section 23(2)]
- 3) Deemed to be let out property [Section 23(4)]

Sl. No	Nature of property	Net result of computation
1	Let Out Property	Any amount of Income or loss
2	Self-Occupied Property or Unoccupied property	Either Nil or loss subject to maximum of Rs.2 Lakh.
3	Deemed to be let out property	Any amount of Income or loss

Let Out Property [Section 23(1)]:

The property which is let out for rent is known as let out property. There is no limit for claiming interest on loan borrowed in case of let out property.

Chart Showing Computation of Taxable Income from House Property

Gross Annual Value (GAV) of the house Property		XXXX
Less: Local Taxes paid by the owner during the previous year		(XXXX)
Net Annual Value (NAV)		XXXX
Less: Deduction under Section 24-		
a) 30% of NAV (Repairs, Insurance & Other charges)	XXXX	
b) Interest on loan paid or payable relating to previous year + Pre- Construction Interest	XXXX	(XXXX)
Taxable Income from House Property		XXXX

Steps for determining Annual Value u/s 23(1):

The measure of charging income-tax under this head is the annual value of the property, i.e., the inherent capacity of a building to yield income. The expression ‘annual value’ has been defined in Section 23(1) of the Income-tax Act.

a) When there is no Vacancy:

Where the property is let out throughout the previous year-

Municipal Value	XXXX
Fair Rent	XXXX
Whichever is <u>higher</u>	XXXX
Standard Rent	XXXX
Whichever is <u>Lower</u> (Expected Rent)	XXXX
Actual Rent (Annual Rent – Unrealized Rent)	XXXX
Whichever is higher (Gross Annual Value)	XXXX

Notes:

1. Annual rent means rent receivable for the year.
2. Unrealized rent is deductible from annual rent only if all the conditions under Rule 4 are satisfied.

b) When there is Vacancy:

Where let out property is vacant for any part of the previous year-

- If Expected Rent \leq Actual Rent + Loss due to vacancy, then Actual Rent will be Gross Annual Value.
- If Expected Rent $>$ Actual Rent + Loss due to vacancy, then Expected Rent will be Gross Annual Value.

Notes:

1. Actual Rent = Annual Rent – Loss due to vacancy – Unrealized Rent.
2. Loss due to vacancy means rent lost because of vacancy due to non-availability of tenant.

Illustrations:

- 1) Monthly Rent Rs.20,000p.m
Expected Rent Rs.1,92,000
Vacancy 3 months

Solution:

Expected Rent \leq Actual Rent + Loss due to vacancy
 $1,92,000 \leq 1,80,000 (20,000 \times 9\text{months}) + 60,000 (20,000 \times 3\text{months})$
 $1,92,000 \leq 2,40,000$
 So Actual Rent of Rs.1,80,000 will be Gross Annual Value.

- 2) Monthly Rent Rs.3,000p.m
Expected Rent Rs.1,95,000
Vacancy 2 months

Solution:

Expected Rent > Actual Rent + Loss due to vacancy

$$1,95,000 > 30,000 (3,000 \times 10\text{months}) + 6,000 (3,000 \times 2\text{months})$$

$$1,95,000 > 36,000$$

So Expected Rent of Rs.1,95,000 will be Gross Annual Value.

- 3) Monthly Rent Rs.25,000p.m
Expected Rent Rs.3,00,000
Vacancy 3 months

Solution:

Expected Rent \leq Actual Rent + Loss due to vacancy

$$3,00,000 = 2,25,000 (25,000 \times 9\text{months}) + 75,000 (25,000 \times 3\text{months})$$

$$3,00,000 = 3,00,000$$

So Actual Rent of Rs.2,25,000 will be Gross Annual Value.

Municipal Value: Municipal value is the value determined by the municipal authorities for levying municipal taxes on house property.

Fair rent: Fair rent is the amount which a similar property can fetch in the same or similar locality, if it is let for a year.

Standard Rent: The standard rent is fixed under Rent Control Act. In such a case, the property cannot be let for an amount which is higher than the standard rent fixed under the Rent Control Act.

Unrealized Rent (Rule 4):

If any amount of rent is not capable of being realized, then such portion of rent shall not be included in computing the actual rent.

Exclusion of unrealized rent is permissible if the following conditions under Rule 4 are satisfied:

- tenancy is bonafide;
- the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- the defaulting tenant is not in occupation of any other property of the assessee;
- the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfied the Assessing Officer that legal proceedings would be useless.

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

Municipal Taxes (Property taxes):

The taxes including service taxes levied by any municipality or local authority in respect of any house property to the extent to which such taxes are borne and paid by the owner, and include enhanced municipal tax finally determined on appeal and payable by assessee.

Where the tax on property is enhanced with retrospective effect by municipal or local authorities and the enhanced tax relating to the prior year is demanded during the current year, the entire demand is deductible in the current year.

Even where the property is situated outside India, the taxes levied by local authority in that country are deductible in deciding the annual value of the property.

Deduction is permissible in respect of property taxes subject to the following conditions:

- a) It should be paid by the assessee.
- b) It can be claimed on payment basis.
- c) If it is paid by tenant, then it is not deductible.
- d) It should be actually paid during previous year.

DEDUCTIONS UNDER SECTION 24:

a) Standard deduction:

30% of Net Annual Value (NAV) is allowed as standard or flat deduction irrespective of the actual expenditure incurred. Assessee can avail this deduction even if there is no actual expenditure or tenant undertakes any repairs of the property. However, this deduction is not available on the Self Occupied Property.

No separate deduction for repairs, Painting, Insurance etc is allowed.

b) Interest on borrowed capital:

- Interest payable on the loan borrowed for the purpose of acquisition, construction, renovation, repairing or reconstruction can be allowed as deduction.
However, interest on unpaid interest is not allowable as deduction under section 24.
- It can be claimed on accrual basis. Therefore interest accrued but not paid during the year can also be claimed as deduction.
- Interest payable on a fresh loan taken to repay the original loan raised earlier for the aforesaid purposes is also admissible as a deduction.
- Interest relating to the year of completion of construction can be fully claimed in that year irrespective of the date of completion.
- **Interest for pre-construction period:** Interest payable during the construction period preceding the year of completion of construction (pre-construction period) can be accumulated and claimed as a deduction over a period of 5 years in equal installments commencing from the year of completion of construction.

Notes:

- i. Pre-Construction period begins from the date of loan and ends on 31st March immediately preceding the date of completion.
- ii. Post-Construction period starts from immediate next day where pre-construction period was ended.

Self-Occupied Property or Unoccupied property [Section 23(2)]:

- a) A house\property or part of a house\property in the occupation of the owner for his own residence and family members, and is not actually let during any part of the previous year and no other benefit is derived therefrom by the owner, such property is considered as self-occupied property. The Gross annual value of the self-occupied property shall be adopted as NIL. Accordingly, the municipal & other taxes levied by local authorities and Standard deduction of 30% of NAV are not deductible.
- b) Interest on loan borrowed shall not exceed Rs.30,000.
 Provided further if the following 3 conditions are satisfied the amount of deduction under this situation shall not exceed Rs.2,00,000-
- The property is acquired or constructed with loan borrowed on or after the 01/04/1999 and
 - Such acquisition or construction is completed within 5 years from the end of the financial year in which loan was borrowed.
 - The assessee should furnish a certificate from the lender to whom any interest is payable on the capital borrowed, specifying the amount of interest payable.
- If the loan is borrowed for the purpose of repairs, renovation or re-construction, then the maximum deduction for Self-Occupied property is Rs.30,000 irrespective of date of loan and period of completion.

Where the assessee has opted for two houses to be treated as self-occupied, the combined total deduction of the amount of interest given above shall in aggregate remain maximum to Rs.30,000 or Rs.2,00,000 as the case may be. And the limit of interest of Rs.30,000 or Rs.2,00,000 shall be including 1/5th of the accumulated interest of pre- construction period for Self-Occupied property.

Income from Self-Occupied property

Net Annual Value(NAV)	NIL
<u>Less: Deduction u/s 24(b)-</u>	
Interest on Housing loan (Current year + Pre-Construction) [Maximum Rs.30,000/2,00,000]	(XXXX)
Income/Loss from Self-Occupied Property	(XXXX)

Note: Deduction of Rs.30,000 / 2,00,000 with respect to interest paid on borrowed capital u/s 24(b) not allowed in case of Self occupied Property, if assessee opted for section 115BAC of the income tax act, 1961.

Deemed to be let out property [Section 23(4)]:

- a) Where an assessee has occupied more than 2 houses for the purposes of residence for himself and family members, and not let it out for rent, then at the option of assessee he has to make a choice of 2 houses only in respect of which he would like to claim exemption as self-occupied houses. Others self-occupied houses will be treated as if they were let out and their annual value will be determined in the same manner as we have discussed in the case of let out property. This option can be changed year after year in a manner beneficial to the assessee.
- b) The benefit of "Nil" Annual Value is available only for upto 2 self-occupied or unoccupied house properties i.e. for either one house property or two house properties.
- c) The benefit of "Nil" Annual Value in respect of upto two self-occupied house properties is available only to an Individual/ HUF.
- d) **The computation of income from deemed to be let out property is subject to certain modification as listed below:**
 - i. Expected Rent has to be adopted as Gross Annual Value, the question of considering the actual rent does not arise.
 - ii. Municipal taxes actually paid by the owner can be claimed as deduction.
 - iii. Both the deduction u/s 24 is permissible. The ceiling limit on the interest on loan borrowed does not apply to 'deemed to be let out property'.

Where the property is partly let out and partly self-occupied during the PY [Section 23(3)]:

If a single unit of property is self-occupied for few months and let out for few months during the previous year, it shall be treated as Let out property u/s 23(1) for the whole year.

In such a case, expected rent of the property for the whole year shall be compared with the actual rent for the let out period and whichever is higher shall be adopted as the GAV. As regards, the deduction of the property taxes and interest on loan is concerned, the amount for the whole year shall be allowed.

Property let out partially:

When a portion of the house is self-occupied for the full year and a portion is let-out for whole year, the annual value of the house shall be determined as under:

- a) The annual value shall be determined only for let out portion of the property.
- b) Municipal valuation/ fair rent/ standard rent, if not given separately, shall be apportioned between the let-out portion and self-occupied portion either on plinth area or built-up floor space or on such other reasonable basis.
- c) Property taxes, if given on a consolidated basis, can be bifurcated as attributable to each portion or floor or on a reasonable basis.

Notional Income form House Property held as Stock-in-trade [Section 23(5)]:

Annual value of house property will be charged under the head “Income from house property”, where it is held by the assessee as stock-in-trade of a business also.

However, the annual value of the property held as stock-in-trade shall be taken as NIL if the following conditions are satisfied:

- a) The property (consisting of buildings or land appurtenant thereto) is held as stock in trade by the owner of the property; and
- b) The property (or any part of property) is not let out during whole or any part of the previous year.

Above benefit/concession is available only for 2 years from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority.

Note: Where the assessee is a builder/construction company, the house property would be its stock-in-trade and rental income therefrom would be assessable under the head “Income from House Property”. However, where the assessee is engaged in the business of letting out of properties, income therefrom would be assessable under the head “Profits and gains of business or profession”.

Taxability of Notional Income under the head Income from House Property:

The following are the circumstances where notional income is charged to tax instead of real income:

- Where the assessee owns more than two house properties for the purpose of self-occupation, the annual value of any two of those properties, at the option of the assessee, will be nil and the other properties are deemed to be let-out and income has to be computed on a notional basis by taking the Expected Rent (ER) as the GAV.
- In the case of property let-out throughout the previous year, if the Expected Rent (ER) exceeds the actual rent received or receivable, then ER is taken as the GAV.
- In the case of let-out property which is vacant for part of the year, if the actual rent received or receivable for let out period is less than the Expected Rent (ER) for whole year, then ER for whole year is taken as the GAV.
- In case of a house property held as stock-in-trade by assessee (which is not let out), income has to be computed on a notional basis by taking the Expected Rent (ER) as the GAV after 2 years from the end of the financial year in which certificate of completion of construction is obtained from the competent authority.

Inadmissible Deductions (Section 25):

Interest under the Act, which is payable outside India, shall not be allowed as a deduction, if tax has not been deducted from such interest and there is no person in India, who could be treated as an agent.

Special provision for arrears of rent and unrealized rent received subsequently [Section 25A]:

As per Section 25A(1), Arrears of Rent and the unrealized rent received subsequently from a tenant by an assessee, shall be deemed to be the income from House Property in the FY in which such rent is received or realized and shall be included in the Income from House Property of that year; irrespective of whether he is the owner of the property any more or not, in that FY.

Further section 25A(2) provides a deduction of 30% of arrears of rent or unrealized rent realized subsequently by the assessee.

For example: If Mr. A receives Rs.1 Lakh as unrealized rent or arrears of rent in the year 2023-24 which is related to 2019-20, the same will be taxable in the year 2023-24 to the extent of Rs.70,000 (70%) and balance Rs.30,000 (30%) is allowed as deduction.

Co-Ownership [Section 26]:

- a) If two or more persons jointly own a property and if their shares are definite and ascertainable, then the income from such property cannot be taxed as income from an Association of Persons.
- b) The share of each co-owner should be determined in accordance with Section 22 -25 and included in the respective individual assessments.
- c) In a scenario, where the house property owned by co-owners is self-occupied by them, the AV for each of them will be construed as NIL. Each Co-Owner shall be allowed a deduction of INR 30,000 / 200,000 as the case may be vis-à-vis Interest on Borrowed Capital.
- d) In a scenario, where the house property owned by the co-owners is let out, the income from the property will be computed as if the property is owned by one owner, and thereafter such computed income would be apportioned amongst each of them as per their respective share.

Summary Co-Ownership:

Self-occupied property	Let-out property
<p>The annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a maximum deduction of Rs.30,000/ 2,00,000, as the case may be, on account of interest on borrowed capital.</p> <p>However, if the co-owner owns another self-occupied / unoccupied property, the aggregate interest from the co-owned property and the other self-occupied property cannot exceed Rs.30,000/ 2,00,000, as the case may be.</p>	<p>The income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.</p>

Deemed ownership [Section 27]:

As per section 27, the following persons though not the legal owners of a property are deemed to be the owners for the purposes of sections 22 to 26:

- a) **Transfer to a spouse or minor child:** An individual who transfer any property for inadequate consideration, or gifts property to his spouse or minor child, will be treated as the deemed owner of that property. Though, legally, the owner of the property is his spouse or minor child, income from that property will be treated as income of the individual who has transferred it.

Exceptions:

- In case of transfer to spouse in connection with an agreement to live apart, the transferor will not be deemed to be the owner. The transferee will be the owner of the house property.
- In case of transfer to a minor married daughter, the transferor is not deemed to be the owner.

Note:

Where cash is transferred to spouse/minor child and the transferee acquires property out of such cash, then the transferor shall not be treated as deemed owner of the house property. However, clubbing provisions will be attracted.

- b) **Holder of an impartible estate:** The holder of an impartible estate will be treated as the owner of that entire property.
For example, where a HUF jointly holds property on behalf of all its members, HUF will be treated as the owner though legally the property will be in the name of an individual member of the family.
- c) **Member of a Co-operative society:** A member of a co-operative society or any AOP to whom a property has been allotted under a house building scheme will be treated as deemed owner of that property.
- d) **Person in possession of a property:** A person who meets the provisions of Section 53A of the Transfer of Property Act will be treated as deemed owner of that property. According to Section 53A, even if an agreement to buy a property has not been registered with the appropriate authority, the person who has purchased the property will be treated as the owner of the property.
- e) **Person having right in a property for a period not less than 12 years:** A person who has acquired rights from a long term lease of property will be treated as the owner of that property and income from that property will be taxable in his hands. For this purpose long-term lease means lease for a period of more than 12 years.

EXEMPTIONS:

Items of income from house property which are exempt from Income-tax are:

- a) Income from house property situated in the immediate vicinity of or on the agricultural land and used as a dwelling house, store-house or other out-house by the cultivator or receiver or rent-in-kind. [Section 2(1A) read with Section 10(1)].
- b) Income from property held under trust for charitable or religious purposes (Section 11).
- c) Income from property of a political party (Section 13A).
- d) Income from house property belonging to a Registered Trade Union [Section 10(24)].
- e) Income from house property belonging to a local authority [Section 10(20)].
- f) Income from property of the approved scientific research association subject to fulfillment of certain conditions [Section 10(21)].

Impact of Section 115BAC under the head Income from House Property:

Finance act, 2020 has introduced a New Default tax System u/s 115BAC of the income tax act, 1961 applicable for Individuals/HUF/AOPs/BOIs and Artificial Juridical Persons to provide for concessional rate of Slab rates to be applied on Total Income calculated without claiming specified deductions and exemptions.

Hence, there are two operative tax systems –

1. One is the pay tax at concessional rates under the default tax regime under section 115BAC.
2. Second one is to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act.

The below list contains the exemptions and deductions not available under default tax regime related to income under the head House Property-

Nature of Exemption/Deduction Relating to Head Salaries	Optional tax regime	Default tax regime under section 115BAC	
Deduction of Municipal tax from GAV	Allowed	Allowed	
Standard deduction u/s 24(a) from NAV		Allowed	
Interest deduction u/s 24(b) from NAV- (a) Let out properties u/s 23(1) (b) Self residential Property u/s 23(2) (c) Property which is stock in trade u/s 23(5)		Allowed	Allowed Not allowed Allowed
Set off current year House Property loss against other heads		Not allowed	
Set off of brought forward House Property losses against Current year House Property income		Not allowed, if related to disallowed deduction	

PROBLEMS:

- 1) Mr. X is the owner of four houses, which are all let out and are covered by the Rent Control Act. From the following particulars find out the gross annual value in each case:

Particulars	I	II	III	IV
Municipal Value	30,000	26,000	35,000	30,000
Actual Rent	40,000	30,000	32,000	32,000
Fair Rent	36,000	28,000	30,000	36,000
Standard Rent	30,000	35,000	36,000	40,000

Solution:

Computation of Gross Annual Value:

Particulars	I	II	III	IV
Municipal Value				
Fair Rent				
Whichever is Higher				
Standard Rent				
Whichever is Lower (Expected Rent)				
Actual Rent				
Whichever is Higher (Gross Annual Value)				

- 2) X owns a house property. Municipal value Rs.1,50,000, Fair Rent Rs.1,25,000, Standard Rent Rs.1,45,000. It is let out throughout the previous year for Rs.10,000 p.m. up to December 31, 2023 and Rs.14,500 p.m. thereafter.

Find out the Gross Annual Value for the Assessment Year 2024-25.

Solution:

Computation of Gross Annual Value for the Assessment Year 2024-25:

Particulars	Amount
Municipal Value	
Fair Rent	
Whichever is Higher	
Standard Rent	
Whichever is Lower (Expected Rent)	
Actual Rent	
Whichever is Higher (Gross Annual Value)	

- 3) Mr. A owns two houses. The expected rent of the house one is Rs.65,000. This house was let out for Rs.7,500 p.m. But the rent for the months of February and March 2024 could not be realized. The expected rent of another house is Rs.1,50,000. This house was let out for Rs.12,000 p.m. But the rent for the last three months could not be realized. In the both cases, Mr. A fulfills the conditions of Rule 4.

You are required to compute the Gross Annual Value of both the houses.

Solution:

Computation of Gross Annual Value:

Particulars	House-1	House-2
Expected Rent		
Actual Rent		
Whichever is Higher (Gross Annual Value)		

- 4) Mr. X is the owner of a house property. He lets this property during the previous year 2023-24 for Rs.7,000 p.m. The house was occupied from 1.4.2023 to 31.1.2024. From 1.2.2024, it remained vacant. Mr. X fails to realize Rs.10,000 from the tenant. The Expected rent of the house is Rs.82,000 p.a.

Calculate the Gross Annual Value of the house.

Solution:

Actual Rent =

Expected Rent = Rs.82,000 p.a.

Expected Rent > Actual Rent + Loss due to vacancy

Therefore, Gross Annual Value is

- 5) M is the owner of a house. The municipal value of the house is Rs.40,000. He paid Rs.8,000 as local taxes during the year. He was using this house for his residential purposes but let out w.e.f. 1.1.2024 @ Rs.4,000 p.m.

Compute the annual value of the house

Solution:

Particulars	Amount
Expected Rent (Municipal Value)	
Actual Rent	
Whichever is Higher (Gross Annual Value)	
<u>Less:</u> Local taxes Paid	
Net Annual Value (NAV)	

Income Tax

- 6) Mr. R. owns a house. The Municipal value of the house is Rs.50,000. He paid Rs.8,000 as local taxes during the year. He uses this house for his residential purposes but lets out half of the house @ Rs.3,000 p.m.

Compute the income from house property.

Solution:

Computation of Income from house property of Mr.R:

Particulars	Amount
Expected Rent (Municipal Value)	
Actual Rent	
Whichever is Higher (Gross Annual Value)	
<u>Less:</u> Local taxes Paid	
Net Annual Value (NAV) of let out portion	
<u>Less:</u> Deduction under Section 24-	
a) 30% of NAV	
Taxable Income from House Property	

- 7) Mr. R owns a house which he uses for residential purposes throughout the previous year 2023-24. Municipal Value: Rs.2,40,000. Fair Rent: Rs.3,00,000.

Compute income from house property assuming following expenditure are incurred by him-

Municipal taxes paid: Rs.15,000, Repairs: Rs.12,000, Depreciation: Rs.10,000, Interest on borrowed capital: Rs.2,00,000 (loan taken on 1.1.2007). House was purchased on 1.5.2008.

A. Option 1: Regular provisions of the Act (Optional Scheme)

B. Option 2: Default tax regime as per Section 115BAC

Solution:

Option 1: Regular provisions of the Act (Optional Scheme)

Computation of Income from House Property of Mr. R for A.Y 2024-25:

Particulars	Amount
Net Annual Value (NAV)	
<u>Less:</u> Deduction under Section 24-	
a) 30% of NAV	
b) Interest on Housing loan	
Taxable Income from House Property	

Option 2: Default tax regime as per Section 115BAC

- 8) Prem owns a house in Madras. During the previous year 2022-23, 2/3rd portion of the house was self-occupied and 1/3rd portion was let out for residential purposes at a rent of Rs.8,000 p.m. Municipal value of the property is Rs.3,00,000 p.a., fair rent is Rs.2,70,000 p.a. and standard rent is Rs.3,30,000 p.a. He paid municipal taxes @10% of municipal value during the year. Interest on loan taken by him for acquiring the property paid during the previous year 2023-24 was Rs.1,20,000.
Compute Prem's income from house property for the A.Y. 2024-25.

- 9) For the assessment year 2024-25 Sonu submits the following information:

Particulars	House I	House II
Municipal valuation	35,000	80,000
Rent received	38,000	68,000
Municipal taxes paid by tenant	3,000	4,000
Repairs paid by tenant	500	18,000
Land revenue paid	2,000	16,000
Insurance premium paid	500	2,000
Interest on borrowed capital for payment of municipal tax of house property	200	400
Nature of occupation	Let out for residence	Let out for business
Date of completion of construction	1.4.1997	1.7.1995

Determine the taxable income of Sonu for the assessment year 2024-25.

- 10) Poorna has one house property at Indira Nagar in Bangalore. She stays with her family in the house. The rent of similar property in the neighbourhood is Rs.25,000p.m. The municipal valuation is Rs.23,000 p.m. Municipal taxes paid is Rs.8,000. The house construction began in April 2017 with a loan of Rs.20,00,000 taken from SBI Housing Finance Ltd. @9% p.a. on 1.4.2017. The construction was completed on 30.11.2019. The accumulated interest up to 31.3.2019 is Rs.3,60,000. On 31.3.2024, Poorna paid Rs.2,40,000 which included Rs.1,80,000 as interest. There was no principal repayment prior to this date.
Compute Poorna's income from house property for A.Y. 2024-25.

- 11) Anirudh has a property whose municipal valuation is Rs.1,30,000 p.a. The fair rent is Rs.1,10,000 p.a. and the standard rent fixed by the Rent Control Act is Rs.1,20,000 p.a. The property was let out for a rent of Rs.11,000 p.m. throughout the previous year. Unrealised rent was Rs.11,000 and all conditions prescribed by Rule 4 are satisfied. He paid municipal taxes @10% of municipal valuation. Interest on borrowed capital was Rs.40,000 for the year.
Compute the income from house property of Anirudh for A.Y. 2024-25.

- 12) Ganesh has three houses, all of which are self-occupied. The particulars of the houses for the P.Y. 2023-24 are as under:

Particulars	House I	House II	House III
Municipal valuation p.a.	Rs.3,00,000	Rs.3,60,000	Rs.3,30,000
Fair rent p.a.	Rs.3,75,000	Rs.2,75,000	Rs.3,80,000
Standard rent p.a.	Rs.3,50,000	Rs.3,70,000	Rs.3,75,000
Date of completion/purchase	31.3.2000	31.3.2002	01.4.2015
Municipal taxes paid during the year	12%	8%	6%
Interest on money borrowed for repair of property during the current year		Rs.55,000	
Interest for current year on money borrowed in July 2014 for purchase of Property			Rs.1,75,000

Compute Ganesh's income from house property for A.Y 2024-25 and suggest which houses should be opted by Ganesh to be assessed as self-occupied so that his tax liability is minimum under-

- A. Option 1:** Regular provisions of the Act (Optional Scheme)
B. Option 2: Default tax regime as per Section 115BAC
- 13) Mr. X has taken a loan of Rs.5,00,000 on 01.10.2001 @ 10% p.a. for construction of a house which was completed on 01.10.2021 and the house remained self-occupied throughout the previous year 2023-24. Assessee has income under the head salary Rs.4,00,000. Mr X has paid life insurance premium of Rs.20,000.

Compute tax liability for assessment year 2023-24 under-

- A. Option 1:** Regular provisions of the Act (Optional Scheme)
B. Option 2: Default tax regime as per Section 115BAC
- 14) Mr. Anand sold his residential house property in March, 2023.

In June, 2023, he recovered rent of Rs.10,000 from Mr. Gaurav, to whom he had let out his house for two years from April 2017 to March 2019. He could not realise two months rent of Rs 20,000 from him and to that extent his actual rent was reduced while computing income from house property for A.Y.2019-20.

Further, he had let out his property from April, 2019 to February, 2023 to Mr. Satish. In April, 2021, he had increased the rent from Rs 12,000 to Rs 15,000 per month and the same was a subject matter of dispute. In September, 2023, the matter was finally settled and Mr. Anand received Rs 69,000 as arrears of rent for the period April 2021 to February, 2023.

Would the recovery of unrealised rent and arrears of rent be taxable in the hands of Mr. Anand, and if so in which year?

Solution:

Since the unrealised rent was recovered in the P.Y.2023-24, the same would be taxable in the A.Y.2024-25 under section 25A, irrespective of the fact that Mr. Anand was not the owner of the house in that year.

Further, the arrears of rent was also received in the P.Y.2023-24, and hence the same would be taxable in the A.Y.2024-25 under section 25A, even though Mr. Anand was not the owner of the house in that year.

Income Tax

A flat deduction of 30% of unrealised rent recovered and arrears of rent would be allowed under section 25A(2) which is (Rs.10,000 + Rs 69,000) x 30%.

$$\text{Income from house property of Mr. Anand for A.Y.2024-25} = 10,000 + 69,000 - 23,700 \\ = \text{Rs.55,300}$$

15) Mr. Raman is a co-owner of a house property along with his brother holding equal share in the property.

Particulars	Amount
Municipal value of the property	1,60,000
Fair rent	1,50,000
Standard rent under the Rent Control Act	1,70,000
Rent received	15,000 p.m.

The loan for the construction of this property is jointly taken and the interest charged by the bank is Rs.25,000, out of which Rs.21,000 has been paid. Interest on the unpaid interest is Rs.450. To repay this loan, Raman and his brother have taken a fresh loan and interest charged on this loan is Rs.5,000.

The municipal taxes of Rs.5,100 have been paid by the tenant.

Compute the income from property chargeable in the hands of Mr. Raman for the A.Y. 2024-25.

Solution:

Computation of income from house property of Mr. Raman for the A.Y. 2024-25:

Particulars	Amount
Municipal Value	
Fair Rent	
Whichever is Higher	
Standard Rent	
Whichever is Lower (Expected Rent)	
Actual Rent	
Whichever is Higher (Gross Annual Value)	
Gross Annual Value (GAV)	
<u>Less:</u> Municipal taxes paid by tenant (Not allowed)	
Net Annual Value (NAV)	
<u>Less:</u> Deduction under Section 24-	
a) 30% of NAV	
b) Interest on housing loan-	
Interest on loan taken from bank (Note-1)	
Interest on fresh loan to repay old loan for this property (Note-1)	

Income from House Property	
50% share taxable in the hands of Mr. Raman (Note-2)	

Notes:

1. Interest on housing loan is allowable as a deduction under section 24 on accrual basis. Further, interest on fresh loan taken to repay old loan is also allowable as deduction. However, interest on unpaid interest is not allowable as deduction under section 24.
2. Section 26 provides that where a house property is owned by two or more persons whose shares are definite and ascertainable, the share of each such person in the income of house property, as computed in accordance with sections 22 to 25, shall be included in his respective total income.
Therefore, 50% of the total income from the house property is taxable in the hands of Mr. Raman since he is an equal owner of the property.

“Stop thinking about WHAT WILL HAPPEN and start thinking about WHAT YOU CAN DO.”

UNIT-3**PROFITS AND GAINS FROM BUSINESS OR PROFESSION****(Section 28 to 44D)**

The provisions for computation of Income from Business and Profession are covered under sections 28 to 44D. Section 28 defines the scope of income which can be taxed under this head. Expenses/allowances expressly allowed by the Act are listed under sections 30 to 37, whereas sections 40, 40A and 43B enumerate those expenses which are expressly disallowed while computing taxable business income.

BUSINESS [Section 2(13)]:

Business includes any trade, commerce or manufacture or any adventure in nature of trade, commerce or manufacture.

PROFESSION [Section 2(36)]:

Profession includes vocation. Vocation means art of earning livelihood.

Points for consideration while computing income under the head business or profession:

The income from business to which a person is chargeable under this head represents not the gross receipts from the business but the profits and gains derived from there. For instance, in the case of a businessman, the gross sale proceeds would not be the basis for levying tax but it is net profit or the profit or gain as determined in accordance with sections 28 to 44D.

1) Method of Accounting [Section 145]:

Income chargeable under this head or under the head 'Income from other sources' shall be completely in accordance with either cash system of accounting or accrual/mercantile system of accounting, regularly employed by the assessee.

Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting has not been regularly followed by the assessee, or where the income has not been computed in accordance with the Income Computation and Disclosure Standards (ICDS) as notified, the Assessing Officer may make a Best Judgement assessment as provided in section 144.

The Central Government has notified 10 Income Computation and Disclosure Standards (ICDS) to be applicable with effect from 1st April, 2017 for the purpose of computation of income under the head "Profits and gains of business or profession" and "Income from other sources" and not for maintaining books of accounts.

Some key features of ICDS are as under:

- i.** ICDS applies to all tax payers except Individual and HUF who are not covered under the tax audit provisions under section 44AB.
- ii.** ICDS applies only to tax payers following mercantile system of accounting.
- iii.** In case of conflict between the provisions of the Income Tax Act or Income Tax Rules and the ICDS, the provisions of the Act or the Rules shall prevail to that extent.

- iv. In case of conflict between the judicial pronouncements/ judgments and the ICDS, the provisions of the ICDS shall prevail to that extent.
- v. ICDS shall apply irrespective of the accounting standards adopted by companies i.e., either Accounting Standards or Ind-AS.
- vi. The provisions of ICDS shall not apply for computation of MAT. However it shall apply for computation of AMT as AMT is computed on adjusted total income which is derived by making specified adjustments to total income computed as per the regular provisions of the Act.
- vii. ICDS shall also apply to the persons computing income under the relevant presumptive taxation scheme.

The ten notified ICDSs are:

ICDS I: Accounting Policies

ICDS II: Valuation of Inventories

ICDS III: Construction Contracts

ICDS IV: Revenue Recognition

ICDS V: Tangible Fixed Assets

ICDS VI: The Effects of Changes in Foreign Exchange Rates

ICDS VII: Government Grants

ICDS VIII: Securities

ICDS IX: Borrowing Costs

ICDS X: Provisions, Contingent Liabilities and Contingent Assets

Note: ICDSs would be dealt with in detail at Final Level.

Taxability of Certain Income [Section 145B]:

- i. Notwithstanding anything to the contrary contained in section 145, the interest received by an assessee on any compensation or on enhanced compensation, shall be deemed to be the income of the previous year in which it is received.
- ii. Subsidy or grant from Government as referred in definition of income under section 2(24) of the Act, shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.

2) Income earned in Cash or in Kind:

The income that is chargeable to tax under this head may be realized by the assessee in cash or kind. In cases where the profit is realized in any other form than cash, the market value of the commodity received as income should be taken to be the quantum of income chargeable to tax. Even in cases where an assessee is in receipt of money from his clients or other persons who are under no obligation to make such payment, the assessee would still be chargeable to tax if these monies were received by him in the ordinary course of business or profession. For instance, any amount paid to a Chartered Accountant by a person who has not been his client but who has been benefitted by his professional service to another, would be assessable as the Chartered Accountant's income from profession.

3) **Continuation of Business or Profession:**

The chargeability to tax under Section 28 is based primarily upon the condition that the assessee must have carried on a business or profession at any time during the accounting year, though not necessarily throughout the accounting year. But there may be a few cases (e.g. deemed profits taxable under Section 41) where even if no business is carried on during the accounting year, the assessee would still be chargeable to tax.

4) **Ownership of Business is not necessary for Taxability:**

In order to be taxable in respect of the income of a business it is not essential that the business must be carried on by the same person who is the owner thereof. The tax is leviable on the person to whom the profits accrue or by whom the profits are received. No tax can be levied on a benamidar in whose name the business transactions are effected and who is not really entitled to the profits.

5) **Business may be Legal or Illegal**

6) **Profit Motive is not the Sole Consideration for Taxability:**

There may be assesseees who carry on business without the primary object of making profits (e.g., a co-operative society which tries to cater to the needs of its members without the object of making maximum profits). Even in such cases, if profits arise from the business carried on by the assessee and such profits are incidental to the business, the assessee would still be taxable. Therefore, profit motive is not the only test of determining the taxability of income from any activity constituting business or profession.

7) **Computation of Income Separately for each Business:**

A taxpayer is entitled to carry on as much number of businesses as he can, both in his own name and in the name of others. The profits and gains of all businesses or professions would be assessable under this head. But the profit of each business must be computed separately from one another and the deductions and allowance permissible to each business must be allowed against the income derived therefrom. Thus, the loss arising from one business would be set off against income from another business falling under the same head and the net result after such set off would alone be taxable income under this head.

BASIS OF CHARGE OR CHARGING SECTION [Section 28]:

The following income shall be chargeable to tax under this head:

- 1) The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year.
- 2) Any compensation received or receivable by any person, by whatever name called-
 - a) For managing the affairs of an Indian company or any other company in India or in connection with the termination of his management or the modification of the terms and conditions relating thereto.
 - b) For holding an agency in India for any part of the activities relating to the business of any other person or in connection with the termination of the agency or the modification of the terms and conditions relating thereto.
 - c) At or in connection with the termination or the modification of the terms and conditions, whether revenue or capital of any contract relating to his business.
- 3) Income derived by a trade, professional or similar association from specific services performed for its members.
- 4) **Export incentives:** Profits on sale of Import entitlement licence granted under the Imports (Control) Order. Cash compensatory assistance against export and Duty Drawback of Customs and Central excise Duties. Profit on the transfer of the Duty Entitlement Pass Book Scheme. Profit on the transfer of the Duty Free Replenishment Certificate.
- 5) The value of any benefit or perquisite, whether convertible into money or not, arising from business or profession.

Example:

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

- 6) Any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm to the extent allowed under section 40(b).

Exemption of share of income of a partner [Section 10(2A)]:

Section 10(2A) exempts from tax share of profit received by a partner from partnership firm.

In other words, the partner's share in the total income of the firm determined in accordance with the profit-sharing ratio will be exempt from tax.

- 7) Any sum, whether received or receivable, in cash or kind, under an agreement for-
 - a) not carrying out any activity in relation to any business or profession, provided it is not taxable as capital gains. Example: Non-compete Fees.
 - b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise etc
- 8) Any sum received by employer under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
- 9) The fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner.
- 10) Any sum received from transfer or destruction of any capital asset (other than land or goodwill or financial instrument) whose cost has been allowed as a deduction under section 35AD.

SPECULATION BUSINESS:

Section 43(5) defines the expression “Speculative transaction” as “a transaction in which a contract for the purchase or sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips”. Where a company (other than banking or financial company) deals in shares of other companies, the income from such business is treated as income from speculative business.

Transactions not deemed to be speculative transactions:

The following forms of transactions shall not be deemed to be speculative transaction:

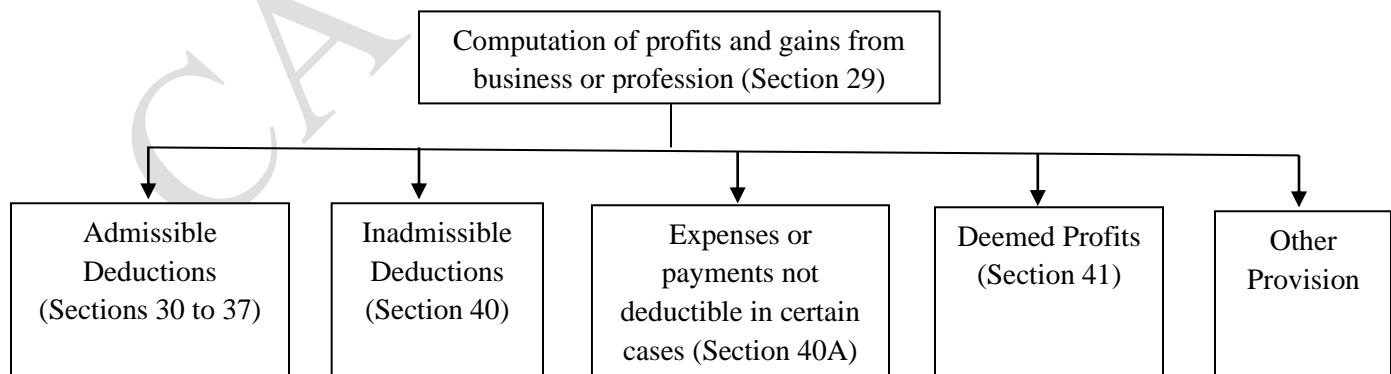
- a) Hedging contract in respect of raw materials or merchandise
- b) Hedging contract in respect of stocks and shares
- c) Forward contract
- d) Trading in derivatives
- e) Trading in commodity derivatives

Explanation 2 to section 28 specifically provides that where an assessee carries on speculative business, such business of the assessee must be deemed as distinct and separate from any other business. This becomes necessary because section 73 provides that losses in speculation business cannot be set-off against the profits of any business other than a speculation business.

Likewise, a loss in speculation business carried forward to a subsequent year can be set-off only against the profit and gains of any speculative business in the subsequent year.

COMPUTATION OF INCOME UNDER THIS HEAD [Section 29]:

The profits and gains of business or profession are computed in accordance with the provisions contained in Sections 30 to 43D. Sections 30 to 37 contain those deductions which are expressly allowed while computing profits of business or profession.



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Particulars	Amount	Amount
Profit as per Profit & Loss Account		XXXX
<u>Add:</u>		
a) Expenses or losses disallowed but debited in P&L A/c	XXXX	
b) Incomes taxable as business income but not credited to the P&L A/c	XXXX	
c) Expenses in excess of the allowed amount debited in P&L A/c	XXXX	XXXX
<u>Less:</u>		XXXX
a) Expenses or losses allowed but not debited to P&L A/c	XXXX	
b) Incomes not taxable as business income but credited to the P&L A/c	XXXX	
c) Incomes exempt from tax but credited in P&L A/c	XXXX	XXXX
Taxable Income from Business or Profession		XXXX

ADMISABLE EXPENDITURE/EXPRESSLY ALLOWED DEDUCTIONS:

1) **EXPENSES RELATED TO BUSINESS PREMISES [Section 30]:**

This section allows the deduction in respect of rent, rates, current repairs and insurance for Buildings that are used by the assessee for his business / profession.

If the assessee is the owner of the building which is used for business or professional purposes, no deduction would be available in respect of the notional rent which would otherwise have been payable. But depreciation under Section 32 would be available in respect of such buildings. In cases where a firm carries on a business in the premises owned by one of its partners the rent payable to the partner would be an allowable deduction.

2) **EXPENSES RELATED TO BUSINESS ASSETS [Section 31]:**

This section allows deduction in respect of expenses on current repairs and insurance of Plant & Machinery, & Furniture used for business / profession.

Note: Current repairs refer to the repairs which do not enhance the efficiency of assets beyond the original efficiency.

Important Note: The assessee is entitled for deduction in respect of repairs and insurance of these assets only if these assets have been actually used for the purpose of the business of the assessee during the accounting year the profits of which are subjected to tax. Thus, if the assets are used in some business, income of which is not chargeable to tax, the assessee cannot claim deduction in respect of these expenses against the income from some other business, the profits of which are taxable.

3) **DEPRECIATION [Section 32]:**

This section provides for compulsory deduction on account of depreciation, that is, diminution in the value of assets. The provisions for allowing depreciation are contained in Section 32 and are regulated under Rule 5 of the Income- tax Rules.

The rates of depreciation are also provided in the Income-tax Rules.

Conditions for allowability of Depreciation:

- A. Assessee must be the owner of the asset & such asset must be used in the business or profession of the assessee in the previous year.
- B. Exceptions to the rule that the assessee must be the owner of the asset:
 - In case of a hire purchase transaction, the cash price of the asset shall be capitalized to claim depreciation & the excess amount payable shall be claimed as hire charges during the contract period.
 - Where the assessee is a tenant in occupation of business premises & incurs a capital expenditure then the depreciation can be claimed on such amount being the value of the building.
- C. The deduction on account of depreciation would be allowed under this section to the owner who has let on hire his building, machinery, plant or furniture provided that letting out of such assets is the business of the assessee.
- D. Where an asset has been acquired during the previous year & put to use for less than 180 days during the previous year, then only 50% of the prescribed depreciation shall be allowable. (asset acquired & put to use on or after 5/10/2023)
- E. The term 'put to use' refers to active or passive use i.e., if an asset is capable of being used it is still considered as put to use.
- F. The main categories of assets eligible for depreciation are Building, Furniture & fittings, Plant & machinery and Intangible assets.
- G. Building means any superstructure on land but does not include land. It however includes roads, wells, and bridges etc..
- H. Furniture refers to assets used for convenience & decoration.
- I. Plant & machinery includes ships, vehicles, books, scientific apparatus, computers, surgical equipment's etc but does not include tea bushes & livestock. It generally refers to those assets which do not fall under other categories of assets but are essential to carry on the business/profession or which is directly connected to manufacturing.
- J. Intangible assets refers to assets acquired after 31/3/1998, like know- how, patents, copyright, trademark, licenses, franchise, or any other business or commercial rights of similar nature.
- K. If any asset is partly used for the business and partly for personal purpose only proportionate depreciation can be claimed.
- L. In case of amalgamation or succession of business, depreciation shall be allowed to the predecessor & successor in proportion to the period of owning the asset. The aggregate amount of depreciation shall not exceed the total deductible, if there was no change in ownership.

M. Factors to be considered in computing depreciation are:

- Block of asset
- Actual cost
- Written down value (WDV).

N. Block of asset [Section 2(11)]:

Block of asset means group of assets falling within a class of assets & having the same prescribed rate of depreciation.

O. Actual cost [Section 43(1)]:

It includes purchase cost + expenses incurred in acquiring the asset like loading, unloading, freight, insurance etc + installation charges like technician fess etc + interest on loan borrowed to acquire asset up to the date of asset put to use (-) any subsidy or grant.

The actual cost of the asset shouldn't include any GST paid on the purchase of such asset for which assessee has availed the credit.

Note: Where an assessee incurs any expenditure in cash for acquisition of any asset in respect of which a payment (or aggregate of payments made to a person in a day), exceeds Rs.10,000, such payment shall be ignored for the purpose of computation of actual cost of such asset.

P. Written Down Value (WDV) [Section 43(6)]:

Computation of Written down value-

Particulars	Amount
Opening Written down value	XXX
+ Asset acquired & put to use for 180 days or more	XXX
+ Asset acquired & put to use for < 180 days	XXX
(-) Net sale proceeds during the year	(XXX)
Written Down value for depreciation purpose	XXX
(-) Depreciation for the year	(XXX)
Closing written down value	XXX

Q. No depreciation is allowed to the extent of sale proceeds in case of asset sold during the year.

R. There is no question of profit or loss on sale of individual assets i.e. as long as depreciation is computable, profit or loss on sale of individual assets is not computed.

S. Net sale proceeds refer to sale proceeds including scrap, but excluding expenses on transfer.

T. Insurance compensation received on destruction of assets will form part of net sale proceeds.

U. Only when depreciation fails under section 32, capital gains take over under section 50.

V. Depreciation fails in the following 2 circumstances:

- Where all the assets in the block are sold irrespective of the value.
- When the sale proceeds exceeds the block value i.e. when there is no value for the block irrespective of the assets.

W. Determination of Actual Cost under certain specific circumstances:

- In case of gift or inheritance the actual cost will be the written down value to the previous owner.
- Where Inventory is converted or treated as a capital asset and is used for the purpose of business or profession, the fair market value of such inventory as on the date of its conversion into capital asset determined in the prescribed manner, shall be the actual cost of such capital asset to the assessee.
- Where any building was used for private purposes & subsequently brought into business, then the actual cost shall be,

$$\text{Actual cost} = \text{Cost} (-) \text{Notional depreciation}$$
- In case of transfer through amalgamation,

$$\text{Actual cost} = \text{WDV of predecessor} (-) \text{Proportionate depreciation till date of amalgamation.}$$
- In case of asset transferred by holding company to its fully owned subsidiary or vice-versa,

$$\text{Actual Cost} = \text{WDV of transferor} (-) \text{Proportionate depreciation}$$
- When asset is sold & subsequently re-acquired then,

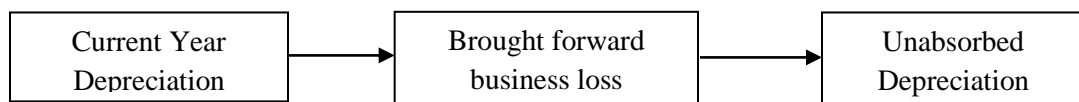
$$\text{Actual cost} = \text{Purchase price (or) WDV at the time of transfer, whichever is LESS.}$$
- Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India
- In case of asset acquired through the loan, the actual cost shall include interest on loan up to the date of asset put to use.
- Actual cost of any capital asset, on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be Nil.

X. Unabsorbed depreciation [Section 32(2)]:

The amount of depreciation which could not be absorbed by the profits of the business is known as unabsorbed depreciation.

- It can be set off with the same head or any other head of income except under the head 'Income from salaries'.
- It can be carried forward to subsequent years until it is absorbed for any number of years.
- For the purpose of carry forward and set off of the same, the business need not be continued.

Order of Set-off:



Y. Enhanced depreciation:

Enhanced depreciation up to the rate 20% of the actual cost shall be allowed under section 32 in respect of NEW PLANT & MACHINERY [other than ships & aircrafts] acquired & installed in factory by an assessee engaged:

- In the manufacture or production of article or thing or
- In the business of generation, transmission or distribution of power

This enhanced depreciation is in addition to normal depreciation. Enhanced depreciation in respect of plant & machinery is allowable for existing business also.

Enhanced depreciation shall not be allowed in respect of:

- Any machinery & plant used by any other person either within India or outside India. (OR)
- Any machinery & plant installed in office or residence including guest house. (Installed only in factory enhanced depreciation is applicable). (OR)
- Any office appliances or road transport vehicles. (OR)
- Any machinery or plant, the whole of the actual cost of which is fully allowed as a deduction in computing the income under this head in any one previous year.

Notes:

- a) In case of assets newly acquired and put to use for less than 180 days in the previous year, then the enhanced depreciation shall be at 50% of normal rate applicable i.e. @ 10%.
The balance 50% shall be allowed in the immediate succeeding year.
- b) If the assessee is paying tax as per default tax regime provided under section 115BAC, then the assessee will not be entitled to claim additional depreciation.

Z. In case of power sector, they may adopt Straight line method (SLM) of depreciation. All other assessee shall adopt only Written down Value (WDV) method of depreciation.

Depreciation on Straight line basis: An undertaking engaged in generation or generation and distribution of power can claim depreciation on straight line basis on the actual cost of individual asset. But the aggregate depreciation cannot exceed the actual cost.

Alternatively, such undertaking can claim depreciation, at its option, according to written down value method like any other assessee. The option for this purpose shall be exercised before the due date of furnishing return of income. Once this option is exercised, it shall be final and shall apply to all the subsequent years.

- **Terminal depreciation:** If any asset, on which depreciation is claimed on basis of SLM, is sold, discarded, demolished or otherwise destroyed in the previous year (other than the previous year in which it is first brought into use) and the amount by which money payable together with scrap value, fall short of WDV of such asset, depreciation shall be allowed equal to such deficiency in the year of sale.
- **Balancing Charge [Section 41(2)]:** If any asset, on which depreciation is claimed on basis of SLM is sold, discarded, demolished or otherwise destroyed in the previous year and the

Income Tax

amount by which moneys payable together with scrap value, exceeds WDV of such asset, then the least of the following shall be taxable under the head PGBP as balancing charge-

- i. difference between the actual cost and WDV
- ii. difference between aggregate of moneys payable and WDV

The tax shall be levied in the year in which the moneys payable becomes due.

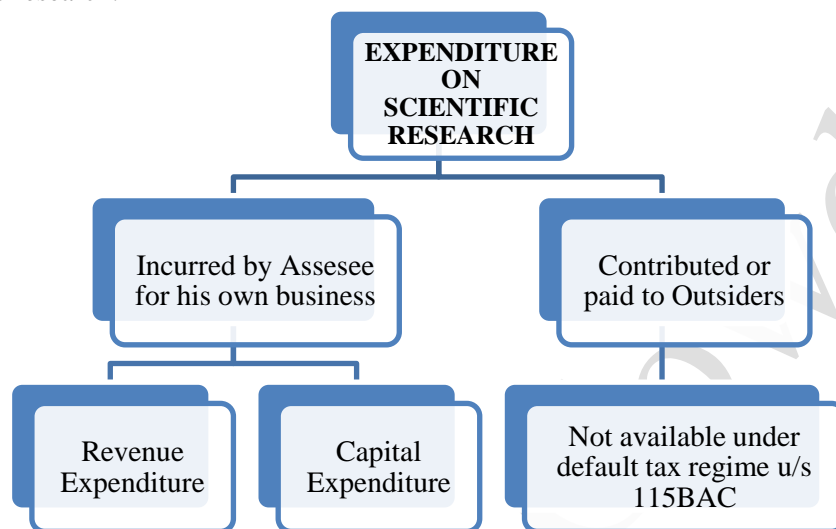
TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE:

Block of assets	Depreciation allowance as percentage of written down value
A. TANGIBLE ASSETS:	
I. Building:	
1. Buildings which are used mainly for residential purposes	5
2. Buildings other than those used mainly for residential purposes	10
3. Purely temporary erections such as wooden structures	40
II. Furniture and fittings: Furniture and fittings including electrical fittings	10
III. Plant and Machinery:	
1. a) Motor cars, Motor buses, Motor lorries, Motor taxis used in the business of running them on hire	30
b) Motor cars other than used in the business of running them on hire	15
2. Ships	20
3. Aeroplanes, Aeroengines	40
4. Books	40
5. Computers including computer software	40
6. Plant and Machinery other than those covered above (general rate)	15
B. INTANGIBLE ASSETS: Know-how, Patents, Copyrights, Trademarks, Licenses, franchises or any other business or commercial rights of similar nature. (no depreciation will be allowed on goodwill)	25

4) EXPENDITURE ON SCIENTIFIC RESEARCH [Section 35]:

This section allows a deduction in respect of any expenditure on scientific research incurred in relation to the business of the assessee or contribution by the assessee for scientific research or social science or statistical research.

However, it does include expenditure incurred in acquisition of rights in or arising out of scientific research.



A) Incurred by Assessee for his own business:

Revenue Expenditure [Sec 35(1)(i)]	Capital Expenditure [Sec 35(1)(iv)]
<p>Any revenue expenditure incurred by the assessee on scientific research related to his business would be allowed as a deduction in the year in which it was incurred.</p> <p>Pre-commencement Expenditure: Following expenditure incurred by the assessee within 3 years immediately preceding the commencement of business will be allowed as deduction in the year of commencement of business:</p> <ol style="list-style-type: none"> a) Salary to research personnel engaged in scientific research b) Purchase of material inputs for such scientific research <p>Note: The deduction will be limited to the amount certified by the prescribed authority</p>	<ul style="list-style-type: none"> ▪ Any capital expenditure (except on acquisition of Land) incurred by the assessee on scientific research related to his business would be deductible in full in the previous year in which it is incurred. ▪ Any unabsorbed capital expenditure on scientific research can be carried forward to the succeeding previous year indefinitely until it gets completely absorbed. ▪ No Depreciation shall be allowed for assessee claiming deduction u/s 35 for capital expenditure. <p>Pre-commencement Expenditure: Any Capital Expenditure (except on acquisition of Land) incurred within 3 years immediately preceding the commencement of business will be allowed as deduction in the year of commencement of business.</p>
Deduction = 100% of the expenditure incurred	

Income Tax

Note: Capital expenditure incurred on scientific research which cannot be absorbed by the business profits of the relevant previous year can be carried forward to the succeeding previous years and shall be treated as the allowance for that year. There is no time bar on the period of carry forward.

B) Contributions to Outsiders:

- i. Payments made to approved scientific research association, institution, laboratories etc is deductible even if it is unrelated to the business of the assessee.
- ii. Contributions made to certain specified institutions shall be entitled to deduction as given below:

Sl. No	Contributions made to	To be used for	Percentage of deduction
1	Approved Research association, College, Institute & University [Section 35(1)(ii)]	Scientific research	100%
2	Approved Research association, College, Institute & University [Section 35(1)(iii)]	Social science or Statistical research	100%
3	Approved Indian Company engaged in R & D [Section 35(1)(ia)]	Scientific research	100%
4	IIT, National laboratory [Section 35(2AA)]	Scientific research under a program approved by prescribed authority [Specific project]	100%

Note: Contribution/Donations to outsiders for scientific/ social science/ statistical research is not allowable under the default tax regime u/s 115BAC.

5) **DEDUCTION OF CAPITAL EXPENDITURE OF SPECIFIED BUSINESS[Section 35AD]:**

According to Section 35AD, deduction shall be allowed in respect of any capital Expenditure, other than acquisition of land, goodwill and financial instrument, incurred by an assessee during the previous year of specified business subject to the fulfillment of certain conditions.

Specified business:

The following businesses shall be considered as specified business eligible for deduction:

- a) Setting up and operating a cold chain facility for specified products;
- b) Setting up and operating warehousing facility for storage of agriculture produce
- c) Laying and operating a cross country Nature gas or Crude Oil or Petroleum oil pipe line network for storage and distribution, as a part of the network
- d) Building and operating anywhere in India, a new hotel of two star or above category as classified by central government.
- e) Building and operating anywhere in India, a new hospital with at least 100 beds for patients.
- f) Developing & building a housing project under a scheme for slum redevelopment / affordable housing framed by the Central Government or State Government;
- g) Business of producing fertilizers in India.
- h) Setting up and operating an Inland Container Depot or a Container Freight Station, notified or approved under Customs Act, 1962
- i) Bee-keeping and production of honey and beeswax
- j) Setting up and operating a warehousing facility for storage of sugar
- k) Laying and operating a slurry pipeline for transportation of iron-ore
- l) Setting up and operating a semi-conductor wafer fabrication manufacturing unit
- m) Developing / Maintaining & Operating / Developing & Maintaining & Operating a new infrastructure facility in India

Quantum of deduction:

100% of the capital expenditure incurred during the Previous Year, wholly and exclusively for the above businesses would be allowable as a deduction.

The expenditure incurred prior to the commencement of the business, would be allowed as a deduction in the year of commencement of business, and should also be capitalized in the books of the assessee on the Commencement of operations.

Conditions:

1. The specified business is not set up by splitting up or reconstruction of business already in existence.
2. Deductions under chapter VI-A under the heading “C - Deductions in respect of certain incomes” and under section 10AA shall not be allowed in respect of income from specified business not only for the year in which deduction is claimed u/s 35AD, but also in any other assessment year.
3. No other deduction shall be allowed under any other section in any other previous year in respect of the amount allowed as deduction u/s 35AD.
4. The loss from specified businesses can be set off ONLY against profits of specified businesses but can be carried forward indefinitely for set off against one or more specified businesses.
5. No deduction shall be allowed under this section if the capital expenditure is paid in cash, exceeding Rs.10,000 in aggregate to a person in a day.

6. Audit of accounts by a chartered accountant and furnishing of audit report along with return of income is required.
7. Any asset in respect of which the deduction is claimed, can be used ONLY for the specified businesses for a period of 8 years beginning with the P.Y in which the asset was acquired / constructed.

Note: Suppose a company purchased plant and machinery for Rs.2crores for a specified business, and claimed deduction under section 35AD. However, the very next year the plant and machinery purchased was put to use for unspecified business. In this case, since the machinery has been used for unspecified business, the deduction claimed under section 35AD will be disallowed. However, the amount of deduction to be disallowed will be reduced by the depreciation allowable in accordance with the provisions of section 32.

Deduction claimed under section 35AD on a capital asset: Rs.2,00,00,000

Depreciation eligible will be @15%: Rs. 30,00,000

Profit chargeable to tax in accordance with section 35AD(7B): Rs.1,70,00,000

The actual cost for the assessee as on the date asset put to use for unspecified business for purpose of claiming depreciation will be Rs.1,70,00,000 & not Rs.2,00,00,000.

Note: Deduction u/s 35AD is not available to the assessee who is paying tax under Default tax regime u/s 115BAC.

6) Amortization of Preliminary Expenses [Section 35D]:

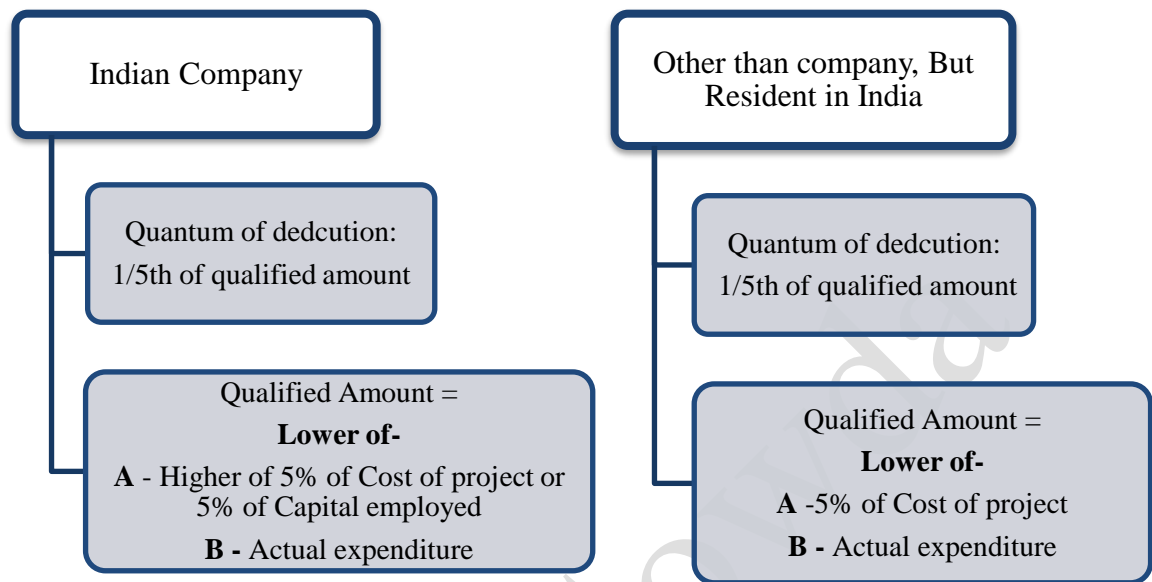
Under Section 35D, Indian companies and other non-corporate taxpayers resident in India would be entitled to amortization of certain preliminary expenses incurred by them.

The expenditure which qualifies for amortization should have been incurred by the assessee:

- a) Before the commencement of his business,
- b) If however, the expenditure is incurred after the commencement of business, it is essential that the expenditure should be in connection with the extension or expansion of the undertaking of the assessee or in connection with the setting up of a new unit by the assessee.

Amount of Deduction: The amount qualifying for amortization would be allowable as a deduction in 5 equal installments beginning with the financial year in which the business of the assessee actually commences or the financial year in which the extension of the present undertaking is completed or the new unit commences production or operation, as the case may be.

Amount qualifying for deduction: The maximum amount allowable as preliminary expenses qualifying for amortization should be restricted to an amount calculated at 5% of the cost of the project & where the assessee is an Indian Company, at the option of the company, 5% of the capital employed in the business of the company or 5% cost of project.



Notes:

a)

- Cost of Project means Cost of Fixed assets &
- Capital Employed refers to Issued share capital + Debentures + Long Term Borrowings as on last date of previous year in which the business of the company commences or as on last date of previous year in which extension of the undertaking is completed.

b) Audit report is to be furnished at least one month prior to the due date for furnishing the return of income under section 139(1).

7) Amortization of Expenditure in the case of Voluntary Retirement Scheme [Section 35DDA]:

The object of this section is to provide amortization of one-fifth of expenditure by way of payment of any sum to an employee in connection with his voluntary retirement every year from the year in which the expenditure is incurred.

8) Other Expressly allowed Deductions [Section 36(1)]:

Type & Section	Deductions
Insurance Premium paid u/s 36(1)(i)	Premium paid on insurance policy taken to cover risk of damage / destruction to stock / stores of the business.
Premium paid by employer for health insurance of employees u/s 36(1)(ib)	Premium paid by employer by any mode other than by cash, on health insurance of its employees.
Bonus & Commission u/s 36(1)(ii)	Deductible in full as long as the bonus/commission shall not be payable to them as profits / dividends. (Subject to section 43B).
Interest on Borrowed Capital u/s 36(1)(iii)	Deduction allowed for any interest paid in respect of capital borrowed for business (Subject to section 43B). In case the capital is borrowed for acquiring an asset, the interest is capitalised from the date of borrowing until the date when the asset is put to use. Post the “put to use” date, it cannot be capitalized anymore and then such interest becomes an allowable deduction.
Discount on Zero Coupon Bonds u/s 36(1)(iiia)	Difference between the issue and the redemption values, as these are issued at a discount and redeemed at par. Available to Infra Companies/funds/Scheduled Banks, starting from the date of issue of the bond, ending with the maturity/ redemption.
Employer’s Contribution to Provident & Other funds u/s 36(1)(iv) & (v)	Allowable if the fund is settled upon a trust, it should be recognised /approved and the contributions should be periodic and as long as the fund is for the benefit of the employees (Subject to section 43B)..
Employer’s contribution to the a/c of the employee under a pension scheme referred to in Section 80CCD [Section 36(1)(iva)]	Deduction is restricted to 10% of salary of employee in PY. Salary, here, would include ONLY Basic pay & DA (if the terms of employment provide).
Employee’s Contribution to Welfare Funds [Section 36(1)(va)]	Deemed as business income of the employer assessee and will be allowed as a deduction ONLY if the employee contributions have been credited to the employees’ account by the assessee in the fund, on or before the due date under the respective welfare acts of the fund.
Bad Debts u/s 36(1)(vii)	The amount of any debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year is allowed to be deducted.
Expenses on family planning [Section 36(1)(ix)]	The deduction is allowable to a company on expenses incurred for the purpose of promoting family planning amongst its employees. If the expenditure is capital in nature, allowable in 5 equal installments beginning from the PY in which it was incurred and if the expenditure is revenue in nature, it shall be fully allowable in the PY in which it was incurred.
Securities Transaction Tax [Section 36(1)(xv)]	Allowable in respect of transactions entered in the course of business, as long as the income from the taxable securities transactions, is taxable under the head “Profits & Gains of Business / Profession”

Commodities Transaction Tax [Section 36(1)(xvi)]	Allowable in respect of transactions entered in the course of business, as long as the income from the taxable Commodities transactions, is taxable under the head “Profits & Gains of Business / Profession”
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9) Other Expenses not covered by the Previous Deductions [Section 37(1)]:

Section 37(1) of the Income-tax Act provides for allowance in respect of any other item of expenditure not covered by any of the provisions contained in Sections 30 to 36 discussed above. The deduction is limited only to the amount actually expended and doesn't include reserve created against a contingent liability or provision created.

This deduction is subject to the following conditions:

- a) Expenditure should not be covered u/s 30-36
- b) The expenditure must have been paid or incurred by the assessee wholly and exclusively for the purposes of his business or profession.
- c) The expenditure should not be in the nature of capital.
- d) The expenditure should not be in the nature of personal of the assessee.
- e) Expenditure should not be incurred for an illegal/immoral purpose
- f) The expenditure should not be in the nature of expenditure which is specifically disallowed under the Act.

Explanation to Section 37(1): Any expenditure incurred by the assessee for any purpose which is an offense or prohibited by law is not deductible.

Explanation 2 to Section 37(1): Disallowance of CSR Expenditure as per Sec 135 of the Companies Act, 2013.

Notes:

- a) Premium paid on the Keyman Insurance Policy is allowable as business expenditure.
- b) If the payment for Non-compliance of law is compensatory in nature, it is deductible. However, if it is penal in nature (penalty) then it is not deductible.
- c) Corporate Social Responsibility (CSR) expenditure is not construed to have been incurred for the purposes of business / profession and hence will be disallowed.
- d) Any advertisement expenditure in souvenirs of political parties, representing contributions for political purposes, would be disallowed as per section 37(2B).

EXPENSES DISALLOWED [Section 40]:

- 1) As per Section 40(a)(i), Any interest, salary, royalty, fees for technical services or any other sum chargeable under this act is disallowed fully, if it is payable-
- Outside India or
 - In India to a non-resident or foreign company
- on which tax is deductible at source under chapter XVII-B but,
- (i) TDS is not deducted or
 - (ii) Deducts TDS, but not paid the same on or before due date for filing the return of income as specified u/s 139(1).

Provided that where in respect of any such sum, tax has been deducted or deposited after the due date specified in section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

- 2) As per Section 40(a)(ia), the expenses payable to resident on which tax is deductible at source under chapter XVII-B but,
- (i) Fails to deduct TDS or
 - (ii) Deducts TDS, but not paid the same on or before due date for filing the return of income as specified u/s 139(1),
- 30% of such expenditure shall be disallowed.

Provided that where in respect of any such sum, tax has been deducted or deposited after the due date specified in section 139(1), 30% of such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

3) **Rate or Tax Paid on Profits:**

Under Section 40(a)(ii), any sum paid by the assessee on account of any tax or rate levied on profits on the basis of or in proportion to the profits and gains of any business or profession, would be disallowed in full.

For example: Income-tax(including surcharge and Cess), foreign income-tax etc..

- 4) Amount paid by way of royalty, licence fee, service fee, privilege fee, service charge by State Government undertaking to State Government [Section 40(iib)].
- 5) **Salaries [Section 40a(iii)]:** Any payment which is chargeable under the head "salaries" if it is payable –

- a) outside India; or
- b) to a non-resident

and TDS on such payment has not been deducted or TDS deducted but not paid the same to the government upto the due date of TDS payment (i.e 7th of next month), then such payment shall not be allowed as deduction.

Note: If TDS is deposited late even by one day, the salary shall not be allowed as deduction permanently.

- 6) **Payment to Provident Funds etc. [Section 40a(iv)]:** Any payment to a Provident Fund or other fund established for the benefit of employees of the assessee would be disallowed in cases where the assessee (employer) has not made effective arrangements to secure deduction of tax at source from any payment made from the fund which are chargeable to tax under the head "salaries" in the hands of the employees.
- 7) **Payment of tax on non-monetary perquisites [Section 40a(v)]:** Tax actually paid by an employer under Section 10(10CC) shall not be deducted in computing the income chargeable under the head "Profit and gains of business or profession."

8) **Disallowance in case of Partnership firms [Section 40(b)]:**

- a) In case of interest to partners it is allowed at a maximum of 12% p.a provided it is mentioned in the partnership deed.

In other words, the interest deductible is 12% p.a or as given in the partnership deed, whichever is less. [The restriction applies to both interest on capital & interest on loan to a partner]

- b) **Any Salary, bonus, commission or remuneration to the partners from the partnership firm will be allowed, provided –**

- i. It must be authorized by partnership deed.
- ii. He must be a working partner.
- iii. The partnership deed must specify amount of remuneration or provide the manner of calculating the remuneration.
- iv. The remuneration deductible shall be lower of–
 - Actual remuneration or
 - Limit specified under Section 40(b).
- v. **The limit specified under 40(b) is as below –**

Book Profits	Remuneration as % of book profits
On the first Rs.3,00,000 or in case of loss	Rs.1,50,000 or 90% of book profits, whichever is higher
On the balance	60%

Note: Book profits refers to the profits of partnership firm after all adjustments (Sec 28-44D), except deduction for salary, bonus or remuneration to partners. In other words, book profits refer to profits after all adjustments, but before allowing deduction towards partner's salary/ bonus, commission or remuneration.

9) **Payment by AOPs / BOIs [Section 40(ba)]:**

In case of an association of persons or body of individuals, any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body shall not be allowed as a deduction.

As per explanation 1 to clause (ba) of Section 40 of the Income-tax Act, where interest is paid by the association or body to any member thereof, who has also paid interest to the association or body, the disallowance shall be restricted to the amount paid by the association or body to the member, after deducting therefrom the amount paid by the member to the association or body.

EXPENSES RESTRICTED [Section 40A]:

1) Payment to Relatives or Associates to the extent unreasonable [Section 40A(2)]:

Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any specified person (relatives or associated concerns) and such expenditure is excessive or unreasonable, so much of the expenditure as is considered to be excessive or unreasonable must be disallowed in computing the assessee's income from business or profession.

Domestic Transfer pricing provisions of arm length pricing shall not be applied to any expenditure in respect of which payment is made to a related party covered by section 40A(2) of the Income-tax Act.

Relative means- Husband, wife, brother, sister, or any lineal ascendant or descendent of the Individual.

Associated Concerns- Concerns in which the assessee or his relative has substantial interest (at least 20%) or the concern has the substantial interest in the business of the assessee.

2) Cash Payments exceeding Rs.10,000 [(Section 40A(3))]:

Where the assessee incurs any expenditure in cash in respect of which a payment or aggregate of payments made to a person in a day, exceeds Rs.10,000, no deduction shall be allowed in respect of such expenditure.

However in case of payment made to plying, hiring or leasing of goods carriages, the amount specified is Rs.35,000.

Under Rule 6DD of the Income-tax Rules, the following categories of payments are exempt for the purposes of this requirement.

Consequently, the provisions of Section 40A(3) do not apply to the following cases and circumstances:

- a) Payments which are made to the Reserve Bank of India, State Bank of India or other banking institutions including co-operative banks and land mortgage banks, primary credit societies, Life Insurance Corporation of India, Unit Trust of India and certain specified institute providing Industrial Finance.
- b) Payments made to the Central or State Governments.
- c) Payments in villages and towns having no banking facility, to persons ordinarily residing or carrying on business or profession in such villages or towns.
- d) Loan transactions because advancing of loans or repayments of the principal amount of loan does not constitute an expenditure deductible in computing the taxable income.
- e) Payments of terminal benefits such as gratuity, retrenchment compensation, etc. not exceeding Rs.50,000.
- f) Payments made to cultivators, growers or producers for the purchase of agricultural or forest produce, animal husbandry products, products of dairy or poultry farming, products of horticulture or fish, products of cottage industry.
- g) Where the payment is made to an employee temporarily but for a minimum period of 15 days in a place other than his normal place of work or on a ship, provided tax has been deducted at source in terms of Section 192 of the Act and further provided that such employee has no bank account at such place of temporary posting or ship.

- h) Where payment is made to an agent who in turn is required to make payment in cash for goods or services on behalf of the assessee.

Where an expenditure has been allowed in the assessment of income for any previous year on accrual basis and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof in cash, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year in which payment is made if the payment or aggregate of payments made to a person in a day, exceeds Rs.10,000.

3) **Provision for Gratuity [Section 40A(7)]:**

No deduction shall be allowed in respect of any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason.

However, any provision made by the assessee for the payment of a sum by way of any contribution towards an approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the previous year shall be allowed.

4) **Restriction on contribution by employers to Non-Statutory Funds [Sections 40A(9), (10) and (11)]:**

No deduction shall be allowed in the computation of taxable profits in respect of any sums paid by the assessee as an employer towards the setting up or formation of or as contribution to any fund, trust, company, association of persons, body of individuals or society or any other institution for any purpose, except where such sum is paid by the assessee as an employer or contributed (within the limits laid down under the relevant provisions) to a recognised provident fund or an approved gratuity fund or an approved superannuation fund.

EXPENSES ALLOWED ON ACTUAL PAYMENT [Section 43B]:

As per section 43B, even if an assessee maintains books on mercantile system then he will be allowed deduction of the following expenses only on payment basis. This section cuts into the freedom of a business to claim certain specified expenses on due basis.

Any Sum payable by assessee by way of-

- a) Taxes, duties, cess or fees payable under any law;
- b) Bonus and commission to employees;
- c) Interest to public financial institutions, state financial corporations, state industrial investment corporations, scheduled banks and to co-operative bank also (other than primary agricultural credit society or primary co-operative agricultural and rural development bank) in respect of term loans or advances.
- d) Leave encashment.
- e) Sum payable to Indian railways for use of railway assets
- f) Any sum payable by employer by way of contribution to provident fund or superannuation fund or any other fund for welfare of employees.

- g) Any sum payable by the assessee as interest on any loan or borrowing from notified class of non-banking financial companies, in accordance with the terms and conditions of the agreement governing such loan or borrowing

Shall not be allowed as deduction unless the payments are actually made within the due date of filing the return of Income u/s 139(1). If the payment is made after the due date of filing the return of Income, then deduction can be claimed in the year of actual payment.

The provisions of this section are applicable only to employer's contribution and are not applicable to employee's contribution for the welfare funds. Hence employer's contribution to various funds is allowed as deduction if the same is paid on or before the due date of filing return under section 139(1).

However employee's contribution for the welfare funds is first deemed as income of the assessee (employer) u/s 36(1)(va) and the same is allowed as deduction only when such sums are deposited by the assessee to the employee's account in the relevant fund on or before the due date of respective welfare acts.

Conversion of interest into a loan or borrowing or debenture or any other instrument:

Explanation 3C, 3CA & 3D clarifies that if any sum payable by the assessee as interest on any such loan or borrowing or advance referred above, is converted into a loan or borrowing or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, the interest so converted and not "actually paid" shall not be deemed as actual payment, and hence would not be allowed as deduction. The clarificatory explanations only reiterate the rationale that conversion of interest into a loan or borrowing or advance or debenture or any other instrument by which the liability to pay is deferred to a future date does not amount to actual payment.

Therefore, irrespective of the nomenclature, the deduction will be allowed in the previous year in which the converted interest is actually paid.

CHANGES IN RATE OF EXCHANGE [Section 43A]:

Section 43A of the Income-tax Act contains special provisions to provide for additional allowance to the assessee in respect of capital assets whose actual cost is affected by the changes in the rate of exchange of currency.

These provisions are to be taken into account in all cases where an assessee has acquired any depreciable asset -

- from any country outside India for the purposes of his business or profession on credit or
- from the loan borrowed in foreign currency

The amount by which the liability of the assessee in terms of Indian Rupees is increased or reduced as a result of change in the rate of exchange of the currency, would be added to or as the case may be deducted from the actual cost of the asset as defined in Section 43(1). Consequently, the amounts of depreciation allowable to assessee in respect of the asset would correspondingly be increased or reduced, as the case may be.

The following values may be changed accordingly with respect to the increase or decrease in such liability:

- a) the actual cost of the asset under section 43(1)
- b) the amount of capital expenditure incurred on scientific research under section 35(1)(iv)
- c) the amount of capital expenditure incurred by a company for promoting family planning amongst its employees under section 36(1)(ix)
- d) the cost of acquisition of a non-depreciable capital asset falling under section 48.

The amount arrived at after making the above adjustment shall be taken as the amount of capital expenditure or the cost of acquisition of the capital asset, as the case may be.

The addition or deduction from the actual cost of the asset on account of change in the rate of exchange in any previous year shall be allowed to be made only on actual payment by the assessee towards the cost of the asset or repayment of the foreign loan or interest, irrespective of the method of accounting adopted by him.

OTHER POINTS ON ADMISSIBILITY:

- 1) For undervaluation or overvaluation of stock, the profit shall be accordingly changed.
- 2) GST collected by assessee has to be treated as trading receipt. Payment of GST by assessee is equally liable to be deducted
- 3) Expenses in connection with income tax proceedings or appeal etc are allowed as deduction.
- 4) Interest payable for delayed payment is allowed if it is compensatory in nature, but disallowed if penal in nature.
- 5) Annual listing fees paid to stock exchange is allowed as deduction.
- 6) Premium on redemption of debentures is deductible by amortizing it over the life of debentures.

DEEMED PROFITS [Section 41]:

Section 41 of the Income-tax Act enumerates items of notional income which are deemed to be income from business or profession chargeable to tax. The liability to tax in respect of deemed profits would arise not only during the existence of the business but also after its discontinuance.

The items of deemed profits are enlisted below:

(1) Remission of Liability or Recoupment of Loss or Expenditure [Section 41(1)]:

Where any allowance or deduction has been made in the assessment for any previous year in respect of losses, expenditure or trading liability incurred by the assessee and subsequently the assessee or his/its successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof during any subsequent accounting year, the amount so obtained or the value of the benefit so accruing to the assessee or his/its successor in business as the case may be, must be deemed to be the profits and gains of business or profession and must be charged to tax as the income of the assessee or his/its successor in business as the case may be for the year in which the remission or cessation takes place.

Example: GST Refund, Stock in trade is destroyed by fire & allowed as trading loss & subsequently insurance compensation is received by the assessee.

(2) Balancing Charge [Section 41(2)]: Already discussed with depreciation of power sector topic.**(3) Sale of Scientific Research assets [Section 41(3)]:**

Where an assessee incurs capital expenditure on scientific research, the entire amount of such expenditure is allowable as a deduction u/s 35 in computing the business income of the assessee in the same year in which the expenditure is incurred.

If subsequent to the incurring of the expenditure, the asset representing the capital expenditure is sold, then the tax liability is as follows-

a) Sale without use in business [Section 41(3)]-

Lower of-

- Sale price
- Deduction already claimed u/s 35(1)(iv)

is taxable as PGBP.

b) Sale after use in business [Section 50]-

- Add to Block of Asset
- Actual cost will be NIL as per explanation to Section 43(1)
- Section 50 will arise at the time of sale to compute capital gain.

(4) Bad debts recovered [Section 41(4)]:

Where the assessee claims a deduction in any year in respect of a bad or irrecoverable debt and the Assessing Officer allows a deduction to the extent of the bad debts, if subsequently the assessee recovers either the full amount of the debt which was previously written off as bad or part thereof, the amount so recovered would be chargeable to tax as the business income of the assessee in the year of recovery.

In cases where the Assessing Officer had allowed only a part thereof as bad, in the subsequent year of recovery, the tax liability under this section must be on the amount of difference between the amount recovered and the bad debt disallowed by the Assessing Officer.

Bad debts recovered taxable = Bad debts recovered – Bad debts disallowed earlier

Example: Bad debts for the year 2021-22 was Rs.50,000, but Assessing Officer had allowed only Rs.35,000 as deduction. In 2023-24 the assessee recovered the bad debts of Rs.40,000 relating for the year 2021-22.

The amount of bad debts recovered taxable in the year 2023-24 is-

Bad debts recovered – Bad debts disallowed earlier

Rs.40,000 - Rs.15,000 = Rs.25,000

(5) Brought forward losses of defunct business [Section 41(5)]:

In cases where a receipt is deemed to be profit of a business under section 41 relating to a business that had ceased to exist and there is an unabsorbed loss, not being a speculation loss, which arose in that business during the previous year in which it had ceased to exist and which has not been set off, it would be set off against income that is chargeable under this section even after the expiry of 8 years.

Impact of Section 115BAC under the head profits and gains from business or profession:

Finance act, 2020 has introduced a New Default tax System u/s 115BAC of the income tax act, 1961 to provide for concessional rate of Slab rates to be applied on Total Income calculated without claiming specified deductions and exemptions.

Hence, there are two operative tax systems –

1. One is the pay tax at concessional rates under the default tax regime under section 115BAC.
2. Second one is to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act.

The following deductions are not available under default tax regime while calculating Income from Business and Profession –

- Additional depreciation in respect of new plant and machinery [Section 32(1)(iia)];
- Deduction for donation made to approved scientific research association, university college or other institutes for doing scientific research which may or may not be related to business [Section 35(1) (ii)];
- Deduction for payment made to an Indian company for doing scientific research which may or may not be related to business [Section 35(1)(iia)];
- Deduction for donation made to university, college, or other institution for doing research in social science or statistical research [Section 35(1) (iii)];
- Deduction for donation made for or expenditure on scientific research [Section 35(2AA)];
- Deduction in respect of capital expenditure incurred in respect of certain specified businesses, i.e., cold chain facility, warehousing facility, etc. [Section 35AD];

In a case where the assessee is paying tax under default tax regime under section 115BAC 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, 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: 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)(iia) 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, 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.

MAINTENANCE OF BOOKS OF ACCOUNTS [Section 44AA]:

The following persons are liable to maintain such books of accounts and other documents as may enable the Assessing Officer to compute the total income in accordance with the provisions of this Act:

1)

Assessee	Specified Person	Non-Specified Person	
	All Assessee	Individual/HUF	Other Assessee
Threshold limit	Gross receipts > Rs.1,50,000	Income from Business/ Profession >Rs.2,50,000 (or) Total Sales/Turnover /Gross receipts from Business/Profession >Rs25,00,000	Income from Business/ Profession >Rs.1,20,000 (or) Total Sales/Turnover /Gross receipts from Business/Profession >Rs10,00,000
Period	In all 3years immediately preceding the previous year	In any 1 of the 3 years immediately preceding the accounting year	
	Note: If the business / profession is newly set up in the previous year, if the income / sales turnover is likely to exceed the threshold limit in the Previous Year.		

Note:

As per Rule6F, Specified person includes persons carrying on the profession of legal or medical or engineering or architectural or the accountancy or technical consultancy or interior decoration or authorised representative or film artists or company secretaries and information technology professionals

- 2) Where the profits and gains from the business are deemed to be the profits and gains of the assessee u/s 44AE, 44BB, 44BBB and the assessee has claimed his income to be lower than the income prescribed in those provisions during the previous year.
- 3) Where the provisions of section 44AD(4) and 44ADA are applicable to him and his total income exceeds the basic exemption limit in any previous year.

Under presumptive assessment under sections mentioned above, if assessee claims that his income is lower than that specified limit under these sections, assessee is required to get his accounts audited by a Chartered Accountant and copy of that report needs to be attached along with his return of income. Therefore to get his accounts audited he needs to maintain such books to substantiate his claim and also to enable Chartered Accountant to issue Audit Report to this effect.

Note: Books of accounts shall be kept for a period of 6 years from the end of the relevant assessment year. (Effectively for 8years including the year for which the books relate to).

Penalty for failure to maintain books of account [Section 271A]:

If a person fails to keep and maintain any such books of account and other documents as required by section 44AA in respect of any previous year or to retain such books of account and other documents for the specified period, penalty of Rs.25,000 would be leviable under section 271A.

AUDIT OF ACCOUNTS/ TAX AUDIT [Section 44AB]:

Section 44AB makes it obligatory for person to get his accounts audited before the “specified date” by a “Chartered Accountant”;

- 1) If the total sales, turnover or gross receipts in business for the previous year exceeds Rs.1crore or
Note: Section 44AB is not applicable for a person who opts to declare profits as per provisions of section 44AD.

In order to reduce the compliance burden on the small and medium enterprises carrying on the Business, the threshold of turnover/sales limit for tax audit requirements has been increased from 1Crore to 10 Crores, subject to following conditions:

- a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed 5% of the said amount; AND
- b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed 5% of the said payment.

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

- 2) If gross receipts in profession for a previous year exceeds Rs.50 lakhs.
Note: Section 44AB is not applicable for Professionals who opts to declare profits as per provisions of section 44ADA.
- 3) In case of assessee carrying on business u/s 44AE or 44BB or 44BBB and claiming his income from any such business to be lower than the income prescribed under the relevant sections, then audit is compulsory.
- 4) Where the provisions of section 44AD(4) are applicable to him and his total income exceeds the basic exemption limit.
- 5) Where a person is covered by section 44ADA and he declares his income from profession lower than deemed income and his total income exceeds basic exemption limit, he will have to get his accounts audited under section 44AB (irrespective of quantum of turnover or gross receipt).

Important Notes:

- a) The provision also casts an obligation on such persons to furnish by the “specified date”, a report of the audit in the prescribed form duly signed and verified by the Chartered Accountant setting forth such particulars as may be prescribed by rules made in this behalf by the Central Board of Direct Taxes. (Form 3CA/3CB/3CD).
- b) Specified Date is one month prior to the due date for filing Return of Income u/s 139(1).
The due date for filing return of income in case of assessee who are required to get their accounts audited is 31st October of the relevant assessment year. Hence, the specified date for tax audit would be 30th September of the relevant assessment year⁹
- c) Penalty u/s 271B if assessee fails to get accounts audited-
 - 0.5% of Turnover or Gross receipts
 - Rs.1,50,000Whichever is lower

PRESUMPTIVE TAXATION [Section 44AD]:

- 1) This section is applicable to an resident Individual, HUF or a Firm other than a LLP, carrying on
 - any business other than business referred to in section 44AE, whose total turnover/gross receipts from such business in the previous year does not exceed Rs.2 Crore (200 Lakhs).
 - any business, other than business referred to in section 44AE, whose total turnover/gross receipts in the P.Y. does not exceed Rs.3 Crore (300 Lakhs) and aggregate cash receipts in the relevant PY $\leq 5\%$ of total turnover or gross receipts.
- 2) A sum equal to 8% of the total turnover/gross receipts paid or payable to the assessee or such higher sum as declared by assessee shall be deemed to be the income from such business.

Presumptive Income = 8% of the total turnover/gross receipts
- 3) The Presumptive scheme of taxation shall not apply to an assessee who has availed exemption u/s 10A, 10AA, 10B, 10BA or any other deductions claimed under Chapter VI-A under the heading C.
- 4) An assessee opting for section 44AD is required to pay advance tax by 15th March, every FY in single installment.
- 5) Such assessee's opting for the presumptive scheme under section 44AD are not required to maintain books of account under section 44AA or get them audited under section 44AB.
- 6) Where assessee opts for Presumptive taxation u/s 44AD, he is required to follow the same scheme for next 5 years. However, if he fails to do so, presumptive taxation u/s 44AD shall not be available for him for next 5 years from the year in which he opts out of the presumptive taxation. Also, he is required to maintain books of accounts u/s 44AA and liable for tax audit u/s 44AB, from the year in which he opts out of presumptive taxation, if their total income exceeds the basic exemption limit [Section 44AD(4)].
- 7) **The provisions of section 44AD shall not apply to –**
 - a) A person carrying on any profession referred to in Rule 6F.
 - b) A person earning income in the nature of commission or brokerage
 - c) A person carrying on any agency business.
 - d) A person carrying on the business of plying, hiring or leasing goods carriages referred to in section 44AE.

Note: Presumptive Income u/s 44AD shall be calculated at 6% instead of 8% on turnover/gross receipts/sales if the following conditions are satisfied-

- a) Turnover/gross receipts/sales is received by any mode other than cash.
- b) The above payment is received during the previous year or before the due date of submission of return u/s 139(1) in the assessment year.

PRESUMPTIVE TAXATION FOR SMALL PROFESSIONALS [Section 44ADA]:

- 1) This section is applicable to Resident individual or Partnership firm (but not LLP) is engaged in the any of following profession (As per Rule 6F)–
 - a) Legal
 - b) Medical
 - c) Engineering or Architectural
 - d) Accountancy
 - e) Technical Consultancy
 - f) Interior Decoration
 - g) Film artists
 - h) Company secretaries
 - i) Information technology professionals and
 - j) Any other Profession as notified by CBDT
- 2) Whose gross receipts from such profession \leq Rs.50 lakhs in the relevant P.Y.
However Gross receipts from such profession \leq Rs.75 lakhs in the relevant P.Y and aggregate cash receipts in the relevant PY \leq 5% of gross receipts.
- 3) 50% of the gross receipts shall be deemed to be the Income of the assessee or such higher sum as declared by assessee shall be deemed to be the income from profession.

Presumptive Income = 50% of the gross receipts
- 4) An assessee opting for section 44ADA is required to pay advance tax by 15th March, every FY.
- 5) A person can declare income at lower rate (i.e less than 50%), however if he does so, and his total income exceeds maximum amount not chargeable to tax (basic exemption limit), then he is required to maintain books of accounts u/s 44AA and get the books audited u/s 44AB.

BUSINESS OF PLYING, HIRING OR LEASING GOODS CARRIAGES [Section 44AE]:

- 1) In the case of an assessee who carry on the business of plying, hiring or leasing goods carriages and who owns not more than 10 goods carriages at any time during the previous year, the income shall be computed as follows-
 - a) In case of heavy goods vehicle (the gross vehicle weight of which exceeds 12,000 kilograms), the presumptive income would deemed to be an amount equal to Rs.1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher.
 - b) The vehicles other than heavy goods vehicle will be taxed at Rs.7,500 for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher.
- 2) An assessee who is in possession of a goods carriage, whether taken on hire purchase or on installments and for which the whole or part of the amount payable is still due shall be deemed to be the owner of such goods carriage.

- 3) Where the profits and gains from the business are deemed to be the profits and gains of the assessee u/s 44AE and the assessee has claimed his income lower than the income prescribed under this section shall maintain books of account as per Section 44AA and get the same audited u/s 44AB.

Common points for Section 44AD, Section 44ADA and Section 44AE:

- 1) All deductions u/s 30 to 38 including depreciation shall be deemed to have been allowed.
- 2) Written down value of assets used for the purpose of such business shall be calculated as if the depreciation has been actually allowed.
- 3) The intent of these section is to reduce administrative and compliance burden on small businesses/professionals, and relieve them from the requirement of maintenance of books of accounts. Therefore, people opting for taxation on presumptive basis are not required to maintain books of account u/s 44AA or get them audited u/s 44AB.
- 4) In the case of an assessee which is a firm to which the provisions of Section 44AE are applied, the salary and interest paid to its partners shall be deducted from the income computed under these provisions. The allowance of the salary and interest shall be subject to the conditions and limits specified in Section 40(b).

However, the same is not applicable for the assessee covered u/s 44AD & 44ADA.

Permissible “Other electronic modes” prescribed for the purpose of certain sections: (Surgical strike on cash transactions)

The following sections have been amended by the Finance (No.2) Act, 2019 to permit payment/ receipt referred to therein by other electronic modes to be prescribed, in addition to account payee cheque/bank draft and Electronic Clearing System (ECS) through bank account.

Section	Description of payment/receipt
35AD- Capital expenditure of Specified business	Mode of payment of an amount exceeding Rs.10,000 in a day for capital expenditure in respect of specified business
40A(3)/(3A)- Cash Payments	Mode of payment or aggregate of payments exceeding Rs.10,000 in a day towards any expenditure (exceeding Rs.35,000 in a day, in case of payment to transport operator)
43(1)- Actual Cost for computing depreciation	Mode of payment or aggregate of payments exceeding Rs.10,000 in a day to a person for acquisition of asset (for inclusion in actual cost for computing depreciation)
44AD- Presumptive Taxation for Business	Receipts, included in “turnover/gross receipts”, qualifying for computation of presumptive income @ concessional rate of 6%
44AD- Presumptive Taxation for Business	Total turnover/gross receipts in the P.Y. does not exceed Rs.3 Crore (300 Lakhs) and aggregate cash receipts in the relevant PY \leq 5% of total turnover or gross receipts.

44ADA- Presumptive Taxation for Profession	Gross receipts from profession \leq Rs.75 lakhs in the relevant P.Y and aggregate cash receipts in the relevant PY \leq 5% of gross receipts.
43CA- Consideration for transfer of stock-in trade, being land or building or both	Mode of payment of part or whole of consideration for transfer of stock-in trade, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of determining full value of consideration for computing profits and gains from business or profession
50C- Consideration for transfer of capital asset, being land or building or both	Mode of payment of part or whole of consideration for transfer of capital asset, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of determining full value of consideration for computing capital gains
56(2)(x)- Consideration for transfer of immovable property, being land or building or both	Mode of receipt of part or whole of consideration for transfer of immovable property, being land or building or both, on or before the date of agreement for considering stamp duty value on the date of agreement for the purpose of computing income under the head "Income from other sources".
80JJAA- Deduction in respect of employment of new employees	Mode of payment of emoluments to additional employees employed during the previous year to qualify for deduction

Accordingly, the CBDT has, vide this notification, inserted Rule 6ABBA to prescribe the following electronic modes through which payment can be made or money can be received, for the purposes of above sections cited in the above table –

- a) Account payee cheque/bank draft
- b) Credit Card;
- c) Debit Card;
- d) Net Banking;
- e) IMPS (Immediate Payment Service);
- f) UPI (Unified Payment Interface);
- g) RTGS (Real Time Gross Settlement);
- h) NEFT (National Electronic Funds Transfer), and
- i) BHIM (Bharat Interface for Money) Aadhar Pay.

Note: In simple in the above cases, payments/expenditure is not allowed if it is made in cash.

PROBLEMS:

- 1) From the following figures, you are required to ascertain the depreciation admissible in the Assessment year 2024-25:

Particulars	Machinery	Building
WDV as on 01-04-23	5,00,000	20,00,000
Additions during the year	6,00,000	Nil
Date of additions made	14-Jun-23	-
Sale during the year	12,00,000	4,00,000
Rate of depreciation	15%	10%

- 2) A Ltd discloses the following information for F.Y 2023-24.
Calculate the depreciation admissible for A.Y 2024-25-

Particulars	Amount (Rs)
W.D.V of Plant & Machinery as on 1-April-23	10 Lakhs
Additions made during the year 2023-24 for factory (out of this, assets put to use for more than 180days is Rs.1.5lakhs).	2 Lakhs

- 3) Dollar Ltd, a manufacturing concern furnishes the following particulars.
Calculate the depreciation admissible for A.Y 2024-25-

Particulars	Amount (Rs)
Opening WDV under Income tax of block plant and machinery	5,00,000
Purchase of plant and machinery (put to use before 1-Oct-23)	2,00,000
Sale proceeds of plant and machinery (the plant and machinery was purchased on 1-Apr-2021 for Rs.5,00,000)	10,000

- 4) Following particulars are supplied by a textile unit situated in Mumbai for the assessment year 2024-25:

Block of Assets	WDV as on 1.4.2023	Additions during the year	Sales made during the year	Rate of depreciation
Factory building	20,50,000	8,00,000 (15.1.2024)		10%
Residential buildings	50,00,000	5,00,000 (31.7.2023)		5%
Plant and Machinery	90,00,000	3,00,000 (5.10.2023)	11,00,000	15%
Furniture and fittings	10,30,000	1,00,000 (10.10.2023)	3,50,000	10%

You are required to calculate the amount of allowable depreciation under the Income-tax Act, 1961

- 5) Mr. A, furnishes the following particulars for the P.Y 2023-24. Compute the deduction allowable under section 35 for A.Y 2024-25, while computing his income under the head “Profits and gains of business or profession”.

Particulars	Amount (Rs)
Amount paid to notified approved Indian Institute of Science, Bangalore, for scientific research	1,00,000
Amount paid to IIT, Delhi for an approved scientific research programme	2,50,000
Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority	4,00,000
Expenditure incurred on in-house research and development facility as approved by the prescribed authority	
(a) Revenue expenditure on scientific research	3,00,000
(b) Capital expenditure (including cost of acquisition of land Rs.5,00,000) on scientific research	7,50,000

- 6) X & Co, a partnership firm has furnished the following profit and loss account for the F.Y 2023-24-

Particulars	Amount	Particulars	Amount
To Cost of goods	2,80,000	By Sales	2,92,000
To Other expenses	91,000	By Net loss	1,72,000
To Interest to partners	25,000		
To Remuneration to partners	68,000		
	4,64,000		4,64,000

The other expenses debited include Rs.13,600 not allowable u/s 37(1) of the act. Interest to partners is in excess by Rs,7,100(not deductible).

You are required to compute for the A.Y 2024-25-

- a) Book profits of the firm.
 - b) Permissible Remuneration to partner’s u/s 40(b).
 - c) The taxable income of the firm.
- 7) Rao & Jain, a partnership firm consisting of two partners, reports a net profit of Rs.7,00,000 before deduction of the following items:
- i. Salary of Rs.20,000 each per month payable to two working partners of the firm (as authorized by the deed).
 - ii. Depreciation on plant and machinery u/s 32 Rs.1,50,000.
 - iii. Interest on capital @ 15% p.a (as per partnership deed). The amount of capital eligible for Interest is Rs.5,00,000.

Compute:

- a) Book profits of the firm u/s 40(b) of Income tax act.
- b) Permissible Remuneration to partners u/s 40(b).

- 8) From the following expenses, identify whether the expenses should be allowed or disallowed while calculating the Taxable business/profession Income as per Income Tax act for the Assessment year 2024-25-

Sl. No	Particulars	Amount (Rs)	Allowed/ Disallowed
1.	Bad debts written off in books	20,000	
2.	Depreciation as per Profit & Loss account	55,000	
3.	Contribution to charity fund	25,000	
4.	Bribe Paid for Income Tax authorities	30,000	
5.	Penalty paid for non-compliance of law	15,000	
6.	Interest paid on fund borrowed for business	50,000	
7.	Provision for bad/doubtful debts	12,000	
8.	Interest paid on personal loan	10,000	
9.	Income tax Paid for business	75,000	
10.	Income tax Provisions for next year	85,000	
11.	Salary paid to Non-Resident employee (TDS not deducted)	1,55,000	
12.	Salary paid to Resident employee (TDS not deducted)	2,05,000	
13.	Professional fee paid outside India (TDS deducted & remitted to government on 31-Dec-24)	25,000	
14.	Bonus paid to employees on 1-Dec-24	45,000	
15.	Employer Contribution to PF, ESIC & LWF (not paid till 31-Dec-24)	35,000	
16.	Salary paid to Relative (unreasonable to the extent of Rs.35,000)	70,000	
17.	Transfer to General Reserve	40,000	
18.	Municipal tax paid on the property of business	35,000	
19.	Insurance Premium paid for the policy taken for employees	60,000	
20.	Advertisement expenses paid in cash to Mr.Raju on 30-Nov-23.	55,000	
21.	Interest on loan borrowed from Public Financial Institution(Not paid till 31-Dec-24)	75,000	
22.	Contract payment made to Resident (TDS provisions not complied with)	44,000	
23.	Rent Paid to Resident (TDS deducted but not remitted to government)	27,000	
24.	Drawings by proprietor	12,000	
25.	Depreciation as per IT act	48,000	
26.	Payments made to approved K Scientific	25,000	

	research Ltd for scientific research		
27.	Payments made to approved National Laboratory for scientific research	12,000	
28.	Payments made to unapproved LMN college for scientific research	18,000	
29.	Courier Charges paid to Mr.X by Cross cheque on 30-Oct-23.	42,000	
30.	Cash paid to Goods carriages on 17-Dec-23	32,000	

9) From the following information, find out the Taxable business Income for the A.Y 2024-25.

Profit & Loss account of AB Ltd for the year ending 31-Mar-24

Particulars	Amount	Particulars	Amount
To Salary for employees	3,50,000	By Sales	10,00,000
To Office boy Salary	54,000	By Commission	50,000
To Audit fee	42,000	By Interest on Loan given to directors	15,000
To Income tax	82,000	By Interest on FD	20,000
To Municipal Tax for residential house	22,000	By Rental Income	72,000
To Depreciation	60,000	By Sale of Building	18,000
To Interest on loan from Bank (paid 20,000 on 28-Feb-24 & 15,000 on 1-Jan-25)	35,000	By Sale of shares	48,000
To Bad debts written off	12,000	By Bad debts recovered	22,000
To Goodwill written off	28,000	By Agricultural Income	80,000
To Advance tax paid	22,000	By Dividends from domestic company	18,000
To GST paid	14,000		
To Dividends paid	31,000		
To Net Profit(b/f)	5,91,000		
	13,43,000		13,43,000

Following additional information is given:

- a) Depreciation as per Income tax is Rs.52,000.
- b) Office Boy Salary is paid in Cash on 30-Nov-23.
- c) Building, Shares & Agriculture land was owned in the name of Company

10) Mr. X commenced the business of operating goods vehicles on 1.4.2023. He purchased the following vehicles during the P.Y 2023-24.

Compute his income under section 44AE for A.Y 2024-25.

Gross Vehicle Weight (in kilograms)	Number of vehicles	Date of purchase
7,000	2	10.04.2023
6,500	1	15.03.2024
10,000	3	16.07.2023
11,000	1	02.01.2024
15,000	2	10.08.2023

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

Solution:

Since Mr. X does not own more than 10 vehicles at any time during the previous year 2023-24, he is eligible to opt for presumptive taxation scheme under section 44AE.

Rs.1,000 per ton of gross vehicle weight or unladen weight per month or part of the month for each heavy goods vehicle and Rs.7,500 per month or part of month for each goods carriage other than heavy goods vehicle, owned by him would be deemed as his profits and gains from such goods carriage u/s 44AE.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

Gross Vehicle Weight (in kilograms)	Number of vehicles	No of months of usage	Working	Presumptive Income u/s 44AE
Other than Heavy goods vehicle:				
7,000	2	12		
6,500	1	1		
10,000	3	9		
11,000	1	3		
Heavy goods vehicle:				
15,000	2	8		
Presumptive Income of Mr. X under section 44AE for A.Y.2024-25				

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

“Determination today leads to tomorrow’s success”

UNIT-4**CAPITAL GAINS**

(Section 45 To 55A read with 111A, 112 and 112A)

Charging Section or the Basis of charge [Section 45]:

Any profits or gains arising from the transfer of a capital asset effected in the previous year shall be chargeable to income-tax under the head “Capital Gains” and shall be deemed to be the income of the previous year in which the transfer took place.

Doubts may arise as to whether “Capital Gains” being a capital receipt can be brought to tax as income. It may be noted that the ordinary accounting canons of distinctions between a capital receipt and a revenue receipt are not always followed under the Income-tax Act. Section 2(24)(vi) of the Income-tax Act specifically provides that “Income” includes “any capital gains chargeable under Section 45(1)”.

Pre-requisites for an income to be taxed under the head capital gains as per Section 45(1) are as follows:

- a) There must be a capital asset.
- b) The capital asset must have been transferred.
- c) The transfer must have been effected in the previous year.
- d) There must be a gain arising on such transfer of a capital asset.
- e) Such capital gain should not be exempt under Sections 54, 54B, 54D, 54EC, 54EE, 54ED, 54F, 54G, or 54GA.

CAPITAL ASSET [Section 2(14)]:

Capital asset means-

- (a) property of any kind held by the assessee whether or not connected with his business or profession;
- (b) any securities held by Foreign Institutional Investor which has invested in such securities in accordance with SEBI Regulations.
- (c) any unit linked insurance policy (ULIP) issued on or after 1.2.2021, to which exemption under section 10(10D) does not apply on account of -
 - premium payable exceeding Rs.2,50,000 for any of the previous years during the term of such policy; or
 - the aggregate amount of premium exceeding Rs.2,50,000 in any of the previous years during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 1.2.2021.

but it does not include:

- i. Stock in trade, raw materials, and consumables held for a purpose of business or profession.
- ii. Personal assets of movable nature like wearing apparel, furniture, utensils, and vehicles held for personal purpose.
However as exception Jewellery, archeological collection, drawing, paintings, sculptor’s work of art is a capital asset (gold, silver included as capital asset)

- iii. Agricultural land in India which is not situated in specified area as discussed u/s 2 (1A). (Situated in rural area)
- iv. 6% Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government;
- v. Special Bearer Bonds 1991 issued by the Central Government.
- vi. Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or Deposit Certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government.

TRANSFER [Section 2(47)]:

The essential requirement for the incidence of tax on capital gains is the transfer of a “capital asset”.

Transfer in relation to capital asset includes:

- 1) Sale, exchange or relinquishment (surrender) of capital asset
- 2) Extinguishment (cancellation or destruction) of any right
- 3) Compulsory acquisition under any law
- 4) Conversion of capital asset into stock in trade
- 5) Maturity/Redemption of zero-coupon bond

Transaction not regarded as transfer [Section 46 & 47]:

- 1) Distribution of assets by company for shareholders on liquidation (Section 46).
- 2) Transfer of capital assets in total or partial partition of HUF.
- 3) Transfer of capital assets by way of gift, will or irrevocable trust (doesn't include ESOP's).
- 4) Transfer of capital assets by holding company to wholly owned subsidiary company or vice versa, provided that the transferee is an Indian company.
- 5) Transfer of capital asset from amalgamating company to amalgamated company, in a scheme of amalgamation, as long as the resultant company (amalgamated company) is an Indian Company.
- 6) Transfer of capital asset from demerged company to resulting company, in a scheme of demerger, as long as the resultant company is an Indian Company.
- 7) Transfer/issue of shares by the resulting company to the shareholders of the demerged company, if such transfer was made in consideration of such demerger.
- 8) Transfer of shares by a shareholder, held in the amalgamating company, in a scheme of amalgamation, if such transfer is made as a consideration, by way of allotment of shares in the amalgamated Indian company.
- 9) Transfer made outside India of Rupee Denominated Bond (RDB's) of an Indian Company issued outside India or any government security, by a non-resident to another non-resident.
- 10) Redemption by an individual of sovereign gold bonds issued by RBI.
- 11) Transfer by way of conversion of preference shares into equity shares of that Company
- 12) Transfer by way of conversion of bonds/debentures/debentures stock/debenture certificate into equity shares/debenture of that Company.
- 13) Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government

Note: Section 10(43), provides that the amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage would be exempt from income-tax.

- 14) Any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold.
- 15) Transfer of capital asset being work of art, scientific or archeological collection, books, manuscripts, painting, drawing etc provided the transfer is to the Government or to the University or the National Museum, National Art Gallery, National Archives or any other public museum or institution notified by the Central Government.

COMPUTATION OF CAPITAL GAINS [Section 48]:

Capital asset will be first identified as short term capital asset or long term capital asset, because of transfer of long term capital asset leads to long term gain and transfer of short term capital asset leads to short term capital gains.

Capital asset is considered as short term capital asset, if it is held for not more than 36/24/ 12 months, immediately preceding the date of transfer.

A capital asset is considered as long term capital asset, if it is held for more than 36/24/ 12 months as a case may be.

Period of Holding:

STCA, if held for \leq 12 months LTCA, if held for $>$ 12 months	<ul style="list-style-type: none"> • Listed Securities (other than unit) on a recognized stock exchange (other than market linked debentures and units of specified mutual fund) • Unit of equity-oriented fund/ unit of UTI • Zero Coupon bond
STCA, if held for \leq 24 month LTCA, if held for $>$ 24 months	<ul style="list-style-type: none"> • Unlisted shares (both equity & Preference) • Land or building or both (immoveable property)
STCA, if held for \leq 36 month LTCA, if held for $>$ 36 months	<ul style="list-style-type: none"> • Unit of debt-oriented fund • Unlisted securities other than shares • Other capital assets

Note: Capital gains arising from transfer of market linked debentures and units of a specified mutual fund would always be capital gains arising from transfer of short term capital assets irrespective of the period of holding of such assets. This is provided in section 50AA.

Computation of Short Term Capital Gains (STCG)

Particulars	Amount
Full value of sale consideration	XXXX
Less: Expenses on transfer	(XXXX)
Net sale consideration	XXXX
Less: Cost of acquisition and improvement	(XXXX)
Gross Short Term Capital Gains	XXXX
Less: Exemptions u/s 54B, 54D	(XXXX)
Taxable Short Term Capital Gains	XXXX

Computation of Long Term Capital Gains (LTCG)

Particulars	Amount
Full value of sale consideration	XXXX
Less: Expenses on transfer	(XXXX)
Net sale consideration	XXXX
Less: Indexed Cost of acquisition and improvement	(XXXX)
Gross Long Term Capital Gains	XXXX
Less: Exemptions u/s 54, 54B, 54D, 54EC, 54EE and 54F	(XXXX)
Taxable Long Term Capital Gains	XXXX

Determination of Period of Holding in Special Cases:

Sl.No	Circumstances	Period of holding
1	Where shares held in a company in liquidation	The 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)- gift/will/inheritance	The period for which the capital asset was held by the previous owner before conversion shall also 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 or treatment as a capital asset shall be considered.
4	Where shares in the Indian company (amalgamated company), becomes the property of an assessee in lieu of shares held by him in the amalgamating company at the time of transfer referred under section 47.	The period for which the shares was held by the assessee in the amalgamating company shall also be included. Holding period of shares in amalgamating company + Indian amalgamated company
5	Where shares in the Indian company being a resulting company becomes the property of an assessee in consideration of demerger referred under section 47.	The period for which the shares were held by the assessee in demerged company shall also be included. Holding period of shares in demerged company + Indian resulting company
6	Where equity share in a company becomes the property of the assessee by way of conversion of preference shares/ debentures into equity shares	The period for which the preference shares/ debentures were held by the assessee shall also be included.

	referred under section 47.	Holding period of preference shares/ debentures + equity shares after conversion.
7	Where any specified security or sweat equity shares is allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employees)	Period from the date of allotment or transfer of such specified security or sweat equity shares shall be reckoned.
8	Where the share or any other security is subscribed by the assessee on the basis of right to subscribe to any share or security or by the person in whose favour such right is renounced	Period from the date of allotment of such share or security shall be reckoned.
9	Where the 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

YEAR OF CHARGEABILITY [Section 45]:

Capital gains shall be Chargeable in the Previous Year in which the transfer takes place.

Some exceptions to this Rule are as follows:

a) Insurance Receipts [Section 45(1A)]:

If the assessee receives any money/other asset from an insurance company because the asset was destroyed due to a natural calamity / enemy action, the income will be chargeable to tax in the Previous Year in which such sum/other asset is received.

Full value of sale consideration: In order to compute capital gains, the value of any money or the fair market value of other assets received on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital assets.

b) Conversion or treatment of a capital asset as stock-in-trade [Section 45(2)]:

When the owner of a capital asset, converts it in to stock in trade, the "capital gains" arises in the year of such conversion, that is regarded as transfer, i.e., in the year in which the transfer (conversion) was effected. However, the same will be taxable only in the year the Stock is sold, and along with it, the relevant income under the head "Profits / Gains from Business / Profession" shall be chargeable to tax.

Full value of sale consideration: In order to compute the capital gains, the fair market value of the capital asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received as a result of transfer of the capital asset.

Note: Both Capital Gains and Business income are chargeable to tax in the year in which stock-in-trade is sold.

However Period of holding and indexation is up to the year of conversion.

c) Compensation on compulsory acquisition [Section 45(5)]:

Capital gains arising from transfer by way of compulsory acquisition under any law shall be taxable in the year in which the compensation is first received by the assessee [Section 45(5)].

So computation of capital gains is postponed to the year of receipt of compensation.

However, Period of holding and indexation benefit is only up to the year of compulsory acquisition.

CAPITAL GAINS ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION

[Section 46]:

- 1) **In the hands of liquidated company:** Where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.

If, however, the liquidator sells the assets of the company resulting in a capital gain and distributes the funds so collected, the company will be liable to pay tax on such gains.

- 2) **In the hands of shareholders:** Shareholders receive money or other assets from the company on its liquidation. They will be chargeable to income-tax under the head 'capital gains' in respect of the market value of the assets received on the date of distribution, or the moneys so received by them. The portion of the distribution which is attributable to the accumulated profits of the company is to be treated as dividend income of the shareholder under section 2(22)(c), which is separately taxed in the hands of the shareholders as dividend income. The same will be deducted from the amount received/ fair market value for the purpose of determining the consideration for computation of capital gains.

**Full value of sale consideration = Fair Market value of the assets received + Money received
– Deemed dividend income of the shareholder u/s 2(22)(c)**

Capital gains tax on subsequent sale by the shareholders: If the shareholder, after receipt of any such asset on liquidation of the company, transfers it, then Fair Market value on the date of distribution would be treated as cost of acquisition of such asset.

CAPITAL GAINS ON BUYBACK OF SHARES OR SPECIFIED SECURITIES [Section 46A]:

- 1) **In case of specified securities other than shares:** Any consideration received by a holder of specified securities (other than shares) from any company on purchase of its specified securities is chargeable to tax in the hands of the holder of specified securities. The difference between the cost of acquisition and the value of consideration received by the holder of securities is chargeable to tax as capital gains in his hands.

The computation of capital gains shall be made in accordance with the provisions of section 48.

Such capital gains shall be chargeable in the year in which such securities were purchased by the company.

As per Section 68 of the Companies Act, 2013, "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time.

Note: As far as shares are concerned, this provision would be attracted in the hands of the shareholder only if the shares are bought back by a company, other than a domestic company.

- 2) **In case of shares (whether listed or unlisted):** In case of buyback of shares (whether listed or unlisted) by domestic companies, additional income-tax @20% (plus surcharge@12% and cess@4%) is leviable in the hands of the company (Effectively 23.296%).

Consequently, the income arising to the shareholders in respect of such buyback of shares by the domestic company would be exempt under section 10(34A) in the hands of shareholders, since the domestic company is liable to pay additional income-tax on the buyback of shares.

Taxation provisions in respect of Buyback:

Taxability in the hands of	Buyback of shares by-		Buyback of specified securities by any company (ESOP)
	Domestic companies (both listed/unlisted)	Company, other than a Domestic Company	
Company	Subject to additional income tax @ 23.296%.	Not subject to tax in the hands of the company.	Not subject to tax in the hands of the company.
Shareholder/ Holder of specified Securities	Income arising to shareholders exempt u/s 10(34A)	Income arising to shareholder taxable as capital gains u/s 46A.	Income arising to holder of specified securities taxable as capital gains u/s 46A.

$$\text{Capital Gain} = \text{Sale Value (Buy-Back Price)} - \text{Cost of acquisition}$$

POINTS ON COMPUTATION:

- 1) **Expenses on transfer:** Expenditure incurred wholly and exclusively in connection with such transfer like, brokerage, stamp duty, registration fee, legal expenses etc.
- 2) **Indexed Cost of Acquisition:** Cost of acquisition shall have to be adjusted by the Cost Inflation Index to arrive at the indexed cost of acquisition in case of Long term assets, as follows:
 - a) **For assets acquired before 1.4.2001 by the assessee:**

Cost of acquisition will be Actual Cost incurred or FMV on **1-4-2001**, whichever is higher.

Example: A house property was purchased by Mr. A on 1.1.1992 for Rs.30,000 and the fair market value of the same was Rs.1,40,000 as on 1.4.2001.

Cost of acquisition of the said property would be Rs.1,40,000.

$\text{Indexed cost of Acquisition} = \text{Cost of Acquisition} \times \frac{\text{Cost inflation index for the F.Y in which asset is transferred}}{\text{Cost inflation index for 2001-02}}$
--

Notes:

- i. In case of goodwill, trademark or other intangible assets, the option to take cost of acquisition or market price whichever is higher is not available (as on 01.04.2001), irrespective it's purchased or self-generated.
- ii. In case of a capital asset being land or building or both, the fair market value of such asset on the 1-4-2001, shall not exceed the stamp duty value, wherever available, of such asset as on the 1-4-2001.

Fair market value of asset on 1-4-2001	XXXX
Stamp duty value on 1-4-2001	XXXX
Whichever is Lower	XXXX
Actual Cost incurred	XXXX
Whichever is Higher (Cost of acquisition)	XXXX

Example: In the above example, if the stamp duty value of the property was Rs.1,20,000 as on 1.4.2001, cost of acquisition of such property would be Rs.1,20,000.

b) For assets acquired by the assessee on or after 1.4.2001:

$\text{Indexed cost of Acquisition} = \text{Cost of Acquisition} \times \frac{\text{Cost inflation index for the F.Y in which asset is transferred}}{\text{Cost inflation index for the F.Y in which asset is acquired}}$

Cost Inflation Index specified for purpose of computation of capital gains:

Sl. No.	Financial year	Cost Inflation Index
1)	2001-02	100
2)	2022-23	331
2)	2023-24	348

Cost of acquisition shall have to be adjusted by the Cost Inflation Index to arrive at the indexed cost of acquisition only for long term capital assets.

Note: The benefit of indexation will not apply to the long-term capital gains arising from the transfer of bonds or debentures other than –

- Capital indexed bonds issued by the Government; or
- Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015.

In case of depreciable assets, unit of a specified mutual fund and marked linked debenture (discussed later), there will be no indexation and the capital gains will always be short-term capital gains irrespective of period of holding.

- 3) The option for ascertaining indexed cost of acquisition relating to fair market value on **1/04/2001** is applicable only if it was acquired prior to 1/04/2001.

4) Cost of Improvement:

Section 55 mentions that in relation to a capital asset, being goodwill or any intangible asset, or any right, the cost of improvement will be taken as NIL.

For any other capital asset:

- a) Cost of improvement, prior to **1st Apr' 01** shall be Nil
- b) Cost of improvement shall be all expenditure of a capital nature, incurred in making additions/ alterations on or after 01.04.2001 (including incurred by previous owner).

5) Indexed Cost of Improvement:

$\text{Indexed cost of Improvement} = \text{Cost of Improvement} \times \frac{\text{Cost inflation index for the F.Y in which asset is transferred}}{\text{Cost inflation index for the F.Y in which improvement took place}}$
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However, the cost of acquisition of the asset or the cost of improvement thereto would not include the deductions claimed on interest u/s 24(b) or under the provisions of Chapter VI-A.

6) Cost of Acquisition of Certain Assets:

Asset	Cost of Acquisition
Goodwill of business or profession, trademark, brand name or any other intangible asset etc, ➤ if self-generated ➤ if acquired	NIL Purchase Price
Stock in trade converted into capital asset	Fair Market Value of stock as on the date of conversion
Asset became the property of the assessee on Gift /Will/ Inheritance / Distribution of assets of HUF on partition/ Amalgamation/ Demerger	Cost to the previous owner
Where cost of the property in the hands of previous owner cannot be ascertained	The FMV on the date on which the capital asset become the property of the previous owner would be considered as cost of acquisition.
Where shares in an amalgamated company which is an Indian company become the property of the assessee in consideration of the transfer of shares referred to in section 47(vii) held by him in the amalgamating company under a scheme of amalgamation	The cost of acquisition to him of the shares in the amalgamated company shall be taken as the cost of acquisition of the shares in the amalgamating company.
Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation.	Fair market value of the asset on the date of distribution.
Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in section 17(2)(vi)	Fair market value which has been taken into account for perquisite valuation.
Where the capital gain arises from the transfer of such property which has been subject to tax under section 56(2)(x)	The value taken into account for the purposes of section 56(2)(x) i.e FMV or SDV.
<i>Where a capital asset, being an Electronic Gold Receipt issued by a Vault Manager became the Property of the person as consideration for transfer of gold [Section 47]</i>	<i>The cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued.</i>
<i>Where gold is released against an Electronic Gold Receipt, which became the property of the person as consideration for transfer of Electronic Gold Receipt [Section 47]</i>	<i>The cost of the Electronic Gold Receipt in the hands of such person.</i>
Rights Shares	Amount paid to acquire the shares
Rights shares which are purchased by person in whose favour the assessee has renounced the rights entitlement	Purchase price paid to the renouncer + Price paid for acquiring rights shares
Bonus Shares allotted prior to 1st Apr'01	Actual cost (Nil) or FMV as on 1st Apr'01, WIH
Bonus Shares allotted post 1st Apr'01	Actual cost (Nil) [Also refer section 112A]
Bonus shares (Listed Equity shares) allotted before 1.2.2018, on which STT has been paid at the time of transfer [Section 112A]	The higher of – (i) Actual cost of acquisition (i.e., Nil, in case of bonus shares allotted on or after 1.4.2001); and (ii) Lower of – ➤ FMV as on 31.1.2018; and ➤ Actual sale consideration

<p>Long term capital assets being, [Section 112A]</p> <ul style="list-style-type: none"> ➤ Listed Equity shares in a company on which STT is paid both at the time of purchase and transfer or ➤ Unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer, <p>acquired before 1st February, 2018.</p>	<p>Cost of acquisition shall be the higher of-</p> <ul style="list-style-type: none"> i. Actual cost of acquisition of such asset; and ii. Lower of- <ul style="list-style-type: none"> ➤ FMV as on 31.1.2018; and ➤ Actual sale consideration.
<p>Acquired on or after 1st February, 2018</p>	<p>Actual cost of acquisition of such asset</p>

- 7) If no cost has been incurred for acquisition, then it shall be taken as nil.
- 8) No deduction shall, however, be allowed in computing the income chargeable under the head “Capital Gains” in respect of any amount paid on account of securities transaction tax (STT).
- 9) Notional transfer of goodwill on admission or retirement of partner is not chargeable to tax.
- 10) In case of gift, will, partition, amalgamation, Demerger, Cost to the previous owner shall be adopted as cost of acquisition.
Similarly the period of holding shall include the period of holding of previous owner and indexation benefit is from the period from which asset was acquired by the previous owner.
- 11) Conversion of debentures/ preference shares into equity shares does not amount to transfer. However when such equity shares are subsequently transferred, it attracts capital gain. Cost of acquisition for such equity shares will be actual cost of acquisition of debentures/ preference shares.
Similarly the period of holding shall be considered from the date of acquisition of debentures/ preference shares and indexation benefit is for the same period.
- 12) Any compensation or enhanced compensation received by Individual/ HUF on transfer of agricultural land by way of compulsory acquisition in specified area is exempt u/s 10(37). Provided such land was used for agricultural purposes by such HUF or Individual or his parents during the period of 2 years immediately preceding the date of transfer;
- 13) Enhanced compensation received is chargeable in the year of receipt and the cost of acquisition will be nil. It is possible that the transferor may die before he receives the enhanced compensation. In that case, the enhanced compensation will be chargeable to tax in the hands of the person who receives the same.
- 14) Redemption of preference shares amounts to transfer and chargeable to capital gains.
- 15) Advance money received & forfeited by the assessee (present owner) where transfer did not take place,
 - Before 01/04/2014, it shall be reduced from cost of acquisition or fair market value or WDV as the case may be (before indexing) [Section 51].
 - On or after 01/04/2014, it shall be taxed in the year of forfeiture under the head “IFOS” u/s 56(2)(ix).

16) Transfer of depreciable asset [Section 50]:

Section 50 provides for the computation of capital gains in case of depreciable assets. Depreciation u/s 32 can be claimed provided there is at least one asset in the block with some value.

However, if there are no assets or no value then section 32 fails and automatically section 50 shall be applicable in computing Short Term Capital Gains/ Loss.

The computation of short term capital gain/loss is as follows-

Particulars	Amount	Amount
Full Value of sale consideration		XXXX
Less: a) Expenses on transfer	XXXX	
b) Opening Written Down Value	XXXX	
c) Additions to the block if any	XXXX	(XXXX)
Short Term Capital Gains/Loss		XXXX

17) Computation of Capital gains in case of Market linked debentures [Section 50AA]:

Section 50AA provides for the computation of capital gains in case of transfer of unit(s) of-

- a Specified Mutual Fund acquired on or after 1.4.2023 or
- a Market Linked Debenture.

Such Capital gain would be deemed to be short term capital gains and chargeable to tax at normal rate of tax irrespective of period of holding.

Computation of Short Term Capital Gains (STCG)

Particulars	Amount
Full value of sale consideration or redemption or maturity value	XXXX
Less: Expenses on transfer or redemption or maturity	(XXXX)
Net sale consideration	XXXX
Less: Cost of acquisition and improvement	(XXXX)
Taxable Short Term Capital Gains/Loss	XXXX
Taxable Short Term Capital Gains/Loss	XXXX

Notes:

- a) Specified Mutual Fund is a Mutual Fund where not more than 35% of its total proceeds is invested in the equity shares of domestic companies.
- b) No deduction would be allowed of any sum paid on account of securities transaction tax (STT).

18) Slump Sale [Section 50B]:

- a) Slump sale' means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales. In other words it is a sale where the assessee transfers one or more undertaking as a whole including all the assets and liabilities as a going concern.
- b) The capital asset is the undertaking itself and therefore if the undertaking is held for more than 36 months it becomes a long term capital asset.
- c) Fair Market Value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration.
- d) Fair Market Value (FMV) of capital assets would be the higher of -
 - FMV 1, being the fair market value of capital assets transferred by way of slump sale; and
 - 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
- e) Cost of acquisition shall be net worth as on the date of transfer.

Net Worth = Aggregate value of total assets - Lalue of liabilities
- f) Revaluation of assets shall be ignored for calculating the net worth.
- g) Aggregate value of total assets of undertaking or division:
 - In the case of depreciable assets: The written down value of block of assets as per section 43(6);
 - In case of capital asset, is Self-generated goodwill: Nil
 - Capital asset in respect of which 100% deduction is claimed: Nil;
 - For all other assets: Book value.
- h) No indexation benefit is available in case of slump sale.
- i) In the case of slump sale, assessee shall furnish in the prescribed form a report of an accountant before the specified date referred to in section 44AB (1 month prior to due date of filing returns) indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

19) Computation of Capital gain in Real Estate transaction [Section 50C]:

- a) As per Section 50C, in case of transfer of capital asset being land or building or both, if actual consideration is less than the value adopted or assessed by the stamp valuation authority for the purpose of payment of stamp duty, then such stamp duty value shall be taken as full value of sale consideration for the purpose of computation of capital gains.
- b) Provided that where the stamp duty value does not exceed 110% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

Example:

1. Actual consideration is Rs.10,00,000;
Stamp duty value is Rs. Rs.10,50,000;
Full value of sale consideration

2. Actual consideration is Rs. Rs.10,00,000;
Stamp duty value is Rs. Rs.12,00,000;
Full value of sale consideration

- c) The stamp duty value as on the date of transfer has to be considered for the purpose of Section 50C.
- d) Where the date of agreement fixing the amount of consideration for the transfer of immovable property and date of registration are not the same, the stamp duty value as on the date of agreement may be taken as full value of sale consideration provided the amount of consideration or a part thereof, has been paid by any mode other than cash, on or before the date of agreement for the transfer of such immovable property.

Example:

Actual consideration is Rs.100 lakh;

Stamp duty value on the date of agreement is Rs.109 lakh; and

Stamp duty value on the date of transfer is Rs.112 lakh

- i. If any part of the consideration is paid by prescribed electronic mode on or before the date of agreement:
Stamp duty value will be
Full value of sale consideration
- ii. If no part of the consideration is paid by prescribed electronic mode on or before the date of agreement:
Stamp duty value will be
Full value of sale consideration
- e) Assessee claims before an Assessing Officer that the stamp duty value exceeds the fair market value of the property as on the date of transfer, Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and Value given by the Assessing Officer shall be adopted as full value of the consideration even if it is less than stamp duty value.
If value ascertained by Valuation Officer is more than stamp duty value, then stamp duty value will be adopted as full value of sale consideration.

Note: As per Section 43CA, the same provisions shall apply to Immoveable property held as stock in trade and stamp duty value will be taxable under the head profit and gains of business or profession.

20) Capital Gain on Transfer of Unlisted Shares in a Company [Section 50CA]:

This Section is applicable if an assessee transfers shares in a company (other than quoted shares) at less than the fair market value of such share determined in accordance with prescribed manner. In such case, the FMV of such shares shall deem to be the full value of consideration for the purpose of computation of capital gain.

21) Fair Market Value to be Full Value of Consideration in Certain Cases [Section 50D]:

Section 50D has been inserted to provide that fair market value of the asset shall be deemed to be the full value of consideration if actual consideration is not attributable or determinable.

TAX RATES ON CAPITAL GAINS INCOME:

1) Tax on Short Term Capital Gains [Section 111A]:

a) Short term capital gains on transfer of -

- Equity share in a company
- Unit of an Equity Oriented Fund
- Unit of Business Trust

is taxable @ 15% under section 111A for all assesseees where STT has been paid.

Condition for availing the benefit of this concessional rate are –

- i. the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and
- ii. such transaction should be chargeable to securities transaction tax.

However, short-term capital gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (IFSC) would be taxable at a concessional rate of 15% even though STT is not leviable in respect of such transaction.

b) All other Short term capital gains are taxable at normal rates applicable for the assessee.

2) Tax on Long Term Capital Gains [Section 112]:

a) LTCG taxable @ 20% for all assesseees under section 112.

b) In case of transfer of listed securities and zero-coupon bonds, LTCG under section 112 would be at the lower of-

- 10% without indexation or
- 20% with indexation benefit

c) In case of unlisted securities or shares of private companies:

- **For Non-corporate non-resident or foreign company:** LTCG taxable @ 10% without benefit of indexation and currency fluctuation.
- **Other Assessee:** LTCG taxable @ 20% with indexation benefit

3) **Tax on Long Term Capital Gains [Section 112A]:**

Notwithstanding anything contained in section 112, a concessional rate of tax @10% will be leviable on the long-term capital gains exceeding Rs.1,00,000 on transfer of –

- Equity share in a company or
- Unit of equity-oriented fund or
- Unit of business trust

Conditions:

The conditions for availing the benefit of this concessional rate are:

- a) In case of equity shares of a company: STT has been paid both at the time of purchase & transfer (or)
- b) In case of unit of equity-oriented fund or unit of business trust: STT has been paid at the time of transfer.

Further, long-term capital gains arising from transaction undertaken on a recognized stock exchange located in an International Financial Service Centre (IFSC) would be taxable at a concessional rate of 10%, where the consideration for transfer is received or receivable in foreign currency, even though STT is not leviable in respect of such transaction.

The cost of acquisitions for computing LTCG in respect of above assets acquired by the assessee before February 1, 2018, shall be deemed to be the **higher of following:**

- a) Cost of Acquisition of such asset; and
- b) **Lower of-**
 - i. Fair market value of such asset on January 31, 2018; and
 - ii. Full value of consideration received or accruing as a result of the transfer of the capital asset.

Note: The Fair market value of listed equity share shall mean its highest price quoted on the stock exchange as on January 31, 2018.

The benefit of indexation shall not be allowed on such LTCG.

Notes:

1. Benefit of indexation is not available in respect of long term capital gains taxable u/s 112A and long term capital gains from transfer of bonds or debentures (other than capital indexed bonds and sovereign gold bonds). Also for depreciable assets, unit of a specified mutual fund and marked linked debenture.
2. Cost of acquisitions for computing LTCG in respect of above assets (EFT) acquired on or after February 1, 2018 is Actual Cost of acquisition without indexation.
3. No benefit of rebate u/s 87A against LTCG taxable u/s 112A.

Common points for section 111A, 112 & 112A:

- a) In case of Resident Individual & HUF, where the total income (-) Short term/Long term capital gain taxable u/s 111A, 112 & 112A is less than basic exemption limit, then the Short term/Long term capital gains shall be reduced by the amount not exhausted by any other income and only the balance Short term/Long term capital gains shall be chargeable to tax at 15%/20%/10%.

For example: If other income of assessee = Rs.2,30,000 + Long term capital gain is Rs.50,000.
Therefore, Total income = Rs.2,80,000.

Total income (-) long term capital gains = 2,80,000 (-) 50,000 = 2,30,000 (Normal Income)

Amount of unexhausted basic exemption limit is 2,50,000 (-) 2,30,000 = 20,000

Hence, taxable long term capital gains = 50,000 (-) 20,000 = 30,000

20% Tax will be paid on Rs.30,000 above.

Note: Only a resident Individual/HUF can adjust the basic exemption limit (i.e. Rs.2,50,000 or 3,00,000 or Rs.5,00,000 limits) against LTCG u/s 112, u/s 112A and STCG u/s 111A. Thus a non-resident individual/ HUF cannot adjust their basic exemption limit (Rs.2,50,000) against such capital gains. But such adjustment is possible only after making adjustment of other income first. In other words, first other incomes are to be adjusted against the exemption limit and then the remaining limit (if any) can be adjusted against LTCG u/s 112, 112A and STCG u/s 111A.

- b) Assessee is not entitled to claim any deductions under chapter VI-A (section 80C to 80U) in respect of capital gains taxable under section 111A/112/112A.
- c) Maximum surcharge applicable on capital gains taxable u/s 111A, 112 and 112A and dividend income is 15%.
- d) STT paid on purchase or sale of securities is not allowed to be reduced as expenses on transfer or cost of acquisition.

PROBLEMS:

- 1) Mr Nagendra Kumar converts his capital asset acquired for an amount of Rs.1,25,000 in 2005-06, into stock in trade in the FY 2016-17. He thereafter sells this asset for Rs.10,00,000 in 2023-24. FMV of the capital asset on the date of conversion is INR 7,50,000.
(CII for FY 2005-06 is 117 & for FY 2016-17 is 264). Please advice on the taxability.
- 2) Mr.Srinivasan, purchases 2000 unlisted equity shares in ABC Ltd., for Rs.50 per share (Brokerage 1%), in Feb 1997. He gets 200 Bonus shares in Sep 2000. He again gets 2200 bonus shares in Sep 2007. FMV of the Shares on 1st Apr'01 was Rs.125.
In Jan'24, he sells all the shares for INR 500 per share (Brokerage 2%).
Compute the Capital Gains Tax in the hands of Srinivasan in FY 2023-24.
- 3) M & sons, HUF, had purchased a land for Rs.150,000 in 2003-04. In the PY 2007-08, a partition takes place and the Coparcener, Mr. B, gets this plot, valued at Rs.2,00,000. In PY 2008-09, he incurs expenses of Rs.2,50,000 on the plot towards fencing of the plot of land. Mr. B then sells this plot at Rs.15,00,000 in PY 2023-24.
(CII for FY 2003-04 is 109, FY 2007-08 is 129 & for FY 2008-09 is 137)
You are required to compute the capital gains for AY 2024-25.
- 4) On 15th November, 2023 Mohan sold 1 kg. of gold, the sale consideration of which was Rs.7,50,000. He acquired the gold on August 18, 1999 for Rs.60,000. Fair market value of 1 kg of gold on April 1, 2001 was Rs.62,000.
Find out the amount of capital gain chargeable to tax for the assessment year 2024-25.
- 5) Mr. Shiva purchased a house property on February 15, 1979 for Rs 3,24,000. In addition, he has also paid stamp duty value @10% on the stamp duty value of Rs 3,50,000.
In April, 2008, Mr. Shiva entered into an agreement with Mr. Mohan for sale of such property for Rs 14,35,000 and received an amount of Rs 1,11,000 as advance. However, the sale consideration did not materialize and Mr. Shiva forfeited the advance.
In May 2015, he again entered into an agreement for sale of said house for Rs 20,25,000 to Ms. Deepshikha and received Rs 1,51,000 as advance. However, as Ms. Deepshikha did not pay the balance amount, Mr. Shiva forfeited the advance. In August, 2015, Mr. Shiva constructed the first floor by incurring a cost of Rs 3,90,000.
On November 15, 2023, Mr. Shiva entered into an agreement with Mr. Manish for sale of such house for Rs 30,50,000 and received an amount of Rs 1,50,000 as advance through an account payee cheque. Mr. Manish paid the balance entire sum and Mr. Shiva transferred the house to Mr. Manish on February 20, 2024. Mr. Shiva has paid the brokerage @1% of sale consideration to the broker.
On April 1, 2001, fair market value of the house property was Rs 11,85,000 and Stamp duty value was Rs 10,70,000. Further, the Valuation as per Stamp duty Authority of such house on 15th November, 2023 was Rs 39,00,000 and on 20th February, 2024 was Rs 41,00,000.
Compute the capital gains in the hands of Mr. Shiva for A.Y.2024-25.
CII for F.Y. 2001-02: 100; F.Y. 2008-09: 137; F.Y. 2015-16: 254; F.Y. 2023-24: 348.

- 6) Mr. Raman is a salaried employee. In the month of January, 2015 he purchased 100 shares of X Ltd. @ Rs.1,400 per share from Bombay Stock Exchange. These shares were sold through BSE in April, 2023 @ Rs.2,600 per share. The highest price of X Ltd. share quoted on the stock exchange on January 31, 2018 was Rs.1,800 per share.
What will be the nature and amount of capital gain in this case?
- 7) Mr. A is a proprietor of Akash Enterprises having 2 units. He transferred on 1.4.2023 his Unit 1 by way of slump sale for a total consideration of Rs.25 lacs. The fair market value of the unit on 1.4.2022 is Rs.30 lacs. Unit 1 was started in the year 2006-07. The expenses incurred for this transfer were Rs.28,000.

His Balance Sheet as on 31.3.2023 is as under:

Liabilities	Total (Rs.)	Assets	Unit 1(Rs.)	Unit 2 (Rs.)	Total (Rs.)
Own Capital	15,00,000	Building	12,00,000	2,00,000	14,00,000
Revaluation Reserve (for building of unit 1)	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
Bank loan (70% for unit 1)	2,00,000	Debtors	1,00,000	40,000	1,40,000
Trade creditors (25% for unit 1)	1,50,000	Other assets	1,50,000	60,000	2,10,000
Total	21,50,000	Total	17,50,000	4,00,000	21,50,000

Other information:

- a) Revaluation reserve is created by revising upward the value of the building of Unit 1.
- b) No individual value of any asset is considered in the transfer deed.
- c) Other assets of Unit 1 include patents acquired on 1.7.2021 for Rs.50,000 on which no depreciation has been charged.

Compute the capital gain for the assessment year 2024-25.

- 8) Mr. Kapoor (age 67 years and resident) is a retired person earning total pension of Rs.1,00,000. He purchased gold in December, 2011 and sold the same in April, 2023. Taxable LTCG amounted to Rs.2,80,000.
What will be his tax liability for the A.Y. 2023-24?

EXEMPTIONS AVAILABLE IN COMPUTATION OF CAPITAL GAINS:

Section	Type of Assessee	Conditions	Quantum of Exemption
54	Individual, HUF	<ol style="list-style-type: none"> 1) Residential house to be transferred. 2) It must be a long term capital asset 3) The income from such asset is chargeable under the head “Income from house property”. 4) Within a period of 1 year before or 2 years after the date of transfer, a new residential house is purchased or within a period of 3 years after the date of transfer, a new residential house is constructed. 5) Exemption can be claimed only in respect of one residential house property purchased/constructed in India. 6) <i>Maximum exemption that can be claimed by the assessee u/s 54 is Rs.10 crore.</i> 7) If the new house is also transferred within 3 years from date of acquisition, the cost of new house would be reduced by the capital gains exempted earlier under section 54. [Illustration 2] 	Cost of the new residential house or the amount of gross capital gain, Whichever is lower. [Illustration 1] Note: <i>If the cost of new residential house exceeds Rs.10 crore, the amount exceeding Rs.10 crore would not be taken into account for exemption.</i>

If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the Capital Gains Account Scheme (CGAS). *However, the capital gain in excess of Rs.10 crore would not be taken into account for the purpose of deposit in CGAS.*

Illustration 1:

Sl.No	Gross LTCG	Cost of new Asset	Actual Cost or Rs.10 crore WIL	Exemption u/s 54
1	Rs.2.05 crore	Rs.3 crore		
2	Rs.2.05 crore	Rs.1.55 crore		
3	Rs.7 crore	Rs.12 crore		
4	Rs.12 crore	Rs.15 crore		

The benefit of exemption in respect of investment made by way of purchase or construction of 2 residential house properties in India can be availed subject to the following conditions:

- a) If the amount of gross long term capital gains does not exceed Rs.2crores.
- b) This benefit is available once in a lifetime of the assessee for a particular assessment year in relation to which this option is exercised.

Where during any assessment year, the assessee has exercised the option to purchase or construct two residential houses in India, he shall not be subsequently entitled to exercise the option for the same or any other assessment year.

Illustration 2: The long-term capital gains is Rs.2 crore and the cost of the new house is Rs.3 crore, the entire long-term capital gains of Rs.2 crore will be exempt. If the new house was sold after 18 months for Rs.5 crore, then, short term capital gain chargeable to tax would be –

Section	Type of Assessee	Conditions	Quantum of Exemption
54B	Individual, HUF	<ol style="list-style-type: none"> 1) Agricultural land to be transferred. 2) It must have been used in the 2 years immediately preceding the date of transfer for agricultural purposes either by: <ol style="list-style-type: none"> a) Individual (including usage by parents); or b) HUF. 3) Within 2 years from the date of transfer another agricultural land is purchased. 4) If the new agricultural land is also transferred within 3 years from date of acquisition, the cost of new land would be reduced by the capital gains exempted earlier (not applicable if the new land was rural) 	Cost of the new agricultural land or the amount of gross capital gain, Whichever is lower.

Note: Agriculture land mentioned in this section is the agriculture land situated in urban area because agriculture land situated in rural area is not a Capital asset & is out of the purview of Capital Gain chapter.

If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the Capital Gains Account Scheme (CGAS).

Section	Type of Assessee	Conditions	Quantum of Exemption
54D	Any assessee	<ol style="list-style-type: none"> 1) There must be Compulsory Acquisition. 2) The property acquired is land or buildings or any right in land or building forming part of an industrial undertaking. 3) The asset must have been used in the 2 years immediately preceding the date of transfer by the assessee for the purpose of the business. 4) Within a period of 3 years after the date of transfer any other land or building or any right in land or building is purchased or constructed for the industrial undertaking existing or newly set up. 5) If the new land & building is also transferred within 3 years from date of acquisition, the cost of such land & building would be reduced by the capital gains exempted earlier. 	Cost of the new asset or the amount of gross capital gain, Whichever is lower.

If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under the Capital Gains Account Scheme (CGAS).

Section	Type of Assessee	Conditions	Quantum of Exemption
54EC	Any assessee	<ol style="list-style-type: none"> 1) The asset transferred is a long term capital asset being land or building or both. 2) Within a period of 6 months from the date of transfer, the amount of the capital gains should have been invested in the specified bonds redeemable after 5 years issued by Rural Electrification Corporation (REC) Ltd, Power Finance Corporation Ltd(PFC), Indian Railway Finance Corporation Limited or National Highways authority of India(NHAI) or any other bond notified by the Central Government in this behalf. 3) The maximum amount of investment shall not exceed Rs.50 lakhs during financial year. 4) Assessee shall not transfer or convert or avail loan or advance on the security of the above units within a period of 5 years from the date of its acquisition. In case that does happen before 5 years, the capital gain exempted earlier shall be taxed as long-term capital gain in that year. [Illustration] 	Amount of investment in the specified bonds or the amount of gross capital gains, Whichever is lower.

Illustration: Long term capital gain of Rs.25 lakh on transfer of building on 1.2.2023 is invested in the bonds, issued by NHAI on 10.6.2023 and claimed exemption. Such bonds are sold in the year 2025-26. In the year 2025-26, in addition to capital gains on transfer of bonds, capital gain exempted earlier (Rs.25 lakh) shall be taxed as long-term capital gain.

Section	Type of Assessee	Conditions	Quantum of Exemption
54F	Individual, HUF	<ol style="list-style-type: none"> 1) The asset transferred is a long term capital asset, not being a residential house. 2) Within a period of 1 year before or 2 years after the date of transfer, a residential house is purchased or 3 years after the date of transfer a residential house is constructed. 3) <i>Maximum exemption that can be claimed by the assessee u/s 54 is Rs.10 crore.</i> 4) The assessee does not own more than one residential house on the date of transfer. 5) The assessee does not purchase any more residential house within a period of 1 year after the date of transfer or does not construct within a period of 3 years after the date of transfer and if that does happen then, the entire LTCG exempted earlier will be chargeable to tax as LTCG in that year. 6) Additionally, if the new house is transferred 	<p>If the cost of the new residential house is more than the net sale consideration, then the whole of the gross long term capital gain. Otherwise the gross long term capital gain in the same proportion as the cost of the new residential house bears to the net consideration.</p> <p>Note: <i>If the cost of new residential house exceeds Rs.10 crore, the amount exceeding Rs.10 crore would not be</i></p>

		within 3 years of purchase, the LTCG exempt earlier would be taxable as LTCG in that year.	<i>taken into account for exemption.</i>
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Section 54F:

When the Cost of new asset is less than Net sale consideration amount of exemption is calculated by using the following formula (applicable for Section 54F)-

$\text{Amount of Exemption} = \frac{\text{Cost of new asset}}{\text{Net sale consideration}} \times \text{Gross LTCG}$
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Illustration:

Sl.No	Net Sale Consideration	Gross LTCG	Cost of new Asset	Cost of new Asset or 10 Cr, WIL	Exemption u/s 54F
1	Rs.3 crore	Rs.2.05 crore	Rs.4 crore		
2	Rs.4 crore	Rs.2.05 crore	Rs.1.75 crore		
3	Rs.15 crore	Rs.7 crore	Rs.12 crore		
4	Rs.20 crore	Rs.12 crore	Rs.15 crore		

Capital Gains Account Scheme:

If the assessee wants to claim exemption in the current year who intends to make investment in the new asset in the subsequent year and doesn't want to pay tax on capital gains arising from the transfer of capital asset in the current year, then the assessee should deposit that amount in capital gains account scheme before filing the return of income or on or before the due date of filing the return of income, whichever is earlier and can claim exemption under respective section in the current year.

Proof of such deposit should be attached with the return. The deposit can be withdrawn for utilization for the specified purposes in accordance with the scheme.

If the amount deposited is not utilized for the specified purpose within the stipulated period, then the unutilized amount shall be charged as capital gain of the previous year in which the specified period expires.

Extension of time for acquiring new asset or depositing or investing amount of Capital Gain [Section 54H]:

In case of compulsory acquisition of the original asset, where the compensation is not received on the date of transfer, the period available for acquiring a new asset or making investment in CGAS under sections 54, 54B, 54D, 54EC and 54F would be considered from the date of receipt of such compensation and not from the date of the transfer.

Important Shortcuts to Remember:**1) Withdrawal of Exemption:**

- a) **For Section 54EC & 54F:** If the new asset is sold within the period specified in the respective section, then the Capital Gains exempted earlier is taxable as LTCG in the year of transfer of new asset in addition to capital gains on transfer of new asset.
- b) **For Section 54, 54B & 54D:** If the new asset is sold within the period specified in the respective section, then the Capital Gains exempted earlier is reduced from the cost of new asset while calculating Capital Gains on the transfer of new asset.

Note: Lock-in period of new asset purchased to claim exemption is 5 years for Section 54EC. For all other sections it is 3 years.

2) Applicability of sections:

- a) **Individual/HUF**- Section 54, 54B & 54F
- b) Remaining sections for **all assessee's including Individual/HUF**

3) Type of Asset transferred:

- a) For Section 54, 54EC & 54F - **Only LTCA**
- b) For other Sections- **LTCA or STCA**

“Challenges are what make life interesting and overcoming them is what makes life meaningful.”

UNIT-5**INCOME FROM OTHER SOURCES****(Section 56 to 59)****INCOME CHARGEABLE UNDER THE HEAD 'INCOME FROM OTHER SOURCES':**

Income chargeable under Income-tax Act, which does not specifically fall for assessment under any of the heads discussed earlier, must be charged to tax as "Income from other sources". This head is thus a residuary head of income under which income can be computed only after deciding whether the particular item of income is otherwise assessable under any of the first four heads.

Income chargeable under the head "Income from other sources" has to be computed in accordance with the cash or mercantile system of accounting regularly employed by the assessee [Section 145].

In addition to the taxation of income not covered by the other heads, Section 56(2) specifically provides certain item of incomes as being chargeable to tax under the head in every case.

The following items shall be chargeable to Income Tax under the head Income from other sources-

1) **Dividends [Section 56(2)(i)]:**

Dividend income including deemed dividend shall be taxable in the hands of shareholder under the head income from other sources at normal rates.

2) **Casual Income [Section 56(2)(ib)]:**

Any 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 shall be chargeable to tax under Income from other sources.

3) **Income by way of Interest on Securities:**

If the income by way of interest on securities is not chargeable to income-tax under the head 'Profits and gains of business or profession' than such income shall be taxable under Income from other sources.

Exemption for certain interest, premium on notified deposits, securities etc., [Section 10(15)]:

- Income by way of interests, premium on redemption or other payments on securities issued by the Central Government shall be exempt.
- Interest on gold deposit bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government under Gold Monetisation Scheme, 2015 is exempt in the hands of the recipient.
- Interest on post office savings bank account - to the extent of Rs.3,500 in the case of Individual accounts, Rs.7,000 in the case of joint accounts shall be exempt.

4) **Income from Hiring of Machinery etc. [Section 56(2)(ii)]:**

Income from machinery, plant or furniture belonging to the assessee and let on hire if the income is not chargeable to income-tax under the head "profits and gains of business or profession" shall be taxable under Income from other sources.

5) **Hiring out of Building with Machinery etc. [Section 56(2)(iii)]:**

Where an assessee lets on hire machinery, plant or furniture belonging to him and also building and the letting of the building is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession" shall be taxable under Income from other sources.

6) **Share Premiums in excess of the Fair Market Value to be treated as Income [Section 56(2)(viib)]:**

Where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be taxable under Income from other sources.

However, that this clause shall not apply where the consideration for issue of shares is received:

- i. by a venture capital undertaking from a venture capital company or a venture capital fund; or
- ii. by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

7) **Interest received on compensation/ enhanced compensation [Section 56(2)(viii)]:**

Income by way of interest received on compensation or on enhanced compensation referred to section 145B shall be chargeable to tax under Income from other sources in the year in which it is received.

A flat deduction of a sum equal to 50% of such income is allowed as deduction and no deduction shall be allowed under any other clause for such income.

8) **Advance money received [Section 56(2)(ix)]:**

Any sum of money, received as an advance or otherwise on or after 01-04-2014 in the course of negotiations for transfer of a capital asset is chargeable to income-tax under the head "Income from other sources", if such sum is forfeited and the negotiations do not result in transfer of such capital asset.

9) **Any sum of money or value of property received without consideration or for inadequate consideration to be subject to tax in the hands of recipient [Section 56(2)(x)]:**

Where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017-

- a) Any sum of money is received without consideration, and the aggregate value of which exceeds Rs.50,000, the whole of the aggregate value of such sum shall be chargeable to tax under this head.
- b) **Immoveable Property (Land or Building or both):**
 - i. **Without consideration:** Any immovable property received without consideration, the stamp duty value of which exceeds Rs.50,000, the stamp duty value of such property shall be taxable under income from other sources.

ii. **For Inadequate Consideration:** If consideration is less than the stamp duty value of the property and the difference between the stamp duty value and actual consideration (inadequate consideration) is more than the higher of-

1. Rs.50,000 and
2. 10% of actual consideration

The difference between the stamp duty value and the actual consideration (inadequate consideration) shall be chargeable to tax in the hands of the assessee as 'Income from other sources'.

Where the date of agreement fixing the amount of consideration for the transfer of immovable property and date of registration are not the same, the stamp duty value as on the date of agreement may be taken as full value of sale consideration provided the amount of consideration or a part thereof, has been paid by any mode other than cash, on or before the date of agreement for the transfer of such immovable property.

[Same as section 50C & 43CA]

c) **Any property, other than immovable property (Specified moveable property) -**

i. **Without consideration:** Any property received without consideration, the aggregate fair market value of which exceeds Rs.50,000, the whole of the aggregate fair market value of such property is chargeable to tax under income from other sources.

ii. **For Inadequate Consideration:** Received for a consideration which is less than the aggregate fair market value of the property (inadequate consideration) by an amount exceeding Rs.50,000, the fair market value of such property as exceeds such consideration shall be chargeable to tax under Income from other sources.

Aggregate fair market value – Actual consideration = Taxable Amount

Note: The provisions of Sec 56(2)(x) would apply only to property which is in the nature of capital asset (both moveable & immovable) of the recipient and not stock-in-trade.

Provided further that this clause shall not apply to any sum of money or any property received:

- a) From any relative; or
- b) On the occasion of the marriage of the individual; or
- c) Under a will or by way of inheritance; or
- d) In contemplation of death of the payer or donor, as the case may be; or
- e) From any local authority as defined in the section 10(20); or
- f) From any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to section 10(23C); or
- g) From any trust or institution registered under section 12A.
- h) By way of transaction not regarded as transfer under certain clauses of section 47; or
- i) From an individual by a trust created or established solely for the benefit of relative of the individual.

Notes:

- 1) **“Relative” means, –**
 - a) In case of an individual-
 - i. Spouse of the Individual;
 - ii. Brother or sister of the Individual;
 - iii. Brother or sister of the spouse of the Individual;
 - iv. Brother or sister of either of the parents of the Individual;
 - v. Any lineal ascendant or descendant of the Individual;
 - vi. Any lineal ascendant or descendant of the spouse of the Individual;
 - vii. Spouse of the person referred to in items (ii) to (vi); and
 - b) In case of a Hindu undivided family, any member of HUF.
- 2) **“Property” means the following capital asset of the assessee, namely:-**
 - i. immovable property being land or building or both;
 - ii. shares and securities;
 - iii. jewellery;
 - iv. archaeological collections;
 - v. drawings, paintings, sculptures;
 - vi. any work of art; or
 - vii. bullion;

Note: Any sum of money received by an Individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 would not be chargeable to tax, subject to conditions notified by the Central Government.

Any sum of money received by a member of the family of a deceased person –

- from the employer of the deceased person (without any limit); or
- from any other person or persons to the extent that such sum or aggregate of such sums \leq Rs.10 lakhs,

would not be chargeable to tax, where the cause of death of such person is illness related to COVID- 19 and the payment is –

- i. received within 12 months from the date of death of such person; and
- ii. subject to such other conditions notified by the Central Government.

10) 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)]:

Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy would not be included in the total income of a person [Section 10(10D)].

The following table summarizes the exemption available under section 10(10D) vis-a-vis the date of issue of such policies and the corresponding condition to be satisfied for exemption –

	Exemption u/s 10(10D)	Deduction u/s 80C
In respect of policies issued before 1.4.2003	Any sum received under a LIP including the sum allocated by way of bonus is exempt.	Premium paid to the extent of 20% of “actual capital sum assured”.
In respect of policies issued between 1.4.2003 and 31.3.2012	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 20% of “actual capital sum assured”.	Premium paid to the extent of 20% of “actual capital sum assured”.
In respect of policies issued on or after 1.4.2012	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% of actual capital sum assured	Premium paid to the extent of 10% of “actual capital sum assured”
Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB-		
In respect of policies issued on or after 1.4.2013	Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 15% of “actual capital sum assured”.	Premium paid to the extent of 15% of “actual capital sum assured”
<i>In respect of policies issued on or after 1.4.2023</i>	<i>Any sum received under a LIP including the sum allocated by way of bonus is exempt. However, exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% or 15%, as the case may be, of “actual capital sum assured. Further, exemption would also not be available if the amount of premium payable exceeds Rs.5,00,000 for any of the previous years during the term of such policy.</i>	<i>Premium paid to the extent of 10% or 15% of “actual capital sum assured”</i>

Any sum is received on the death of a person is exempt irrespective of the annual premium payable on the policy. The condition of payment of premium of 10% or 15% or 20% or Rs.5,00,000 would not be applicable.

Notes:

- A. Exemption is not available in respect of amount received from an insurance policy taken for disabled person under section 80DD:** Any sum received under section 80DD(3) shall not be exempt under section 10(10D). Accordingly, if the dependent disabled predeceases, in respect of whom an individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, the amount so paid or deposited shall be deemed to be the income of the assessee of the previous year in which such amount is received.
- B.** Exemption is not available in respect of the sum received under a Keyman insurance policy

Taxability of sum received under a LIP which is not exempt u/s 10(10D):

Where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a life insurance policy, other than the sum

- received under a ULIP
- received under a Keyman insurance policy

which is not exempt under section 10(10D), the sum so received as exceeds the aggregate of the premium paid during the term of such life insurance policy, and not claimed as deduction under any other provision of the Act, computed in the prescribed manner, would be chargeable to tax under the head “Income from other sources”.

Besides the above, there are some other incomes which are also chargeable under the head ‘Income from Other Sources’. For example:

- a) Any fees or commission received by an employee from a person other than his employer.
- b) All interest other than interest on securities, Exp: Interest on bank deposits, Interest on loan, etc.
- c) Income of a tenant from sub-letting the whole or a part of the house property.
- d) Remuneration received by a teacher or a lawyer for doing examination work.
- e) Income of Royalty.
- f) Director’s fees.
- g) Rent of land not appurtenant to any building.
- h) Agricultural Income from land situated outside India.
- i) Income from leasehold property.
- j) Remuneration received for writing articles in Journals.
- k) Income from undisclosed sources.
- l) Interest received by an employee on his own contributions to an unrecognized provident fund.
- m) Salary of a Member of Parliament, Member of Legislative Assembly or Council.
- n) Interest received on securities of co-operative society.
- o) Gratuity received by a director who is not an employee of the company.
- p) Director’s commission for giving guarantee to bank.
- q) Director's commission for underwriting shares of a new company.

Further, under the provisions of Section 60 to 65 an assessee may be chargeable to tax in respect of income arising to other persons, e.g. spouse or minor children. In such cases, the income in question will be first computed under the appropriate head after allowing various deductions and includible in the total income of the assessee under the head “Income from other sources”.

In other words, wherever the assessee is taxable in respect of income of somebody else, the income must be charged to tax in the hands of the assessee only under this head even if the income is of a character which would otherwise fall for assessment under any other head of income.

INCOME FROM FAMILY PENSION:

Family pension is a regular amount payable by the employer to a family member of a deceased employee. It is taxable under the head income from other sources for the family member receiving it.

The income by way of family pension is eligible for a standard deduction under section 57(ia) which is either 1/3rd of such pension or Rs.15,000 whichever is lower.

Family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including paramilitary forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed, shall be exempt from tax. [Section 10(19)]

Further, income by way of family pension received as family pension of an individual who has been in the service of Central/State Government and has been awarded Param Vir Chakra or Maha Vir Chakra or Vir Chakra or such other gallantry award as may be notified is also exempt from tax. [Section 10(18)]

Other exemptions also in respect of certain incomes which are as follows:

1) Scholarships [Section 10(16)]:

Scholarships granted to meet the cost of education would be exempt in every case regardless of the residential status or citizenship of the scholar and the person from whom the scholarships are received.

2) Payments to MPs & MLAs [Section 10(17)]:

The following incomes of Members of Parliament or State Legislatures will be exempt: Daily Allowance, Constituency Allowance of MP's and MLA's.

TAXATION OF DIVIDENDS:

Dividends received by the shareholder including deemed dividend u/s 2(22) is taxable in the hands of the shareholder under the head income from other sources.

Meaning of the term “Deemed Dividend” [Section 2(22)]:

Apart from that dividend paid by a company to its shareholders, the definition of dividend includes deemed dividend as laid down under section 2(22) of the Act, which is inclusive but not exhaustive. Accordingly the following payments or distribution made by a company to its shareholders are deemed as dividends to the extent of accumulated profits of the company whether capitalised or not (i.e. bonus shares issued is the capitalisation of profit).

- (a) Any distribution of assets of the company to its shareholders. The market value of assets shall be the deemed dividend in hands of shareholders.
- (b) Any distribution of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest to Equity shareholders.
Any distribution of bonus shares to its preference shareholders. However bonus shares allotted to equity shareholders does not amount to deemed dividend.
- (c) Any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not, is deemed to be dividend income.
Note: Any distribution made out of the profits of the company after the date of the liquidation cannot amount to dividend. It is a repayment towards capital.
- (d) Any distribution to its shareholders by company on the reduction of capital of a company.
- (e) Any payments in the form of loans or advances to the extent of accumulated profits (excluding capitalised profit) made by a closely-held company (i.e. a company in which public are not substantially interested) to:
 - i. its shareholder who is the beneficial owner of shares holding not less than 10% of voting power in such company.
 - ii. to any concern (HUF, Firm, AOP, BOI or Company) in which such shareholder is a member or a partner and in which he has a substantial interest (20% of voting power or share of profit)
 - iii. any person on behalf of such shareholder for his/her individual benefit.

Exception: If the loan is granted in the ordinary course of its business and lending of money is a substantial part of the company's business, the loan or advance to a shareholder or to the specified concern is not deemed to be dividend.

Note: In case of an amalgamated company, accumulated profit or loss shall be increased by the accumulated profit of amalgamating company (whether capitalized or not) on the date of amalgamation.

Basis of charge of dividend [Section 8]:

Dividend declared: Dividend declared by the company at its annual general meeting is deemed to be the income of the shareholder in the previous year in which it is so declared.

Deemed dividend u/s 2(22)(a)/(b)/(c)/(d): Distribution by a company which is deemed as dividend u/s 2(22)(a)/(b)/(c)/(d) would be the income of the previous year in which it is so distributed.

Deemed dividend u/s 2(22)(e): Payment of advance or loan to a shareholder or a concern, as the case may be, which is deemed as dividend u/s 2(22)(e) will be the income of the previous year in which it is so paid.

Interim dividend: Interim dividend would be deemed to be the income of the previous year in which such dividend is unconditionally made available by the company to the members who is entitled to it.

Tax rate on dividend income: Any income by way of dividends received by a resident from a company, whether domestic or foreign, is taxable in the hands of a resident shareholder at normal rates of tax.

CASUAL INCOME [Section 56(2)(ib)]:**Applicable rate of tax in respect of Casual Income other than winnings from any Online Game [Section 115BB]:**

1. Section 115BB provides that income by way of winnings from lotteries, crossword puzzles, races including horse races or card games and other games of any sort or from gambling or betting of any form would be taxed at a flat rate of 30% plus surcharge, if applicable, plus health and education cess@4%.
2. However, income by way of winnings from any online game would not be taxed under this section.
3. No expenditure or allowance can be allowed from such income.
4. Deduction under Chapter VI-A is not allowable from such income.
5. Adjustment of basic exemption limit is also not permitted against such income.

Applicable rate of tax in respect of Winnings from Online games [Section 115BBJ]:

1. This section provides that net winnings from any online game would be taxed at a flat rate of 30% plus surcharge, if applicable, plus health and education cess@4%.
2. **Meaning of online games:** A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device.
3. No expenditure or allowance can be allowed from such income.
4. Deduction under Chapter VI-A is not allowable from such income.
5. Adjustment of basic exemption limit is also not permitted against such income.

DEDUCTIONS ALLOWABLE [Section 57]:

The income chargeable under the head “Income from other sources” shall be computed after making the following deductions:

- a) **In the case of dividends or income in respect of units of mutual funds or income in respect of units of a specified company:** Interest expenditure incurred to earn such income is allowed as deduction subject to maximum of 20% of such income. No deduction will be allowed for any other expenditure.
- b) **In the case interest on securities:** Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such interest on behalf of the assessee.
- c) **Where the income to be charged under this head is from letting on hire of machinery, plant and furniture, with or without building:** The following expenses of deductions are allowable in the computation of such income:
 - i. Current repairs to the machinery, plant, furniture or building.
 - ii. Any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant, furniture or building.
 - iii. Normal depreciation allowance in respect of the machinery, plant or furniture, due thereon.
- d) **In the case of income in the nature of family pension:** A deduction of a sum equal to 33-1/3 per cent of such income or Rs.15,000, whichever is less, is allowable.
- e) **In case of income by way of Interest on compensation/ enhanced compensation received chargeable to tax under section 56(2)(viii):** Deduction of 50% of such interest. No other deduction would be allowable under any other clause of section 57 in respect of such interest income.
- f) Any other expenditure not being in the nature of capital expenditure laid out or expended wholly and exclusively for the purpose of making or earning such income.

DEDUCTIONS NOT ALLOWABLE [Section 58]:

- a) Any personal expense of the assessee.
- b) Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
- c) Any payment chargeable to tax under the head “Salaries”, if it is payable outside India unless tax has been paid thereon or deducted at source therefrom.
- d) 30% of sum payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid on or before the due date of return specified in section 139(1).
- e) Any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.
- f) Any expenditure in respect of which a payment or aggregate payments exceeding Rs.10,000 is made to a person in a day in cash.
- g) No deduction in respect of any expenditure incurred in connection with casual income.

DEEMED INCOME [Section 59]:

The provisions of section 41(1) are made applicable, so far as may be, to the computation of income under this head. Accordingly, where a deduction has been made in respect of a loss, expenditure or liability and subsequently any amount is received or benefit is derived in respect of such expenditure incurred or loss or trading liability allowed as deduction, then it shall be deemed as income in the year in which the amount is received or the benefit is accrued.

Impact of Section 115BAC under the head Income from Other Sources:

The following deduction not available under the default tax system while computing income from other sources-

- Allowances to MPs/MLA's [Section 10(17)]

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PROBLEMS:

- 1) The following incomes are received by Dr. Shyam during financial year 2023-24:

Particulars	Amount(Rs)
Director's fees	5,000
Income from agricultural land in Pakistan	15,000
Rent from Let Out of land in Punjab	20,000
Interest on deposit with HDFC Bank	1,000
Dividend from Indian company	5,000
Rent from subletting a house	28,000
Other expenses on sublet house	1,000
Rent payable by Dr.Shayam for the sublet house	12,000
Winning from horse race (gross)	15,000
Interest on securities (gross)	2,500

You are required to calculate income from other sources of Dr. Shayam for the assessment year 2024-25.

- 2) State the taxable amount in case of following items received/purchased in F.Y 2023-24-

Sl.No	Particulars	Taxable Amount
1)	Cash Received from friend Rs.75,000	
2)	Cash Received from wife Rs.52,000	
3)	Land purchased for Rs.10Lakh whose Stamp duty value is Rs.25Lakh	
4)	Car Purchased for Rs.5Lakh whose FMV is Rs.5,80,000	
5)	Jewellery purchased for Rs.2Lakh whose FMV is Rs.4Lakh	
6)	Gifts received on occasion of marriage worth Rs.75,000	
7)	Shares gifted by brother for birthday whose FMV is Rs.20Lakh	
8)	House gifted by client as complementary for the work done. Stamp duty value of house is Rs.50Lakh	
9)	Received Land by way of inheritance from father. Stamp duty value of land is Rs.80Lakh	
10)	A Ltd Received a gift worth Rs.2Lakh from one of its client	
11)	X Ltd took over all the assets of Y Ltd on amalgamation whose fair value was Rs.70Lakh.	
12)	Mr.A who is the partner of ABC & Co transferred his personal car to the firm for Rs.5Lakh. Fair market value of the car on the date of transfer was Rs.7.5 lakh.	
13)	Shruti, a member of her father's HUF, transferred to the HUF a property without any consideration. The Stamp Duty valuation was INR 12,00,000	
14)	An HUF gifted a Car to the Karta's son, for brilliant performance in the board exams. The FMV of Car was 10Lakh	

- 3) Nisha, on 1st Dec'23 took possession of a flat booked by her 2 years back, at INR 25,00,000. The Stamp Duty of the flat on the date of possession was INR 40,00,000 and on the date of booking was INR 29,00,000. She had paid INR 200,000 by account payee cheque, on date of booking. Advise tax treatment.

Solution:

As per Section 56(2)(x), Immovable property purchased for inadequate consideration (i.e actual sale consideration less than Stamp Duty Value), then such inadequate consideration is taxable in the hands of buyer if it is more than higher of-

- a) Rs.50,000 and
- b) 10% of actual consideration

It is to be noted that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement (in this case booking) may be taken. However, this exception shall apply only in a case where the amount of consideration referred to therein or a part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property.

The difference between the Stamp Duty Value on date of booking (INR 29,00,000) and the actual consideration (INR 25,00,000) is INR 4,00,000 which is inadequate consideration more than higher of-

- a) Rs.50,000 and
- b) 10% of actual consideration i.e 2,50,000 (25,00,000 x 10%)

Therefore, inadequate consideration of Rs.400,000 would be taxable under the head "Income from Other Sources" in the hands of Nisha.

- 4) Examine whether the following incomes are chargeable to tax, and if so, compute the amount liable to tax:
- a) Arvind received Rs.20,000 as his share from the income of the HUF.
 - b) Mr. Xavier, a 'Param Vir Chakra' awardee, who was formerly in the service of the Central Government, received a pension of Rs.2,20,000 during the financial year 2023-24.
 - c) Agricultural income of Rs.1,27,000 earned by a resident of India from a land situated in Malaysia.
 - d) Rent of Rs.72,000 received for letting out agricultural land for a movie shooting.

Solution:

- a) Share received by member out of the income of the HUF is exempt under section 10(2) in the hands of such member.
Therefore, Share received by Arvind of Rs.20,000 from the income of the HUF is fully exempt under section 10(2).
- b) Pension received by Mr. Xavier, a former Central Government employee who is a 'Param Vir Chakra' awardee, is exempt under section 10(18).
- c) Income from as Agricultural land situated in India is exempt from income-tax under section 10(1) in case of all assesseees.

Agricultural income from a land in any foreign country is taxable in the case of a resident taxpayer as income under the head “Income from other sources”.

Exemption under section 10(1) is not available in respect of such income.

- d) Agricultural income is exempt from tax as per section 10(1). Agricultural income means, inter alia, any rent or revenue derived from land which is situated in India and is used for agricultural purposes.

In the present case, rent is being derived from letting out of agricultural land for a movie shoot, which is not an agricultural purpose. Hence, the land is not being put to use for agricultural purposes.

Therefore, Rs.72,000, being rent received from letting out of agricultural land for movie shooting, is not exempt under section 10(1). The same is chargeable to tax under the head “Income from other sources”.

- 5) Mr. X is getting family pension of Rs.7,000 p.m. He also has dividend income from domestic company of Rs.7,00,000. He has long term capital gain of Rs.3,89,000. He is entitled to deduction of Rs.1,00,000 u/s 80C.

Compute his total income for assessment year 2024-25 under-

- A. **Option 1:** Regular provisions of the Act (Optional Scheme)
- B. **Option 2:** Default tax regime as per Section 115BAC

“Anyone who has never made a mistake has never tried anything new.”

CHAPTER-4**CLUBBING OF INCOME****(Section 60 to 65)****INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME:**

Normally, a person is taxed in respect of income earned by him only. However, in certain special cases income of other person is included (i.e. clubbed) in the taxable income of the taxpayer and in such a case he will be liable to pay tax in respect of his income (if any) as well as income of other person too. The situation in which income of other person is included in the income of the taxpayer is called as clubbing of income. Example: Income of minor child is clubbed with the income of his/her parent.

Section 60 to 64 of the Income-tax Act, contains various provisions relating to clubbing of income.

In the case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e. as the income increases, the applicable rate of tax increases. Some taxpayers in the higher income bracket have a tendency to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. In order to prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.

CLUBBING OF INCOME [Section 60 to 65]:

- 1) If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor (Section 60).
Example: A owns debentures worth Rs.10,00,000 of ABC Ltd., (annual) interest being Rs.100,000. On April 1, 2023, he transfers interest income to B, his friend without transferring the ownership of these debentures.
In this particular case during 2023-24, interest of Rs.1,00,000 is received by B; it will be taxable in the hands of A as per Section 60.
- 2) All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor (Section 61).
Note: Revocable means gaining the right back.
- 3) Transfer is deemed to be revocable if-
 - a) it contains any provision for the retransfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or
 - b) it gives, in any way to the transferor, a right to reassume power, directly or indirectly, over the whole or any part of the income or the assets (Section 63).

Exceptions to the above [Section 62]:

- a) Clubbing will not attract if the transfer is not revocable during the life time of the transferee i.e. lifetime irrevocable transfer.
- b) Clubbing will not attract if there is transfer of assets to trust and not revocable during the lifetime of beneficiary.

Example: Mr. Rajesh transfers his house property to a trust for the benefit of Mr. Varun till his death. This is a situation of irrevocable transfer till the death of Mr. Varun. 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. Varun, the income from house property would be included in the total income of Mr. Rajesh as on that date, the transfer has become revocable.

INCOME OF SPOUSE [Section 64(1)]:

- 1) Income of spouse by way of salary, commission, fees or any remuneration whether in cash or kind from concern in which the other spouse has substantial interest will be clubbed.

Exceptions to the above:

Clubbing will not be attracted if such remuneration is attributable to a technical or professional qualification or knowledge, skill, experience etc. of the spouse.

Example: Mr. P is employed as Public Relation Officer in a company where Mrs. P holds 21 % equity shares. She has been holding the share before marriage with Mr. P., Mr. P gets a salary of Rs.1,50,000 per month.

The whole salary Income of Mr. P will be included in the income of Mrs. P provided Mr. P has no technical or professional qualification. It is immaterial that the remuneration so paid is genuine and not excessive and that Mrs. P had substantial interest in the company even before her marriage.

- 2) Where both husband and wife have substantial interest in a concern and both are in receipt by way of salary etc. from the same concern, such income will be included in the case of husband or wife whose total income before clubbing is greater.

And where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary to do so.

- 3) Where an asset (other than a house property) is transferred by an individual to his/her spouse without consideration or for inadequate consideration, income generated from such transfer attracts clubbing and taxable in the hands of transferor.

Example: X transfers 500 debentures of TCS Ltd. to his wife without adequate consideration. Interest income on these debentures will be included in the income of X.

Exceptions to the above:

- a) In case transfer is before marriage or in connection with an agreement to live apart i.e. if the assessee and his/her spouse is divorced. This separation can be either judicial or voluntary under circumstances in which a judicial separation can be granted.
- b) The income from the assets transferred shall not be included in the income of transferor after the death of spouse, either transferor or transferee.

Note: In the case of transfer of house property, the provisions are contained in section 27.

- 4) Income arising on transferred assets alone have to be clubbed. Income earned by investing such income (arising from transferred asset) cannot be clubbed.

Example: Mr. X transferred debentures of Rs.50,000 carrying 10% p.a. interest to his wife. The interest income of Rs.5,000 would be clubbed in the hands of Mr. X.

However, in case his wife deposited Rs.5,000 in fixed deposits @8% p.a., the interest income of Rs.400 arising on fixed deposits would not be clubbed in the hands of Mr. X.

- 5) If asset is transferred to son's wife without consideration or for inadequate consideration by the father-in-law or mother-in-law, income generated from such transfer attracts clubbing and taxable in the hands of transferor.
- 6) Where the assets transferred, directly or indirectly, by an individual to his spouse or son's wife are invested by the transferee in the business, proportionate income arising to the transferee from such investment is to be included in the total income of the transferor.
If the investment is in the nature of contribution of capital, proportionate interest receivable by the transferee from the firm will be clubbed with the income of the transferor.
- 7) Where an individual transfers some assets directly or indirectly to a person or association of persons without adequate consideration for the immediate or deferred benefit of his or her spouse or son's wife, all such income as arises directly or indirectly from such assets transferred to a person or association of persons shall be included in the income of the transferor.

Notes:

- Income on income will not be clubbed i.e. only direct transfers will be clubbed.
- Marital relationship should exist both at the time of transfer & at the time of accrual of income to attract clubbing.
- Transfer to spouse or son's wife directly or indirectly without adequate consideration, also attracts clubbing.

INCOME OF MINOR CHILD [Section 64(1A)]:

- All income of Minor will be clubbed with the income of that parent whose total income before clubbing is greater.
- Once the income of minor is clubbed with one parent it will continue to be clubbed with the same parent in subsequent years also, unless the assessing officer considers the change is necessary.
- However, the income derived by the minor from manual work or from any activity involving his skill, talent or specialised knowledge or experience will not be included in the income of his parent.
- Income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the hands of the parent but shall be assessed in the hands of the child.
- When section 64(1A) attracts, automatically exemption u/s 10(32) can be claimed to the extent of maximum of Rs.1,500 per minor child whose income is clubbed.
Exemption u/s 10(32) is actual amount clubbed or Rs.1,500 per minor child, Whichever is lower.

Note: Exemption under section 10(32) would be available to the parent only if he/she exercises the option of shifting out of the default tax regime provided under section 115BAC.

- 6) When marriage of parents does not subsist then income of minor child is clubbed with that parent who maintains the minor child.
- 7) Minor child includes step child, adopted child and minor married daughter.
- 8) In case the asset transferred to a minor child (not being a minor married daughter) without consideration or for inadequate consideration is a house property, then, by virtue of section 27, the transferor-parent will be the deemed owner of the house property.

Therefore, the income from house property will be taxable in the hands of the transferor-parent, being the deemed owner and not in the hands of the minor child.

Consequently, clubbing provisions under section 64(1A) would not be attracted in respect of such income, due to which the benefit of exemption u/s 10(32) cannot be availed against such income.

However, if the house property is transferred by a parent to his or her minor married daughter, without consideration or for inadequate consideration, then, section 27 is not attracted.

In such a case, the income from house property will be included u/s 64(1A) in the hands of that parent, whose total income before including minor child's income is higher; and benefit of exemption u/s 10(32) can be availed by that parent in respect of the income so included if he/she exercises the option of shifting out of the default tax regime provided under section 115BAC.

INCOME OF HINDU UNDIVIDED FAMILY [Section 64(2)]:

- 1) Where a member of Hindu Undivided Family converts or transfers self-owned property into a property of the HUF for inadequate consideration, then the income will be clubbed in the hands of the transferor.
- 2) If after conversion, partition takes place then, the income derived from such converted property as is received by the spouse on partition will be included in the total income of the individual (transferor) who effected the conversion of such property (being indirect transfer).
- 3) Where income from the converted property is included in the total income of an individual under section 64(2), it will be excluded from the total income of the family or, as the case may be, of the spouse of the individual.

OTHER POINTS ON CLUBBING:

- 1) Income from asset transferred is clubbed and not income on income.
- 2) If transferred asset is sold, then capital gains are clubbed in the hands of transferor.
- 3) In case of clubbing of income of spouse the marriage shall subsist, both at the time of transfer and at the time of earning of income.
- 4) Income for clubbing purposes includes losses i.e even losses is clubbed.
- 5) It may be noted that the main distinction between the two sections is that 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.

CROSS TRANSFERS:

In the case of cross transfers also (e.g., A making gift of Rs.50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth Rs.50,000 owned by him), the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

The Supreme Court, in case of CIT v. Keshavji Morarji [1967], observed that if two transactions are interconnected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.



PROBLEMS:

1) Mr. Sharma invests Rs.10 lakh in a fixed deposit (FD) at a bank, in his wife's name. Interest of Rs.1 lakh arises on this income. Mrs. Sharma invests the interest on periodic basis and interest for an amount of Rs.5,000 arises on the interest deposited by her in bank. Analyze the clubbing provisions and find out the taxability of interest accrued.

2) Mr. Kapoor gifted Rs.8,40,000 to his wife. The said amount is invested by his wife in debenture of a company.

Will the income from the debenture purchased by Mrs. Kapoor from gifted money be clubbed with the income of Mr. Kapoor?

Solution:

In the given case, Rs.8,40,000 is transferred by Mr.Kapoor to his wife. Fund is transferred via gift (i.e.without adequate consideration) and hence, the provisions of section 64(1)(iv)will be attracted. Provisions of clubbing will apply even if the form of asset is changed by the transferee-spouse.

In this case asset transferred is money and subsequently, the form of asset is changed to debentures.

Hence income from debentures acquired from money gifted by her husband will be clubbed with the income of her husband.

Therefore, interest on debenture received by Mrs. Kapoor will be clubbed with the income of Mr. Kapoor.

3) Red holds 40% of shares in a Company. Mrs. Red (a CS) is employed in the company as a Company Secretary and is getting salary of Rs.15,000 per month.

Compute total income and tax payable by Red and Mrs. Red for the Assessment Year 2024-25 assuming other income of Red is Rs.2,00,000 from a business and dividend income from company is Rs.3,00,000.

4) Compute the gross total income of Mr. & Mrs. A from the following information:

Salary income (computed) of Mrs. A	2,30,000
Income from profession of Mr. A	3,90,000
Income of minor son B from company deposit	15,000
Income of minor daughter C from special talent	32,000
Interest from bank received by C on deposit made out of her special talent	3,000
Gift received by C on 30.09.2023 from friend of Mrs. A	2,500

Brief working is sufficient. Detailed computation under various heads of income is not required.

- 5) Mr. Vasudevan gifted a sum of Rs.6 lakhs to his brother's wife on 14-6-2023. On 12-7-2023, his brother gifted a sum of Rs.5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2023 at 9% interest.

Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother.

Solution:

In the given case, Mr. Vasudevan gifted a sum of Rs.6 lakhs to his brother's wife on 14.06.2023 and simultaneously, his brother gifted a sum of Rs.5 lakhs to Mr. Vasudevan's wife on 12.07.2023. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers.

Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted.

Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 64(1), to the extent of amount of cross transfers Rs.5 lakhs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

Therefore interest income to be included in the total income of Mr. Vasudevan and his brother is Rs.30,000 (Rs.5 lakhs x 9% x 8/12).

“The struggle you're in today is developing the strength you need for tomorrow”

CHAPTER-5**SET-OFF AND CARRY FORWARD OF LOSSES****(Section 70 to 80)****AGGREGATION OF INCOME:**

In certain cases, some amounts are deemed as income in the hands of the assessee though they are actually not in the nature of income. These cases are contained in sections 68, 69, 69A, 69B, 69C and 69D. These are discussed in detail in Chapter 1. The Assessing Officer may require the assessee to furnish explanation in such cases. If the assessee does not offer any explanation or the explanation offered by the assessee is not satisfactory, the amounts referred to in these sections would be deemed to be the income of the assessee. Such amounts have to be aggregated with the assessee's income.

CONCEPT OF SET-OFF AND CARRY FORWARD OF LOSSES:

While one endeavors to derive income, the possibility of incurring losses cannot be ruled out. Based on the principles of natural justice, a set-off should be available for loss incurred. The income tax laws in India recognize this and provide for adjustment and utilization of the losses. For this purpose, the Income-tax Act, 1961 contains specific provisions (Sections 70 to 80) for the set-off and carry-forward of losses.

In simple words, "Set-off" means adjustment of losses against the profits from another source/head of income in the same assessment year. If losses cannot be set-off in the same year due to inadequacy of eligible profits, then such losses are carried forward to the next assessment year for adjustment against the eligible profits of that year. The maximum period for which different losses can be carried forward for set-off has been provided in the Act.

Provisions relating to Current year loss:**1) Set-off under the same head or Intra Head adjustment [Section 70]:**

Loss from one source of income can be adjusted against income from another source, both the sources being under the same head.

Examples:

- Loss from one house property can be set off against the income from another house property.
- Loss from one business, say textiles, can be set off against income from any other business, say printing, in the same year as both these sources of income fall under one head.

The following are the exceptions for Intra head adjustments in case of current year loss-

- a) Loss from Speculation business
- b) Loss from Specified Business u/s 35AD.
- c) Long term Capital Loss.
- d) Loss from activity of owning and maintaining race horses.
- e) Any loss from a source which is exempt from tax shall not be eligible for set off or carry forward.

2) Set-off with other heads or Inter Head adjustment [Section 71]:

Loss under one head of income can be adjusted or set off against income under another head.

The following are the exceptions for Inter head adjustments in case of current year loss -

- a) Loss under the head 'Profits and Gains of Business or Profession' against salary income.
- b) Loss from Speculation business.
- c) Loss from Specified business u/s 35AD
- d) Loss under Capital Gains.
- e) Loss from activity of owning and maintaining race horses.

Note: The maximum loss from house property which can be set-off against income from any other head is Rs.2 Lakhs.

However if the assessee pays tax at concessional rate u/s 115BAC, then the assessee cannot set-off house property loss against other heads of income.

Provisions relating to Carry forward loss:

1) Carry forward and set off loss from House Property [Section 71B):

- a) It can be carried forward and set off only with income from house property.
- b) It can be carried forward for next 8 assessment years.

2) Carry forward and set off of Business loss (Normal) [Section 72):

- a) It can be carried forward and set off against same head.
- b) It can be carried forward for 8 assessment years.
- c) Carry forward and set off is available to assessee who incurred loss.

However, the exceptions being inheritance, amalgamation and conversion etc. for which fresh period of 8 years is available.

3) Carry forward and set off of Speculation loss [Section 73):

- a) It can be carried forward and set off only against such income.
- b) It can be carried forward for next 4 assessment years.

Note: However, losses from other business can be set-off against profits from speculation business.

4) Carry forward and set off of loss from Specified business [Section 73A):

- a) It can be carried forward and set off only against such income.
- b) It can be carried forward for indefinite period.

Note: However, losses from other business can be set-off against profits from specified business.

Under the optional tax regime, the loss of an assessee claiming deduction under section 35AD in respect of a specified business can be set-off against the profit of another specified business under section 73A, irrespective of whether the latter is eligible for deduction under section 35AD.

- 5) **Carry forward and set off of loss from Capital gains [Section 74]:**
- a) It can be carried forward and set off against income under the head capital gains.
 - b) Short term Capital Loss can be set off against short term or long term capital gains.
 - c) Long term Capital Loss can be set off only against long term capital gains.
 - d) Both long term and short term loss can be carried forward for next 8 assessment years.
- 6) **Carry forward and set off of loss from activity of owning and maintaining of race horses [Section 74A]:**
- a) It can be carried forward and set off only against such income.
 - b) It can be carried forward for next 4 assessment years.

OTHER POINTS:

- a) Unabsorbed depreciation can be set off against any head, except income from salaries & casual income and it can be carried forward for indefinite period [Section 32(2)].
- b) Loss under the head Income from other sources cannot be carry forward for further years except the loss from the activity of owning and maintaining of race horses.
- c) No loss can be adjusted against Casual income and Undisclosed income taxable u/s 115BBE.
- d) Loss from a source which is exempt cannot be set off with taxable income.
- e) Loss returns shall be filed under section 139(3) within the due date mentioned under section 139(1) to claim the benefit of carry forward of losses (Section 80).
[Exception for carry forward of loss from house property and unabsorbed depreciation].
- f) Once a particular loss is carried forward, it can be set off only against the income from the same head in the forthcoming assessment years. In other words, Brought forward loss can be set off only against same head (Intra Head) and not under other head (Inter Head).
- g) Current year loss must be first set-off against the income of same head and if any surplus must be adjusted against other heads subject to the above points.

ORDER OF SET-OFF OF LOSSES:

As per the provisions of section 72(2), brought forward business loss is to be set-off before setting off unabsorbed depreciation. Therefore, the order in which set-off will be effected is as follows –

- a) Current year depreciation [Section 32]
- b) Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.
- c) Brought forward loss from business/profession [Section 72(1)]
- d) Unabsorbed depreciation [Section 32(2)]
- e) Unabsorbed capital expenditure on scientific research [Section 35(4)].
- f) Unabsorbed capital expenditure on family planning [Section 36(1)(ix)]

Impact of Section 115BAC [Default tax regime]:

Following brought forward losses/ depreciation is not allowed to be set off while computing total income under default tax regime under section 115BAC-

1. Brought forward loss from self-occupied house property
2. Brought forward specified business loss of u/s 35AD
3. Brought forward business loss on account of deduction u/s 35(1)(ii)/(ia)/(iii) or u/s 35(2AA)
4. Unabsorbed depreciation attributable to additional depreciation u/s 32(1)(ia).

Note: Also Current year house property loss cannot be set-off against other heads of income.

PROBLEMS:

- 1) Mr. E has furnished his details for the A.Y.2024-25 as under:

Income from salaries (computed)	1,50,000
Income from speculation business	60,000
Loss from non-speculation business	(40,000)
Short term capital gain	80,000
Long term capital loss of A.Y. 2022-23	(30,000)
Winning from lotteries (Gross)	20,000

What is the taxable income of Mr. E for the A.Y.2024-25?

- 2) Mr. Batra furnishes the following details for year ended 31.03.2024:

Short term capital gain	1,40,000
Loss from speculative business	60,000
Long term capital gain on sale of land	30,000
Long term capital loss on sale of unlisted shares	1,00,000
Income from business of textile (after allowing current year depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000
Income from salary (computed)	1,00,000
Loss from house property	40,000

Following are the brought forward losses:

- a) Losses from activity of owning and maintaining race horses-pertaining to A.Y.2021-22 Rs.25,000.
- b) Brought forward loss from business of textile Rs.60,000 - Loss pertains to A.Y. 2016-17.

Compute gross total income of Mr. Batra for the Assessment Year 2024-25 assuming that he opts out of section 115BAC.

Also determine the losses eligible for carry forward to the Assessment Year 2025-26.

- 3) Mr. Aditya furnishes the following details for the year ended 31-03-2024:

Loss from speculative business A	25,000
Income from speculative business B	5,000
Loss from specified business covered under section 35AD	20,000
Income from salary (computed)	3,00,000
Loss from let out house property	2,50,000
Income from trading business	45,000
Long-term capital gain from sale of urban land	2,00,000
Long-term capital loss on sale of shares (STT not paid)	75,000
Long-term capital loss on sale of listed shares in recognized stock exchange (STT paid at the time of acquisition and sale of shares)	1,02,000

Following are the brought forward losses:

- a) Losses from owning and maintaining of race horses pertaining to A.Y. 2022-23 Rs.2,000.
- b) Brought forward loss from trading business Rs.5,000 relating to A.Y.2019- 20.

Compute the total income of Mr. Aditya and show the items eligible for carry forward, assuming that he exercises the option of shifting out of the default tax regime under section 115BAC.

CHAPTER-6

DEDUCTIONS FROM GROSS TOTAL INCOME

(Chapter VI A)

The Income-tax Act provides various tax exemptions and deductions. The incomes which are exempt from tax, i.e. which are not included in total income are provided under Sections 10 to 13A. Chapter VI A contains deductions from gross total income under section 80C to 80U in respect of certain payments, investments, incomes and other deductions. Deduction helps in reducing the taxable income. It decreases the overall tax liabilities and helps to save tax.

Two types of deductions are allowable from Gross Total Income - Deductions under Chapter VI-A and deduction under section 10AA which are discussed in this chapter.

The aggregate of income computed under each head, after giving effect to the provisions for clubbing of income and set off of losses, is known as “Gross Total Income”. Sections 80C to 80U of the Income-tax Act lay down the provisions relating to the deductions allowable to assessee’s from their gross total income.

As per section 80A, However, the aggregate amount of the deductions shall not exceed the gross total income of the assessee.

Particulars	Amount
Income from Salary	XXXX
Income from House Property	XXXX
Profits & Gains of Business or Profession	XXXX
Capital Gains	XXXX
Income from Other Sources	XXXX
	XXXX
Adjustment in respect of:	
Add: Clubbing of Income	XXXX
Less: Set off and carry forward of losses	(XXXX)
Gross Total Income	XXXX
Less: Deductions Under Chapter VIA (Sections 80C to 80U)	(XXXX)
Taxable/ Total Income	XXXX

As per section 80A(2), the deductions from gross total income are available only to the assessee’s where the gross total income is a positive figure. If however, the gross total income is nil or is a loss, the question of any deduction from the gross total income does not arise.

These deductions are allowed from gross total income after reducing the following incomes from gross total income:

- Long-term Capital Gains [both u/s 112 and 112A)
- Short-term Capital Gains under Section 111A
- Casual Income taxable u/s 115BB
- Winnings from Online games u/s 115BBJ

Section 80AB: Deductions specified in Chapter VI-A under the heading “C-Deductions in respect of certain incomes”, shall be allowed only to the extent such income computed in accordance with the provisions of the Income-tax Act, 1961 is included in the gross total income of the assessee.

Section 80AC: Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing benefit of deductions under any provision of Chapter VI-A under the heading “C – Deductions in respect of certain incomes”.

Deductions contained in Chapter VI-A under the heading “C. – Deductions in respect of certain income”:

Section	Deduction
80-IA	Deductions in respect of profits and gains from undertakings or enterprises engaged in infrastructure development/ operation/ maintenance, generation/ transmission/ distribution of power etc.
80-IAB	Deduction in respect of profits and gains derived by an undertaking or enterprise engaged in development of SEZ
80-IAC	Deduction in respect of profits and gains derived by an eligible start-up from an eligible business
80-IB	Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings
80-IBA	Deduction in respect of profits projects/rental housing projects
80-IE	Deduction in respect of profits and gains from manufacture or production of eligible article or thing, substantial expansion to manufacture or produce any eligible article or thing or carrying on of eligible business in North-Eastern States
80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
80JJAA	Deduction in respect of employment of new employees
80LA	Deduction in respect of certain income of Offshore Banking Units and International Financial Services Centre
80M	Deduction in respect of certain inter-corporate dividends
80P	Deduction in respect of income of co-operative societies
80PA	Deduction in respect of certain income of Producer Companies
80QQB	Deduction in respect of royalty income, etc., of authors of certain books other than text books
80RRB	Deduction in respect of royalty on patents

The effect of this provision is that, in case of failure to file return of income on or before the stipulated due date, the undertakings would lose the benefit of deduction under these sections.

Note: The deductions under section 80-IA to 80-IE, 80JJA, 80LA, 80M, 80P and 80PA in respect of certain incomes will be dealt with in detail at the Final Level.

1) Deduction on life Insurance premium, contribution to provident fund, etc. [Section 80C]:

Eligibility: (a) an Individual; (b) a Hindu undivided family.

Entitlement: Deduction from the Gross Total Income of an amount equal to the investments made, subject to a maximum amount of Rs.1,50,000.

Nature of Investments:

a) Contributions in the name of the individual, his or her spouse or any child of the individual for participation in the Unit-linked Insurance Plan 1971 or any Unit-linked Insurance Plan of LIC Mutual Fund. In case of a HUF, the contribution can be in the name of any member.

b) Premium paid in respect of Life Insurance policy:

Premium paid on insurance on the life of the individual, spouse or any child (minor or major) and in the case of HUF, any member thereof. This will include a life policy and an endowment policy.

Note: Covered under the head Income from other sources.

c) Premium paid in respect of a contract for deferred annuity

d) Any sum deducted from the salary payable of a Government employee for securing a deferred annuity

e) Any contribution made by an individual only to any provident fund to which the Provident Funds Act, 1925, applies; a Recognized provident fund; Statutory provident fund.

f) Any contribution to a Public Provident Fund (PPF) by individual or HUF. It may be taken in the name of Self, Spouse and children in case of Individual and in case of HUF, any member of HUF.

g) Contribution to approved superannuation Fund.

h) Subscription to National Savings Certificates VIII.

i) Deposit to Sukanya Samriddhi Account Scheme opened in the name of girl child as notified by the Central Government.

Exemption on payment from Sukanya Samriddhi Account [Section 10(11A)]:

Section 10(11A) provides that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014, shall not be included in the total income of the assessee. Accordingly, the interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt.

j) Contribution to approved annuity plan of LIC

k) Any subscription, to any units of any Mutual Fund or the Unit Trust of India under any notified plan formulated by the Central Government.

l) Any contribution to notified pension fund set up by any Mutual Fund or UTI.

m) Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008.

n) Any tuition fees (excluding any payment towards development fees or donation or payment of similar nature), whether at the time of admission or thereafter, for full time education of any 2 children to any university, college, school or other educational institution situated within India;

o) Subscription to any such deposit scheme of-

➤ a public sector company which is engaged in providing long-term finance for construction, or purchase of houses in India for residential purposes or

➤ any such deposit scheme of any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation

or for the purpose of planning, development or improvement of cities, towns and villages or for both.

The deposit scheme should be notified by the Central Government, for example, public deposit scheme of HUDCO.

- p) Subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form.
- q) Subscription to any units of any mutual fund and approved by the Board on an application made by such mutual fund in the prescribed form.
- r) Fixed deposits for a minimum period of 5 years in any Scheduled Banks.
- s) Investments in an account under the Senior Citizens Savings Scheme Rules, 2004.
- t) Investment in 5 year time deposit in an account under the Post Office Time Deposit Rules, 1981.
- u) Subscription to such bonds issued by the National Bank for Agriculture and Rural Development, as the Central Government may, by notification in the Official Gazette specify in this behalf.
- v) Contribution made by a Central Government employee to his Tier-II NPS account for a fixed period not less than 3 years. (w.e.f. A.Y 20-21)
- w) Stamp duty, registration fee and other expenses for the purposes of transfer of such house property to the assessee.
- x) Principal repayment of housing loan borrowed for the purpose of purchase or construction of residential house property from a Scheduled bank.

Notes:

- i. The income of residential house property should be chargeable to tax under the head “Income from House Property”.
- ii. Any loan borrowed for addition, alteration, or renovation or repairs of house property, after completion of construction or after house property is occupied for residence shall not qualify for deductions u/s 80C.
- iii. If Assessee transfers such house property within 5 years from the end of financial year in which the possession was obtained, then no deduction u/s 80C shall be allowed in such year & the deductions claimed for the previous years shall be deemed as Income & be charged to tax in the previous year of such transfer.

2) Deduction for contribution to pension fund [Section 80CCC]:

- This Section is applicable only to Individuals.
- An individual who deposits out of his taxable income to any pension fund of the Life Insurance Corporation of India or any insurer approved by the IRDAI for receiving pension, shall get a deduction from his gross total income of the amount so deposited not exceeding Rs.1,50,000.
- No deduction for this contribution will be available u/s 80C. The pension received by the assessee or his nominee is taxable in the year of receipt.

3) Deduction in respect of contribution to pension scheme of Central Government- Atal Pension Yojana [Section 80CCD]:

- a) This Section is applicable only to Individuals.
- b) Section 80CCD provides deduction with respect to employers and employees contribution to pension scheme which is applicable to new employees of the Central Government employed on or after 01.01.2004 or being an individual employed by any other employer. It is mandatory for such employee to contribute 10% of salary every month towards the pension scheme.
- c) As per section 80CCD(1), employees contribution towards the notified pension scheme is deductible, but upto maximum of 10% of the salary of employee.
- d) Self-employed individuals can also contribute to NPS and in such a case, maximum limit of deduction is 20% of his gross total income.
- e) As per section 80CCD(1B), an additional deduction of maximum Rs.50,000 can also be availed in respect of the whole of the amount paid or deposited by an individual assessee under NPS in the previous year, whether or not any deduction is allowed under section 80CCD(1). This deduction is out of the focus of section 80CCE.
- f) Under section 80CCD(2), contribution made by the Central/*State* Government or any other employer in the previous year to the said account of an employee, is allowed as a deduction in computation of the total income of the assessee. This deduction is out of the focus of section 80CCE.
The entire employer's contribution would be first included in the salary of the employee. However, deduction under section 80CCD(2) would be restricted to 14% of salary, in case of contribution made by the Central/*State* Government, and to 10% of salary, in case of contribution made by any other employer.
- g) Salary here means Basic salary + DA (if the terms of employment so provide).
- h) Any amount received from pension fund, shall be taxable as income of the recipient (assessee or his nominee) in the year in which such amount is received.

Notes:

1. Exemption on payment from NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme [Section 10(12A)]:

- As per section 80CCD, any payment from National Pension System Trust to an assessee on account of closure or his opting out of the pension scheme is chargeable to tax.
- Section 10(12A) provides that any payment from National Pension System Trust to an assessee on account of closure or his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed 60% of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.

2. Exemption on payment from NPS Trust to an employee on partial withdrawal [Section 10(12B)]:

To provide relief to an employee subscriber of NPS, section 10(12B) provides that any payment from National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made there under, shall be exempt from tax to the extent it does not exceed 25% of amount of contributions made by him.

4) **Limit on deductions under sections 80C, 80CCC and 80CCD [Section 80CCE]:**

The aggregate amount of deductions under Sections 80C, 80CCC and 80CCD(1) shall not in any case, exceed Rs.1,50,000.

As per section 80CCD (1B), an additional deduction of maximum Rs.50,000 can also be availed. This deduction is out of the focus of section 80CCE.

The following table summarizes the ceiling limit under these Sections –

Section	Particulars	Ceiling limit (Rs.)
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 (Assessee Contribution)	10% of salary or 20% of GTI, as the case may be.
80CCE	Aggregate deduction under sections 80C, 80CCC & 80CCD(1)	1,50,000
80CCD(1B)	Assessee Contribution to NPS notified by the Central Government (outside the limit of Rs.1,50,000 under section 80CCE)	50,000
80CCD(2)	Contribution by the Central/ State Government to NPS A/c of its employees (outside the limit of Rs.1,50,000 u/s 80CCE)	14% of salary
	Contribution by any other employer to NPS A/c of its employees (outside the limit of Rs.1,50,000 u/s 80CCE)	10% of salary

5) **Deduction in respect of contribution to Agnipath Scheme [Section 80CCH]:**

a) Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.

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'. The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account.

c) Section 80CCH provides deduction in respect of contribution made in the Agniveer Corpus Fund by the Individual enrolled in the Agnipath Scheme and the Central Government.

d) **Quantum of deduction:**

➤ Section 80CCH(1) provides a deduction for the amount paid or deposited by an assessee, being an Individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1.11.2022, in his account in the Agniveer Corpus Fund.

➤ Under section 80CCH(2), the 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 in computation of the total income of the assessee.

The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction under section 80CCH(2) would be available for the same.

e) **Exemption on payment from Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee [Section 10(12C)]:**

Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax.

6) Deduction in respect of medical insurance premium [Section 80D]:

a) This Section is applicable to Individuals & HUF.

b) **Deduction can be claimed for-**

➤ **Health Insurance Premium (including payment for preventive health check-up):**

- i. the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family or “any contribution made to the Central Government Health Scheme” or such other scheme as may be notified by the Central Government in this behalf or any payment made on account of preventive health check-up of the assessee (Rs.5,000) or his family and the sum does not exceed in the aggregate Rs.25,000; and
- ii. the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee or any payment made on account of preventive health check-up of the parents of the assessee (Rs.5,000) as does not exceed in the aggregate Rs.25,000.

Note: Where the Medical Insurance is for the health of Resident Senior citizen, then the limit for deduction is Rs.50,000 instead of Rs.25,000 (both for i & ii).

➤ **Medical Expenditure (only for Resident Senior citizens on whom medical insurance policy is not taken):**

- i. the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate Rs.50,000 & medical insurance premium is not paid for such person.
- ii. the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate Rs.50,000 & medical insurance premium is not paid for such person.

Notes:

- The maximum deduction under this section is Rs.50,000 for assessee & his family and Rs.50,000 for parents.
- Family means the spouse and dependent children in case of Individual & any members of HUF in case of HUF.
- In case of preventive health check-up, Payment may be made by any mode including cash. In any other case, payment should be made by any mode other than cash.

7) Deduction where premium for health insurance is paid in lump sum [Section 80D(4A)]

In a case where mediclaim premium is paid in lumpsum for more than one year by:

- an individual, to effect or keep in force an insurance on his health or health of his spouse, dependent children or parents; or
- a HUF, to effect or keep in force an insurance on the health of any member of the family,

then, the deduction allowable under this section for each of the relevant previous year would be equal to the appropriate fraction of such lump sum payment.

8) Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability [Section 80DD]:

- a) This Section is applicable to Resident Individuals & Resident HUF.
- b) **Deduction is allowed in respect of-**
 - i. any expenditure incurred for the medical treatment including nursing, training and rehabilitation of a dependent, being a person with disability; or
 - ii. paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer approved by the Board for the maintenance of a dependent, being a person with disability.
- c) Flat deduction of Rs.75,000 shall be allowed as deduction irrespective of actual payments or deposit made.
However, if the dependent is with severe disability (disability of at least 80%), then the deduction shall be Rs.1,25,000.
- d) The assessee claiming deduction under this section shall furnish a copy of certificate issued by medical authority along with the return of Income.
- e) Dependent means Spouse, Children, parents, brothers and sisters of Individual.
In case of HUF, any member of HUF wholly or mainly dependant on such HUF.
- f) In case the disabled dependent pre-diseases, the amount deposited in his name under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer shall be deemed to be income of the assessee in the year in which such amount is received.

Note: Such dependent should not have claimed deduction u/s 80U in computing his Income.

9) Deduction in respect of medical treatment of any specified disease [Section 80DDB read with rule 11DD]:

- a) This Section is applicable to Resident Individuals & Resident HUF.
- b) Where an individual or HUF who is resident in India has, during the previous year, actually paid any amount for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board –
 - i. for himself or a dependent, in case the assessee is an individual; or
 - ii. for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family,

the assessee shall be allowed a deduction of the amount actually paid or a sum of Rs.40,000, whichever is less, in respect of that previous year in which such amount was actually paid.

If the patient is Senior Citizen or Super Senior Citizen then the limit prescribed under this section is Rs.1,00,000.

Provided further that the deduction under this section shall be reduced by the amount received, if any under an insurance from any insurer or reimbursed by an employer, for the medical treatment.

Note: Dependent means-

- a) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual, dependant wholly or mainly on such individual for support and maintenance;
- b) in the case of a Hindu undivided family, any member of the Hindu undivided family, dependant wholly or mainly on Hindu undivided family for support and maintenance;

10) Deduction in respect of repayment of loan taken for higher education [Section 80E]:

- a) This Section is applicable for Individuals only.
- b) The deduction of an amount actually paid by an individual during the previous year by way of an interest on loan taken by him from any financial institution, bank or any approved charitable institution for the purpose of pursuing higher education (after senior secondary examination) in India for himself or his relative.
- c) The deductions shall be allowed from the initial year in which the commencement of interest takes place and is allowed for immediate succeeding 8 Assessment year's or till the interest is paid in full, whichever is earlier.
- d) "Relative", in relation to an individual, means the spouse and children of that individual or the student for whom the individual is the legal guardian.
- e) Deduction for interest should be claimed on payment basis i.e when interest is actually paid.

11) Tax incentives for Affordable housing [Section 80EEA]:

New Section 80EEA of the Income Tax Act, 1961 has been introduced vide Finance Act, 2019 as per which an Additional tax deduction up to 1.5 Lakh is available for interest paid on loans taken up to 31st March 2022 for self-occupied House.

It is an additional benefit on the top of 2 Lakh benefit extended by section 24.

The maximum tax deduction on interest amount paid for home loan for self-occupied property will be 3.5 Lakhs i.e. 2 Lakh under section 24 and 1.5 Lakh under section 80EEA. The benefit will be given only on the interest component of the home loan borrowed for acquisition or construction.

Conditions for claiming a deduction:

- This benefit will be extended only to the first-time homeowner i.e. the assessee should not be owner of any other house at the time of sanction of loan to avail this benefit.
- The stamp duty value of a home should be 45 Lakhs or less.
- The deduction under this scheme is available only to the Individuals.
- In order to claim this benefit, the property should be self-occupied and affordable.
- To claim this benefit, the individual must have taken the loan from the financial institution or bank.
- Loan sanction should be between 1st April, 2019 to 31st March, 2022.
- This tax deduction can be claimed by an individual as well as joint home loan borrower. The joint home loan borrower can individually claim this benefit.
- The above benefit is not applicable for the commercial properties.

Example: Rakesh works in Pune in IT Company. He lives in Pune in a rented house. He purchased property in Surat.

He is buying a home for the first time, so he can take benefit of section 80EEA. The cost of a home is 45 Lakh and He purchased this home by taking a home loan of 40 Lakh in May 2021.

The total of EMI for F.Y 2022-23 paid is 5 Lakh. This includes 3.75 Lakh of interest component.

As it is self-occupied house and fulfilling condition of section 80EEA, Rakesh can claim 3.5 Lakh as tax deduction while filing Income tax return i.e 2 lakh u/s 24 and 1.5 lakh u/s 80EEA.

12) Tax incentives for electric vehicles [Section 80EEB]:

- Deduction under this section is allowed only to Individuals.
- Interest payable on loan taken by Individuals from any financial institution for the purpose of purchase of an electric vehicle is allowed as deduction subject to maximum of Rs.1,50,000.
- The loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2023.
- Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

13) Deduction in respect of donations to certain funds, charitable institutions, etc. [Section 80G]:

- a) Deduction under this section is allowed to all type of assessees.
- b) Further, Section 80G(5A) clarifies that in a case where an assessee has claimed and has been allowed any deduction under this section in respect of any amount of donation, the same amount will not again qualify for deduction under any other provision of the Act for the same or any other assessment year.

Quantum of deduction:

A. 100% Deduction without any qualifying limit:

- i. National Defense fund.
- ii. National Children's Fund.
- iii. National cultural fund set up by the Central Government.
- iv. National Illness Assistance fund.
- v. National Trust for welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities.
- vi. National foundation for communal harmony.
- vii. National sports fund set up by the Central Government.
- viii. National Fund for Control of Drug Abuse
- ix. Prime Minister's National relief fund.
- x. Prime Minister's Earthquake relief fund.
- xi. Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM Cares Fund)
- xii. The Chief Minister's relief fund or the lieutenant Governor's relief fund.
- xiii. Any fund set up by a State Government to provide medical relief to poor.
- xiv. Any Zila Saksharta Samiti constituted in any district for improvement of primary education in villages and towns and for literacy and post-literacy activities.
- xv. The Army/Air force Central welfare fund or the Indian Naval Benevolent fund.
- xvi. Fund for technology development and application, set up by the Central Government.
- xvii. Approved University or educational institution of national eminence
- xviii. Swachh Bharat Kosh, set up by the Central Government,
- xix. Clean Ganga Fund, set up by the Central Government, etc.

- xx. The Africa (Public Contributions-India) Fund
- B. 50% Deduction without any qualifying limit:**
- i. Prime Minister's Drought Relief Fund.
- C. 100% Deduction subject to qualifying limit:**
- i. Any sum to Government or any approved local authority, institution or association to be utilized for promoting family planning.
 - ii. Any sum paid by the assessee, being a company, in the previous year as donation to Indian Olympic Association or to any other association established in India and notified by the Central Government for:
 - I. Development of infrastructure for sports and games or
 - II. Sponsorship of sports and games in India.
- D. 50% Deduction subject to qualifying limit:**
- i. Donation to Government or any approved Local Authority, Institution or Association to be utilized for any charitable purpose other than promoting family planning.
 - ii. Donation to notified Temple, Mosque, Gurudwara, Church or any other place notified by the Central Government to be of historic or artistic importance, for renovation or repair of such place.
 - iii. Donation to any corporation established by the Central or State Government for promoting interests of the members of a minority community (SC, ST etc).
 - iv. Contribution to any authority setup for providing housing accommodation or town planning.
 - v. Any other Fund or Institution, which satisfies the conditions of Section 80G(5).

All donations made to funds/institutions covered under (C) and (D) above shall be aggregated and the aggregate amount shall be limited to 10% of adjusted Gross Total Income.

Adjusted Gross total income means the "Gross Total Income" as reduced by:

- Long-term Capital gains taxable u/s 112 & 112A, if any which have been included in the "Gross Total Income".
- Short-term capital gain taxable u/s 111A.
- Income of NRIs and Foreign Companies u/s 115A, 115AB, 115AC, 115ACA or 115AD.
- All deductions permissible under Sections 80C to 80U except deduction under Section 80G.

Quantum of deduction: Aggregate of deduction permissible under clauses (A), (B), (C) & (D).

Steps for computation of qualifying limit:

Step 1	Compute adjusted total income
Step 2	Calculate 10% of adjusted total income
Step 3	Calculate the actual donation, which is subject to qualifying limit (Total of Category C and D donations, shown above)
Step 4	Lower of Step 2 or Step 3 is the maximum permissible deduction.
Step 5	The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category C donations). Thereafter, 50% of balance qualifies for deduction under section 80G.

Notes:

- a) No deduction shall be allowed under this section in respect of donation of any sum exceeding Rs.2,000 unless such sum is paid by any mode other than cash.
- b) Donations in kind shall not qualify for deduction.
- c) The deduction under section 80G can be claimed whether it has any nexus with the business of the assessee or not.
- d) The claim of the assessee for deduction in respect of any donation made to an institution or fund [referred to in point (1) under (IV) "Donation qualifying for 50% deduction, subject to qualifying limit"], in the return of income for any assessment year filed by him, will be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority or person authorized by such authority, subject to verification as per the risk management strategy formulated by the CBDT from time to time.

14) Deduction in respect of rent paid [Section 80GG]:

- a) This Section is applicable for Individuals only.
- b) **Deductions admissible under this Section is:**
 - Actual rent paid less 10% of 'Adjusted Total Income'.
 - 25% of such 'Adjusted Total Income'.
 - Amount calculated at Rs.5,000 p.m.

Whichever is least.
- c) Adjusted Total Income means the "Gross total income" as reduced by-
 - Long-term Capital gains taxable u/s 112 & 112A, if any which have been included in the "Gross Total Income".
 - Short-term capital gain taxable u/s 111A
 - Income referred to in section 115A to 115D
 - All deductions permissible under Sections 80C to 80U except deduction under Section 80GG.
- d) **Conditions to be fulfilled/satisfied for claiming deduction u/s 80GG-**
 - The assessee should not be receiving any house rent allowance exempt u/s 10(13A) or rent free accommodation.
 - The accommodation should be occupied by the assessee for the purpose of his own residence.
 - No claim for self-occupied property should be made in respect of any accommodation.
 - The assessee or his spouse or his minor child or an HUF of which he is a member does not own any accommodation at that place.
 - Allowed only to an individual assessee after furnishing Form 10BA along with return of income conforming the details of rent paid.

15) Deduction in respect of certain donations for scientific research or rural development [Section 80GGA]:

An assessee (other than an assessee whose gross total income includes income chargeable under the head “profits and gains of business or profession”) is entitled to 100% deduction in the computation of his total income in respect of the following payments/donations:

- a) Sums paid to approved research association or to university, college or other institution to be used for scientific research covered under section 35(1)(ii).
- b) Sums paid to approved research association or to university, college or other institution to be used for social science or statistical research covered under section 35(1)(iii).
- c) Sums paid to an approved association or institution which has as its object the undertaking of any programme of rural development approved for the purposes of Section 35CCA, provided the assessee furnishes the certificate referred to in Section 35CCA(2).
- d) Any sum paid to a rural development fund set up and notified under section 35CCA.
- e) any sum paid by the assessee in the previous year to a public sector company or a local authority or an association or institution approved by the National Committee for carrying out any eligible project or scheme provided the assessee furnishes a certificate referred to in Section 35AC.

Note: Eligible project or scheme means such project or scheme for promoting the social and economic welfare of, or the uplift of the public as may be notified by Central Government on the recommendations of the National Committee.

- f) Any sum paid by the assessee in the previous year to the National Urban Poverty Eradication Fund set up and notified by the Central Government.

Notes:

1. No deduction shall be allowed under this section in respect of any sum exceeding Rs.2,000 unless such sum is paid by any mode other than cash.
2. The claim of the assessee for deduction in respect of any sum referred to under "(ii) Donations qualifying for deduction" in the return of income for any assessment year filed by him, will be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or person authorized by such authority, subject to verification as per the risk management strategy formulated by the CBDT from time to time.

16) Deduction in respect of contributions given by companies to Political parties or an Electoral trust [Section 80GGB]:

Any sum contributed by an Indian Company in the previous year to any political party or to an electoral trust shall be allowed as deduction while computing its total income.

Meaning of “Contribute”: For the purposes of this section, the word “contribute” has the same meaning assigned to it under section 293A of the Companies Act, 1956, which provides that –

- a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;
- b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the

like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

Meaning of “Political party”: It means a political party registered under section 29A of the Representation of the People Act, 1951.

17) Deduction in respect of contributions given by any person to Political parties or an Electoral trust [Section 80GGC]:

Any amount of contribution made by an assessee being any person to a political party or an electoral trust except local authority and every artificial juridical person wholly or partly funded by the Government shall be allowed as deduction while computing the total income of such person.

Note: Sum contributed by way of cash shall not be allowed as deduction u/s 80GGB & 80GGC.

DEDUCTIONS IN RESPECT OF CERTAIN INCOMES:

18) Deduction in respect of employment of new employees [Section 80JJAA]:

- a) As per this section, where the gross total income of an assessee to whom section 44AB applies and having manufacturing unit, includes any profits and gains derived from manufacture of goods in a factory, a deduction of an amount equal to 30% of additional wages paid to new regular workers employed by the assessee in the previous year, would be allowed for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.
- b) It is also provided that in the first year of a new business, 30% of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.
- c) **Regular workmen does not include:**
 - i. a casual workman
 - ii. a workman employed through contract labour
 - iii. an employee whose total emoluments are more than Rs.25,000 per month; or
 - iv. an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme
 - v. an employee who does not participate in the recognised provident fund.
 - vi. an employee employed for a period of less than 240 days during the previous year.

In case of an assessee engaged in the business of manufacturing of apparel or footwear or leather products, an employee employed for a period of less than 150 days during the previous year;

Note: If an employee is employed during the previous year for less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year. Accordingly, the employer would be entitled to deduction of 30% of additional employee cost of such employees in the succeeding year.

d) Conditions to be fulfilled:

The deduction would be allowed only subject to fulfillment of the following conditions:

- The business should not be formed by splitting up, or the reconstruction, of an existing business.
- The business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.
- Deduction under this section is not available unless the assessee furnishes audit report from the accountant, before the specified date referred to in section 44AB giving such particulars in the report as may be prescribed.

18) Deduction in respect of Royalty Income, etc., of authors of certain books other than text books [Section 80QOB]:

Section 80QOB provides deduction to a resident individual who is an author or a joint author of a book whose income includes income derived from such profession, received either as a lump sum consideration for the assignment or grant of any of his interests in the copyright of any book or royalty of books other than text books.

The amount of deduction is the lower of eligible income or Rs.3,00,000.

Books exclude brochures, diaries, guides, journals, magazines, newspapers, pamphlets, text books for schools, commentaries or any such publication whatever name may be.

19) Deduction in respect of Royalty on Patents [Section 80RRB]:

Section 80RRB provides deduction to resident individual, a patentee who is in receipt of income by way of royalty in respect of a patent registered under the Patents Act, 1970, and his gross total income includes royalty, subject to the provisions of this section. This deduction shall be available only to a resident individual who is registered as the true and first inventor in respect of an invention under the Patents Act, 1970, including the co-owner of the patent.

The amount of deduction is lower of 100% of such income or Rs.300,000.

Notes for 80QOB & 80RRB:

- a) If such income is earned from any sources outside India, it shall be brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of 6 months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.
- b) No deduction under this section shall be allowed unless an assessee furnishes a certificate in the prescribed form 10CCD/10H.

20) Deduction in respect of Interest on deposits in Savings Account [Section 80TTA]:

- a) This Section is applicable to Individuals & HUF whose gross total income includes any income by way of interest on Savings deposits (not being time deposits).
- b) Deduction is for Interest on deposit in savings bank account with any Bank, Co-Operative society or Post Office.
- c) The maximum amount of deduction is Rs.10,000.
- d) Where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

Note: Deduction under this section shall not be available to resident senior citizen who is entitled to claim deduction u/s 80TTB.

21) Deduction in respect of interest on deposits in case of Senior Citizens [Section 80TTB]:

- a) This Section is applicable to Resident Senior Citizen whose gross total income includes income by way of interest on deposits (any deposits) with –
 - i. A Banking Company; or
 - ii. A co-operative society engaged in the business of banking including co-operative land mortgage bank or a co-operative land development bank; or
 - iii. A Post office
- b) Quantum of deduction will be lower of Actual amount of interest or Rs.50,000.
- c) No deduction shall be allowed if deposit held by or on behalf of a firm, an AOP or BOI.

OTHER DEDUCTION:

22) Deduction in case of a person with disability [Section 80U]:

- a) This section is applicable to resident Individual who suffers from 40% or more of any of the disabilities, namely, blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation and mental illness.
- b) Assessee himself must be disable.
- c) Flat deduction of Rs.75,000 irrespective of expenditure incurred.
- d) However if such individual is a person with severe disability (being disability of at least 80%), there shall be a flat deduction of Rs.1,25,000 irrespective of expenditure incurred.
- e) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under Section 139, in respect of the assessment year for which the deduction is claimed.

Impact of Section 115BAC under Deductions Chapter:

Assessee opting for concessional tax regime under section 115BAC:

Only deductions u/s 80CCD(2) [Employer's contribution to pension scheme of Central Government], 80CCH(2) [Central Government's contribution to assessee's account in Agniveer Corpus Fund] and section 80JJAA would be available if the eligible assessee pays tax at concessional rates of tax u/s 115BAC under the default tax regime.

Resident Co-operative Societies opting for concessional tax regime under section 115BAD or 115BAE:

Only deductions u/s 80JJAA is available to the resident Co-operative Society opting to pay tax under concessional default tax regime under section 115BAD or 115BAE of the income tax act, 1961.

DEDUCTION UNDER SECTION 10AA:

An Entrepreneur who has begun or begins to manufacture or produce articles or things or provides services in Special Economic Zones (SEZ) between 01.04.2005 and 31.03.2020.

- 1) Section 10AA provides deduction to assessee who derive any profits and gains from export of articles or things or services (including computer software) from the year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, subject to fulfillment of the prescribed conditions. The profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.
- 2) To claim deduction under this section, the following conditions shall be fulfilled-
 - a) It is not formed by splitting up or reconstruction of a business already in existence.
 - b) It is not formed by the transfer to a new business of machinery or plant previously used for any purpose. However, the value of machinery or plant so transferred shall not exceed 20% of the total value of machinery or plant in the new business.

Note: For this purpose, machinery or plant which was used outside India by any person other than the assessee for which no depreciation has been allowed under this act, shall be considered as new asset.

- 4) **The deduction is computed in respect of profits which is given below-**

$\text{Profits eligible for deduction (A)} = \frac{\text{Export turnover of SEZ Unit}}{\text{Total turnover of SEZ Unit}} \times \text{Total Profits of the SEZ Unit}$
--

- 5) **The period and amount of deduction is as follows:**

Period	Deduction
First 5 consecutive assessment years	100% of the eligible profits (A x 100%)
Next 5 consecutive assessment years	50% of the eligible profits (A x 50%)
Next 5 consecutive assessment years	50% of the eligible profits (A x 50%) or any amount transferred to 'Special Economic Zone Re-investment Reserve' account, whichever is lower

Conditions:

The amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised -

- a) for the purpose of acquiring machinery or plant which is first put to use before the expiry of a period of 3 years following the previous year in which the reserve was created; and
- b) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking. However, it should not be utilized for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

Where any amount credited to the Special Economic Zone Re-investment Reserve Account has been utilised for any purpose other than those referred, the amount so utilised; or has not been utilised before the expiry of the period specified, the amount not so utilised, shall be deemed to be the profits, and shall be charged to tax accordingly.

- 6) The amount of deduction u/s 10AA shall be claimed after computing the gross total income of the assessee & the amount of deduction u/s 10AA shall not be more than the gross total income of Assessee.
Amount of Deduction = Amount as computed above or Gross Total Income of the assessee, Whichever is Lower.
- 7) CBDT has clarified that freight, telecommunication charges and insurance expenses attributable to the delivery of the articles or things outside India or expenses incurred in foreign exchange for rendering services outside India are to be excluded both from "export turnover" and "total turnover", while working out deduction admissible under section 10AA to the extent they are attributable to the delivery of articles or things outside India.
- 8) The assessee should furnish in the prescribed form, before the date specified in section 44AB i.e., one month prior to the due date for furnishing return of income u/s 139(1), the report of a chartered accountant certifying that the deduction has been correctly claimed.
- 9) No deduction under section 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).

In case of an Individual, HUF, AOP or BOI or an artificial juridical person, deduction would be available only if they have exercised the option of shifting out of the default tax regime provided under section 115BAC.

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/ 115BAB and section 115BAD/ 115BAE, respectively.

The deduction u/s 10AA would be available if they pay tax under the normal provisions of the Act.

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PROBLEMS:

- 1) X a resident individual incurs Rs.30,000 expenditure on his own treatment of a specified disease and Rs.15,000 on medical treatment of his wife in a Government hospital of a specified disease. Rs.2,000 is reimbursed by insurance company for his wife and Rs.5,000 are reimbursed by his employer for him.
Compute the amount of deduction under section 80DDB?
- 2) If X, an individual incurs Rs.1,80,000 expenditure on medical treatment of a specified disease for his mother (65 years) in a hospital recognised by Chief Commissioner and Rs.8,000 are reimbursed by insurance company, what will be the amount of deduction available to him under section 80DDB?
(a) Rs.92,000 (b) Rs.72,000 (c) Rs.1,80,000 (d) Any amount
- 3) What is the upper limit of deduction (including interest) on loan, taken by an individual from any financial institution or any approved charitable institution for the purpose of pursuing his/her higher education?
(a) Rs.30,000 (b) Rs.40,000 (c) Rs.50,000 (d) Any amount
- 4) Following are the particulars of income of Mr. Ram, who is 70 years old resident in India, for the assessment year 2024-25: Gross total income Rs.8,10,040 which includes long-term capital gain of Rs.2,55,000, Short-term capital gain of Rs.88,000, interest income of Rs.12,000 from savings bank deposits with banks. Mr. Ram invested in PPF Rs.1,40,000 and also paid a medical insurance premium Rs.31,000 for himself.
Compute the total income of Mr. Ram if he has exercised the option of shifting out of the default tax regime provided under section 115BAC.
- 5) Mr. Shiva aged 58 years, has gross total income of Rs.7,75,000 comprising of income from salary and house property. He has made the following payments and investments:
 - a) Premium paid to insure the life of her major daughter (policy taken on 1.4.2018) (Assured value Rs.1,80,000) - Rs.20,000.
 - b) Medical Insurance premium for self - Rs.12,000; Spouse - Rs.14,000.
 - c) Donation to a public charitable institution registered under 80G Rs.50,000 by way of cheque.
 - d) LIC Pension Fund - Rs.60,000.
 - e) Donation to National Children's Fund - Rs.25,000 by way of cheque
 - f) Donation to Jawaharlal Nehru Memorial Fund – Rs.25,000 by way of cheque
 - g) Donation to approved institution for promotion of family planning - Rs.40,000 by way of cheque
 - h) Deposit in PPF – Rs.1,00,000Compute the total income of Mr. Shiva for A.Y. 2024-25 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC.

- 6) Mr. A, a resident individual aged about 61 years, has earned business income (computed) of Rs.1,35,000, lottery income of Rs.1,20,000 (gross) during the P.Y. 2023-24. He also has interest on Fixed Deposit of Rs.30,000 with banks. He invested an amount of Rs.1,50,000 in Public Provident Fund account.

What is the total income of Mr. A for the A.Y.2024-25 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC?

- 7) Rajveer Turbines has 2 undertakings, one in a SEZ and one in a normal zone.
The summarised results are as under:

Item	SEZ	Normal
Domestic turnover	50	125
Export turnover	200	0
Gross Profit	75	25
Expenses & Depreciation	15	10
Net profit	60	15

Compute the deduction u/s 10AA and total income of the assessee.

- 8) Rudra Ltd. has one unit at Special Economic Zone (SEZ) and other unit at Domestic Tariff Area (DTA). The company provides the following details for the previous year 2023-24.

Particulars	Rudra Ltd. (Rs.)	Unit in DTA (Rs.)
Total Sales	6,00,00,000	2,00,00,000
Export Sales	4,60,00,000	1,60,00,000
Net Profit	80,00,000	20,00,000

Calculate the eligible deduction under section 10AA of the Income-tax Act, 1961, for the Assessment Year 2024-25, in the following situations:

- a) If both the units were set up and start manufacturing from 22-05-2016.
- b) If both the units were set up and start manufacturing from 14-05-2019.

*"Taxation is the price which civilized communities pay
for the opportunity of remaining civilized."*

CHAPTER-7**TDS, TCS AND PROVISIONS OF ADVANCE TAX****PAYMENT OF INCOME-TAX:**

The Income-tax Act provides for collection and recovery of income-tax in the following ways, namely-

- a) Deduction of tax at source (TDS) in respect of certain income;
- b) Advance payment of income-tax before the assessment by the assessee himself;
- c) Direct payment of income-tax by the assessee on self-assessment; and
- d) After the assessment is made by the Assessing Officer.

The total income of an assessee for the previous year is taxable in the relevant assessment year. For example, the total income for the P.Y. 2023-24 is taxable in the A.Y. 2024-25.

However, income-tax is recovered from the assessee in the previous year itself through –

- 1) Tax deduction at source (TDS)
- 2) Tax collection at source (TCS)
- 3) Payment of advance tax

Another mode of recovery of tax is from the employer through tax paid by him under section 192(1A) on the non-monetary perquisites provided to the employee.

These taxes are deductible from the total tax due from the assessee. The assessee, while filing his return of income, has to pay self-assessment tax under section 140A, if tax is due on the total income as per his return of income after adjusting, inter alia, TDS, TCS, relief of tax claimed under section 89, tax credit claimed to be set off in accordance with the provisions of section 115JD and advance tax.

DIRECT PAYMENT [Section 191]:

Section 191 provides that in the following cases, tax is payable by the assessee directly –

1. in the case of income in respect of which tax is not required to be deducted at source; and
2. income in respect of which tax is liable to be deducted but is not actually deducted.

In view of these provisions of section 191, the proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

In order to overcome this difficulty, the Explanation to this section provides that if any person, including the principal officer of a company –

1. who is required to deduct tax at source; or
2. an employer paying tax on non-monetary perquisites under section 192(1A), does not deduct the whole or part of the tax, or after deducting fails to pay such tax deducted, then, such person shall be deemed to be an assessee-in-default.

However, if the assessee himself has paid the tax, this provision will not apply.

The provisions relating to TDS, TCS and payment of advance tax are being discussed in this chapter:

DEDUCTION OF TAX AT SOURCE:

Tax Deducted at Source (TDS), as the very name implies aims at collection of revenue at the source of income. It is the effective way of collecting taxes which combines the concepts of “pay as you earn” and “collect as it is being earned”. Its value lies in the fact that it provides the Government with a continuous flow of funds and at the same time eases the burden on the taxpayer.

The concept of TDS requires that the person on whom responsibility has been cast (called as Payer), is to deduct tax at prescribed rates as required under this chapter. The tax so deducted shall be deposited to the credit of central government within the stipulated time. The recipient from whom Income tax has been deducted at source (called as payee), gets the credit of the amount deducted in his personal assessment on the basis of certificate issued by the payer.

Tax is deducted only if the amount is taxable in the hands of receiver/payee.

TDS under various Sections:

Refer to TDS Chart in the last part of the material.

Notes:

1. If Payee doesn't provide his PAN, then TDS has to be deducted at 20% or rate as per respective section, whichever is higher, in all cases except in respect of payment made to non-corporate non-residents or foreign companies. [Exception 194-Q: 5%] – **Section 206AA**
2. With the new system for taxation of services under the GST regime w.e.f. 01.07.2017, the CBDT has clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component.

OTHER PROVISIONS:

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations [Section 196]:

Section 196 provides that no deduction of tax shall be made by any person from any sums payable to:

- a) the Government (Central or State); or
- b) the Reserve Bank of India; or
- c) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income; or
- d) a Mutual Fund specified under Section 10(23D);

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

Certificate for deduction of tax at a lower rate [Section 197]:

1. This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be, at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA and 194M.
2. In such cases, the assessee can make an application to the Assessing Officer for deduction of tax at a lower rate or for non-deduction of tax.
3. If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be, he may give to the assessee such certificate, as may be appropriate.
4. Where the Assessing Officer issues such a certificate, then the person responsible for paying the income shall deduct income-tax at such lower rates specified in the certificate or deduct no tax, as the case may be, until such certificate is cancelled by the Assessing Officer.

No deduction in Certain cases [Section 197A]:

1. Filing of declaration for receipt of dividend without deduction of tax:

- (i) This section enables an Individual, who is resident in India and whose estimated total income of the previous year is less than the basic exemption limit, to receive dividend, without deduction of tax at source under section 194 on furnishing a declaration in writing in duplicate in the prescribed form [Form 15G] and verified in the prescribed manner.
- (ii) The declaration in the above form is to be furnished in writing in duplicate by the declarant to the person responsible for paying any income of the nature referred to in section 194. The declaration will have to be to the effect that the tax on the estimated total income of the declarant of the previous year in which such income is to be included in computing his total income will be Nil.

2. Filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms:

No deduction of tax shall be made under the above provisions of the Act, where a person, who is not a company or a firm, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form [Form 15G] to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be Nil.

3. Filing declaration not permissible if income/aggregate of incomes during the previous year exceed basic exemption limit.
4. **Time limit for delivery of one copy of declaration:**

On receipt of the declaration referred above, the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration on or before the 7th of the month following the month in which the declaration is furnished to him/them.

Tax deducted is Income received [Section 198]:

The tax deducted at source is deemed to be the income received, by the assessee for the purpose of computing his income i.e in the hands of payee.

However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income –

- (i) the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees
- (ii) tax deducted under section 194N

Credit for tax deducted at source [Section 199]:

- 1) Tax deducted at source in accordance with the above provisions and paid to the credit of the Central Government shall be treated as payment of tax on behalf of the-
 - a) person from whose income the deduction was made; or
 - b) owner of the security; or
 - c) depositor; or
 - d) owner of property; or
 - e) unit-holder; or
 - f) Shareholder.
- 2) Any sum referred to in section 192(1A) and paid to the Central Government, shall be treated as the tax paid on behalf of the person in respect of whose income, such payment of tax has been made.

Responsibilities attached to person deducting tax [Section 200]:

According to Section 200, the payer shall remit the sum so deducted to the credit of the central government within the prescribed time.

The time limit is as follows: (Not a part of Inter Syllabus)

Tax Deducted for the month	Person deducting TDS	Circumstance	Period within TDS should be paid to the credit of the Central Government
April to March	An office of the Government	where the tax is paid without production of an income-tax challan	on the same day
		where tax is paid accompanied by an income-tax challan	Within 7 th of subsequent month.
April to February	Collectors other than an office of the Government		Within 7 th of subsequent month. <u>For example:</u> If TDS is deducted for the month of April, it has to be remitted to government within 7 th May.
March			On or before 30 th April.

Notes:

1. In special cases, the Assessing Officer may, with the prior approval of the Joint Commissioner, permit quarterly payment of the tax deducted under section 192/ 194A/194D or 194H on or before 7th of the month following the quarter, in respect of first three quarters in the F.Y and 30th April in respect of the quarter ending on 31st March.
2. However, TDS deducted u/s 194IA on transfer of immovable property & u/s 194IB on rent paid in excess of Rs.50,000 per month can be remitted to government within 30th of next month (for any month from April to March) and shall be accompanied by a challan-cum- statement in Form No. 26QB and 26QC respectively.
3. TDS deducted u/s 194M shall be paid to the credit of the Central Government within 30th of next month and shall be accompanied by a challan-cum statement in Form No.26QD.

Furnishing of quarterly returns of TDS [Section 200(3) read with Rule 31A]:

Any person deducting tax at source (deductor), shall after paying such tax to the credit of the central government within the prescribed time prepare and file quarterly return (statement) of deduction of tax to the Director General of Income tax as follows:

Form No.	Particulars
Form 24Q	Statement for tax deducted at source from salaries for both resident and non-resident deductee's
Form 26Q	Statement for tax deducted at source on all payments except salaries to resident deductee's
Form 27Q	Statement for tax deducted at source on all payments except salaries to non-corporate non-resident or a foreign company or resident but not ordinarily resident deductee's
Form 27EQ	Statement of collection of tax at source

Certificate of tax deducted [Section 203]:

The person who deducts tax has to issue a certificate to payee in the prescribed form as follows-

- a) Form No.12BA, 16, 16AA in case of Salaries.
- b) Form No.16A in any other case.

to the person from whose payments deduction has been made, showing therein the particulars of payment, the date of tax deducted at source and the date of its credit to the Central Government. It is on the basis of this certificate that the payee can claim credit for tax paid on his behalf and can claim refund, if any, due to him on the basis of tax liability for the relevant year.

Form No.16 shall be issued to the employee annually by 15th June of the Next Financial year.

Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the TDS statement under Rule 31A.

Form No. 16B, 16C or 16D shall be issued by every person responsible for deduction of tax under section 194-IA, 194-IB or 194M to the payee within 15 days from the due date for furnishing the challan-cum-statement in Form No. 26QB, 26QC or 26QD, respectively, under rule 31A.

Consequence in the event of default [Section 201]:

Where any person, including the principal officer of a company,

- a) who is required to deduct any sum in accordance with the provisions of this Act; or
- b) referred to in section 192(1A), being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax.

However, any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such payee-

- a) has furnished his return of income under section 139;
- b) has taken into account such sum for computing income in such return of income; and
- c) has paid the tax due on the income declared by him in such return of income, and the person furnishes a certificate to this effect from an accountant in form 26A.

If a person responsible for deduction of tax at source fails to deduct the appropriate tax or, after making the due deduction fails to deposit it into the Government treasury, he shall be deemed to be an assessee in default and shall be liable for the:

- 1) Payment of the whole or any part of the tax as due; plus
- 2) **Where TDS is not deducted-**

Interest at the rate of 1% per month or part of the month on the tax from the date on which such tax was deductible to the date on which such tax is deducted; and

- 3) **Where TDS is deducted but not remitted to government-**

Interest at the rate of 1.5% per month or part of the month on the tax from the date on which such tax was deducted to the date on which such tax is actually paid to the government;

However, in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax on the sum paid to a resident or on the sum credited to the account of a resident but is not deemed to be an assessee in default, the interest shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident.

- 4) Penalty which may be as high as the amount of the tax in default, however, no penalty shall be charged under Section 221 from such person unless the Assessing Officer is satisfied that such person has, without good and sufficient reasons, failed to deduct and pay the tax; and

- 5) **Prosecution:**

Where the amount of tax which the responsible person has failed to deduct or pay exceeds Rs.1,00,000 he shall be punishable with rigorous imprisonment for a term not less than 6 months but which may be extended to 7 years and with fine.

In any other case, he shall be punished with a rigorous imprisonment of a term of not less than 3 months but which may be extended to 3 years and with fine.

Higher rate of TDS for non-filers of income-tax return [Section 206AB]:

Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person(payer) to a specified person(payee), at higher of the following rates –

- a) at twice the rate prescribed in the relevant provisions of the Act or Finance Act;
- b) at 5%

However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194IA, 194IB, 194M or 194N.

In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

Meaning of “specified person” – A person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is Rs.50,000 or more in each of these two previous years

However, the specified person does not include a non-resident who does not have a permanent establishment in India.

TAX COLLECTED AT SOURCE:

Tax Collection at Source (TCS), as the name says, means collections of tax at source at prescribed rates, by the seller or collector from the buyer of specified goods.

The existing provision of section 206C of the Act provides that the seller shall collect tax at source at specified rate from the buyer at the time of sale of specified items such as alcoholic liquor for human consumption, tendu leaves, scrap, mineral being coal or lignite or iron ore etc.

Tax is to be collected at source in the following cases-

Case 1 [Section 206C(1)]: Sale of -

Alcoholic liquor for human consumption	TCS @ 1%.
Scrap	TCS@ 1%
Minerals, being coal or lignite or iron ore	TCS@ 1%
Tendu leaves	TCS @ 5%
Timber obtained under the forest lease	TCS @ 2.5%
Timber obtained by any mode other than above	TCS @ 2.5%
Any other forest produce	TCS@ 2.5%

Notes:

1. Tax is to be collected by seller from buyer.
2. Seller include every person but does not include an Individual or HUF (whose accounts are not required to be audited under section 44AB during the financial year preceding the financial year in which sale is made).
3. **Buyer does not include-**
 - i. A public sector company, the Central Government, State Government, and an Embassy, a High Commission, Legation, Commission, Consulate and the trade representation, of a foreign state and a club; or
 - ii. A buyer in the retail sale of such goods purchased by him for personal consumption.

Non-applicability of TCS [Section 206C(1A)]:

No collection of tax shall be made in the case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form (form No. 27C) to the effect that goods referred to in section 206C(1) are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

It is clarified that the provisions of section 194Q will apply in such cases covered under section 206C(1A) and the buyer is liable to deduct tax u/s 194Q, if the conditions specified therein are fulfilled.

Case 2 [Section 206C(1C)]: Grant of lease/license of-

Parking lot, toll plaza, mining and quarrying (other than mining and quarrying of mineral oil, petroleum and natural gas) for the purposes of business - TCS @ 2%.

Note: If licensee or lessee is a public sector company then TCS is not applicable.

Case 3 [Section 206C(1F)]: Sale of-

Section 206C(1F) provides that every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding Rs.10 lakhs (Ex-showroom price), shall at the time of receipt of such amount, collect tax from the buyer @1% of the sale consideration (Ex-showroom price).

Note: This case is applicable in case of sale of motor vehicles in retail sales and not in case of sales by manufacturers to dealers/distributors.

The following persons(buyer) are exempted from the above provisions of Section 206C(1F):

- a) The Central Government, State Government and an embassy, a High Commission, legation, commission, consulate and trade representation of a foreign state;
- b) A Local Authority
- c) A Public Sector Company which is engaged in the business of carrying passengers.

Case 4: TCS on remittance outside India or Sale of overseas tour package [Section 206C(1G)]

Section 206C(1G) provides for collection of tax by every person,

- being an authorized dealer, who receives amount, under the Liberalised Remittance Scheme of the RBI, for remittance from a buyer, being a person remitting such amount;
- being a seller of an overseas tour programme package who receives any amount from the buyer who purchases the package

Rate of TCS:

Sl.No.	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023
1	Where the amount is for purchase of an overseas tour programme package	5% of such amount (without any threshold limit)	5% till Rs.7 Lakhs. 20% thereafter.
2	Where the amount is remitted for the purpose of education or medical treatment and the amount or aggregate of the amounts being remitted by a buyer is in excess of Rs.7 lakhs in a financial year	5% of the amount in excess of Rs.7 lakh	
3	Where the amount being remitted out is education loan obtained from any financial institution as defined in section 80E and the amount or aggregate of the amounts being remitted by a buyer is in excess of Rs.7 lakhs in a financial year.	0.5% of the amount in excess of Rs.7 lakh	
4	Where the amount is remitted for the purpose other than mentioned above and the amount or aggregate of	5% of the amount in excess of Rs.7 lakh	20% of the amount in excess of Rs.7 lakh

	the amounts in excess of Rs.7 lakhs is remitted by the buyer in a financial year.		
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Provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this act and has deducted such amount.

However, tax under section 206C(1G) would not be collectible if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority or any other person notified by the Central Government.

However, TCS u/s 206C(1G) would not be applicable, to a person (being a buyer) who –

- *is a non-resident in terms of section 6; and*
- *does not have a permanent establishment in India.*

Case 5: TCS on sale of goods [Section 206C(1H)]

A seller, who receives consideration for sale of any goods of the aggregate value exceeding Rs.50 Lakhs in any previous year, other than the goods being exported out of India or goods covered elsewhere under this section, at the time of receipt of such amount, collect from the buyer TCS @ 0.1 % of the sale consideration exceeding Rs.50 Lakhs (excluding GST or any other tax).

Notes:

1. Provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this act on the goods purchased by him from the seller and has deducted such amount.
2. Buyer does not include Central Government, a State Government, a High Commission, legation, commission, consulate and the trade representation of a foreign State, or local authority or a person importing goods into India.
3. Seller means a person whose total sales, gross receipts or turnover from the business carried on by him exceed 10 Crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out.
4. It is clarified that the provisions would not apply to sale of goods to a person, being a buyer, who as a person is wholly exempt from income-tax under the Act.

Time of Collection of tax:

The tax should be collected at the time of debiting of the amount payable by the buyer or licensee or lessee, as the case may be, to his account or at the time of receipt of such amount from the buyer or licensee or lessee, as the case may be, whichever is earlier.

In case of sale of a motor vehicle of the value exceeding Rs.10 lakhs and sale of goods of the value exceeding Rs.50 lakhs, tax shall be collected at the time of receipt of such amount under section 206C(1F) and 206C(1H), respectively.

TCS to be paid within prescribed time [Section 206C(3)]:

Any amount collected under this section shall be paid within the prescribed time to the credit of the Central Government or as the Board directs.

Time limit for paying tax collected to the credit of the Central Government [Rule 37CA]

Person collecting sums in accordance with section 206C(1)/(1C)	Circumstance	Period within which such sum should be paid to the credit of the Central Government
An office of the Government	where the tax is paid without production of an income-tax challan	on the same day
	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made
Collectors other than an office of the Government		within one week from the last day of the month in which the collection is made

Higher rate of TCS for non-filers of income-tax return and non-furnishers of PAN [Section 206CCA & 206CC]:

Collectee(buyer) shall furnish his PAN to the person responsible for collecting such tax at source.

As per section 206CC, if PAN is not intimated, tax shall be collected at-

- twice the normal rate or
- at the rate of 5%, [1%, in case tax is required to be collected at source u/s 206C(1H)] whichever is higher.

However, the maximum rate of TCS under this section shall not exceed 20%.

These provisions are not applicable to a non-resident who does not have any permanent establishment in India.

Section 206CCA requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person from a specified person (buyer), at higher of the following rates –

- at twice the rate specified in the relevant provision of the Act;
- at 5%

However, the maximum rate of TCS under this section shall not exceed 20%.

Section 206CCA is applicable to specified persons who have failed to file return of income (same person covered under section 206AB for TDS Provision).

In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

Meaning of “Specified person” – A person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is Rs.50,000 or more in each of these two previous years.

However, the specified person would not include –

- a non-resident who does not have a permanent establishment in India¹⁰; or
- a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.

Tax Deduction Account Number (TAN) [Section 203A]:

TAN Number is a 10 Digit Alphanumeric Number and is used as an abbreviation for Tax Deduction and Collection Account Number. Every Assessee liable to deduct TDS or collect TCS is required to apply for a TAN number and shall quote this number in all TDS/TCS Returns, TDS/TCS Payments and any other communication regarding TDS/TCS with the Income Tax Department.

As per Section 203A of the Income Tax Act 1961, it is mandatory for all assessee’s liable to deduct TDS or collect TCS to quote this TAN Number in all communications regarding TDS/TCS with the Income Tax Department and failure to do so attract a penalty.

ADVANCE PAYMENT OF TAX:

Section 207-219 of the Income Tax Act deals with the issues relating to advance payment of tax. In advance payment of tax, the assessee has to pay tax in a financial year on estimated income which is to be assessed in the subsequent assessment year. It follows the doctrine known as pay as you earn scheme.

It is kind of mandatory payment of tax, assessed by the assessee himself on income before completion of the Financial Year.

Liability of the Assessee:

It is obligatory for an assessee to pay advance tax where the advance tax payable is Rs.10,000 or more (Section 208).

In order to reduce the compliance burden on senior citizens, Section 207 has been amended to provide exemption from payment of advance tax to Resident Individual –

- a) not having any income chargeable under the head “Profits and gains of business or profession” and
- b) of age 60 years or more need not pay advance tax and are allowed to discharge their tax liability (other than TDS) by payment of self-assessment tax.

Due Dates for Payment of Advance Tax:

(applicable for all assessee other than who is covered u/s 44AD/ADA)

Particulars	In case of corporate assessee & non-corporate assessee
On or before 15 th June of the Previous year	Upto 15% of the Advance Tax due
On or before 15 th September of the Previous year	Upto 45% of the Advance Tax due as reduced by amount paid in earlier installments
On or before 15 th December of the Previous year	Upto 75% of the Advance Tax due as reduced by amount paid in earlier installments
On or before 15 th March of the Previous year	Upto 100% of the Advance Tax due as reduced by amount paid in earlier installments

Notes:

1. The above mentioned % is on cumulative basis. Therefore before making second, third and fourth installment, the assessee should deduct the tax already paid in the previous installments and pay in balance in the current installment.
2. In case of public holiday or bank holiday, date of payment automatically falls in the next working day and for that delay, interest is not charged under Sections 234B and 234C.
3. Any payment of advance tax payable made on or before 31st March shall be treated as advance tax paid during the financial year on or before 15th March.
4. Tax to be computed at the prevailing rate in the financial year, on the current income of the assessee.

Due Dates for Payment of Advance Tax for the assessee covered u/s 44AD & 44ADA:

An eligible assessee, opting for computation of profits or gains of business or profession on presumptive basis in respect of eligible business/profession referred in section 44AD/ADA, shall be required to pay advance tax of the whole amount in one installment on or before 15th March of the financial year.

However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year on or before 15th March.

Credit for Advance Tax [Section 219]:

Any sum, other than interest or penalty, paid by or recovered from an assessee as advance tax, is treated as a payment of tax in respect of the income of the previous year and credit thereof shall be given in the regular assessment.

Interest for Non-payment or Short-payment of Advance tax [Section 234B]:

- a) Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.
- b) The interest liability would be 1% per month or part of the month from 1st April following the financial year upto the date of determination of income under section 143(1) and where a regular assessment is made, upto the date of such regular assessment.
- c) Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.
- d) Assessed tax is the tax calculated on total income less
 - tax deducted or collected at source.
 - any relief of tax allowed under section 89
 - any tax credit allowed to be set off in accordance with the provisions of section 115JD

Assessee has to pay advance tax even in respect of book profit taxed under Section 115JB. Otherwise it is liable for interest under Sections 234B and 234C.

Interest payable for deferment of Advance tax [Section 234C]:

A. In case of all assessee other than who is covered u/s 44AD/ADA:

Interest for deferment of advance-tax by corporate and non-corporate assesseees is calculated in the following manner-

In case an assessee, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in [column (1)] is less than the specified percentage of tax [given in column (2)] of tax due on returned income, then simple interest @ 1% p.m for the period specified in [column (4)] on the amount of shortfall, as per [column (3)] is leviable under section 234C.

Specified date (1)	Specified % (2)	Shortfall in advance tax (3)	Period (4)
15 th June	15%	15% tax due on returned income (-) advance tax paid upto 15 th June	3 months
15 th September	45%	45% tax due on returned income (-) advance tax paid upto 15 th September	3 months
15 th December	75%	75% tax due on returned income (-) advance tax paid upto 15 th December	3 months
15 th March	100%	100% tax due on returned income (-) advance tax paid upto 15 th March	1 month

Notes:

1. However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is not less than 12% or 36% of the tax due on the returned income, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.
2. However, no interest is leviable if the short fall in payment of advance-tax is on account of under estimation or failure to estimate the amount of-
 - Capital gains or
 - Casual Income
 - Income accrues or arises for the first time under the head PGBP
 - Deemed Dividend income u/s 2(22)(a)/(b)/(c)/(d)
 and the assessee has paid the tax on such income as part of the remaining installments of advance tax which are due or if no installment is due, by 31st March, of the Financial Year.
3. Tax due on returned income (assessed tax) means the tax calculated on total income declared in the return furnished by the assessee less-
 - tax deducted or collected at source.
 - any relief of tax allowed under section 89
 - any tax credit allowed to be set off in accordance with the provisions of section 115JD

B. In case of assessee who is covered under section 44AD & 44ADA:

In case of an assessee in respect of the business/profession referred to in section 44AD/ADA, who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

PROBLEMS:

- 1) The following payments are made during the year 2023-24. Suggest regarding the amount of tax to be deducted from such Payments:

Sl. No	Particulars	Section Applicable	% of TDS	TDS Amount
1)	Contract Payment made to Ramesh Rs.1,90,000			
2)	Rent paid on building to Resident Rs.2,30,000			
3)	Interest on debentures of Rs.16,000			
4)	Rent on building for resident Rs.2,60,000			
5)	Commission of Rs.35,000			
6)	Contract payment made to Mr.R in 5 equal installments of Rs.25,000 each			
7)	Director's fee Rs.25,000			
8)	Purchase of land from resident for Rs.70Lakh [SDV Rs.90Lakhs]			
9)	Contract payment made to A Ltd of Rs.92,000			
10)	Interest on 8% Savings bonds of Rs.8,000			
11)	Commission of Rs.35,00,000 paid by Z (not subject to tax audit u/s 44AB)			
12)	Interest on Loan of Rs.9,000 paid to bank			
13)	Prize amount of Rs.18,500 for winning in card game			
14)	Contract payment made to Mr.V a Resident of Rs.1,20,000			
15)	Rent paid on furniture to resident of Rs.2,90,000			
16)	Fees for technical services to resident of Rs.46,000			
17)	Professional fee Rs.1,70,000			
18)	Dividends to Resident Shareholder Rs.75,000			
19)	Insurance Commission of Rs.22,000 to A			
20)	Rent paid on machinery to Sachin Rs.3,40,000			

2) Check the applicability of TCS for the following transactions-

Sl. No	Particulars	Section Applicable	% of TCS	TCS Amount
1)	Sale of Alcoholic liquor for human consumption to Customer for Rs.9,000			
2)	Sale of Alcoholic liquor for human consumption from Manufacturer to Wholesaler for Rs.90,000			
3)	Sale of Timber to Furniture making company for Rs.5,00,000			
4)	Sale of Timber to dealer for Rs.3,00,000			
5)	Sale of Timber to Central government for Rs.8,00,000			
6)	Sale of Motor vehicle to Customer for Rs.15,00,000			
7)	Sale of Motor vehicle to Distributors or Showrooms for Rs.55,00,000			
8)	Grant of lease of Parking lot to AB Pvt Ltd. for Rs.10,00,000			
9)	Grant of lease of Parking lot to Public sector company. for Rs.17,00,000			
10)	Sale of overseas tour program package for Rs.8,50,000- ➤ on 10-06-23 ➤ on 25-12-23			
11)	Conversion of Indian Rs.12,00,000 into Dollar for remittance out of India. ➤ on 15-07-23 ➤ on 18-11-23			
12)	Conversion of Indian Rs.10,00,000 into Dollar for remittance out of India the loan obtained from any financial institution as defined in section 80E.			
13)	Sale of goods of Rs.70Lakh (buyer not covered under section 194Q) ➤ Seller Business turnover in the last year is less than 10 Crore ➤ Seller Business turnover in the last year is more than 10 Crore			
14)	Sale of goods of Rs.90Lakh to State Government (buyer not covered under section 194Q)			
15)	Sale of goods of Rs.40Lakh (buyer not covered under section 194Q)			
17)	Conversion of Indian Rs.15,00,000 into Dollar for the purpose of education or medical treatment outside India.			

- 3) Red Ltd. (an Indian company) has estimated its income for previous year 2023-24. Calculate advance tax payable by it from the following:
- a) Business Income: Rs.10,80,000;
 - b) Income from house property (after deduction under section 24): Rs.7,20,000;
 - c) Long term capital gain (LTCG) on transfer of immovable property on 1st November, 2023: Rs.3,60,000;
 - d) Interest on bank deposits (other than saving bank account): Rs.45,000.
 - e) TDS on business income and interest already deducted was Rs.60,000
 - f) Deduction under section 80G is Rs.1,00,000.

Solution:

Step 1: Computation of Estimated total income for the year:

Particulars	Amount
Profits and gains of Business or Profession	
Income from house property	
LTCG	
Income from other sources- Interest on bank deposits	
Gross Total Income (GTI)	
<u>Less:</u> Deductions under Section 80G	
Estimated Total Income	

Step 2: Computation of Estimated Tax Liability and Advance Tax Payable

Particulars	Amount	Amount
Tax on:		
LTCG @ 20%		
Balance Income @ 30%		
<u>Add:</u> Surcharge, if any		
<u>Add:</u> Health & Education Cess @ 4%		
Final Tax Liability		
<u>Less:</u> TDS		
Advance Tax Liability		
Advance Tax (rounded off)		

Step 3: Advance tax is payable as follows

Due Date for Payment	Cumulative % of Advance Tax	Cumulative Amount of Advance Tax	Instalment Amount
15.06.2023			
15.09.2023			
15.12.2023			
15.03.2024			

“Limitations live only in our minds. But if we use our imaginations, our possibilities become limitless.”

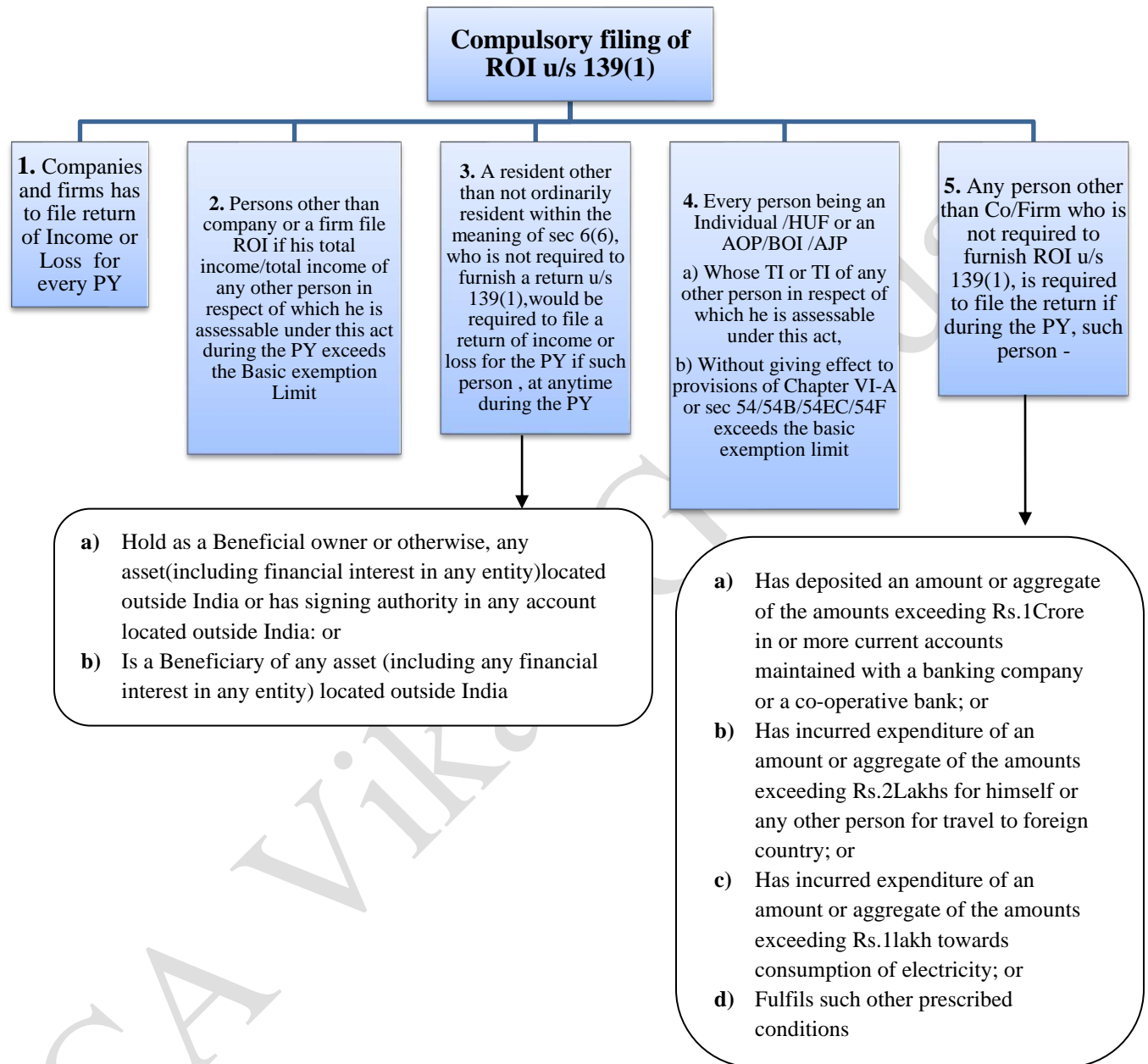
Join my Telegram Channel- <https://t.me/cavikasgowda>

CHAPTER-8**ASSESSMENT PROCEDURE (RETURNS)****RETURN OF INCOME:**

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assesseees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income. In short, a return of income is the declaration of income by the assessee in the prescribed format.

Section 139(1): The procedure under the Income-tax Act for making an assessment of income begins with the filing of a return of income. Section 139 of the Act contains the relevant provisions relating to the furnishing of a return of income.

COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]



Clause (iv) to seventh proviso of section 139(1) provides that a person (other than a company or a firm) who is not required to furnish a return u/s 139(1) has to furnish return on or before the due date if the person fulfills such other conditions as may be prescribed.

Accordingly, Rule 12AB has been inserted vide this notification to prescribe the following other conditions for furnishing return u/s 139(1).

Cases	Prescribed transaction(s)	Prescribed Monetary threshold
A person carrying on business	His total sales, turnover or gross receipts, as the case may be, in the business	> Rs.60 lakhs during the relevant P.Y.
A person carrying on profession	His total gross receipts in profession	> Rs.10 lakhs during the relevant P.Y.
(a) A Resident Individual who is aged ≥ 60 years at any time during the relevant P.Y	The aggregate of TDS and TCS in his case	\geq Rs.50,000 during the relevant P.Y.
(b) Any other person	The aggregate of TDS and TCS in his case	\geq Rs.25,000 during the relevant P.Y.
A person having savings bank account	The deposit in one or more savings bank account of the person, in aggregate	\geq Rs.50lakhs during the relevant P.Y.

Due Date for filing return of Income:

- a) 30th November of the assessment year for the assessee who is required to furnish transfer pricing report u/s 92E (i.e. assessee who have undertaken international transactions with associated enterprises).
- b) 31st October of the assessment year, in case the assessee is:
 - i. a company;
 - ii. a person (other than company) whose accounts are required to be audited u/s 44AB; or
 - iii. a working partner of a firm whose accounts are required to be audited.
- c) 31st July of the assessment year, in case of any other assessee.

E-filing of Return:

Filing of Income Tax Returns is a legal obligation of every person whose total income for the previous year exceeds the basic exemption limit provided under the Income Tax Act, 1961. The Income Tax Department has introduced online facility in addition to conventional method to file return of income. The process of electronic filing of Income Tax return through the mode of internet access is called e-filing of return. E-filing offers convenience to the tax payers. The only obligation for the user of this facility is to have a PAN number.

Option to Furnish Return of income to employer [Section 139(1A)]:

The employee may, at his option, furnish a return of his income for any previous year to his employer. The employer shall furnish all returns of income received by him on or before the due date, in such form and manner as may be specified in that scheme, and in such case, any employee who has filed a return of his income to his employer shall be deemed to have furnished a return of income under section 139(1) and the provisions of this Act shall apply accordingly.

Power of Central Government [Section 139(1C)]:

Section 139(1C) empowers the Central Government to exempt any class or classes of persons from the requirement of furnishing a return of income by issue notification in the Official Gazette.

Return of Loss [Section 139(3)]:

An assessee can carry forward or set-off the losses provided the assessee has filed his/its return under section 139(3), within the due date specified under section 139(1).

Section 80 requires mandatory filing of return of loss under section 139(3) on or before the due date specified under section 139(1) for carry forward of the following losses-

- a) Business loss under section 72(1)
- b) Speculation business loss under section 73(2)
- c) Loss from specified business under section 73A(2)
- d) Loss under the head "Capital Gains" under section 74(1)
- e) Loss from the activity of owning and maintaining race horses under section 74A(3)

Exceptions for above: Loss from house property and unabsorbed depreciation can be carried forward for set-off even though return has not been filed before the due date.

A return of loss has to be filed by the assessee in his own interest and the non-receipt of a notice from the Assessing Officer requiring him to file the return cannot be a valid excuse under any circumstances for the non-filing of such return.

Belated Return [Section 139(4)]:

Any person who has not furnished a return within the time allowed to him under section 139(1) may furnish the return for any previous year at any time -

- before three months prior to the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023-24); or
- before the completion of the assessment,
Whichever is earlier.

Hence, belated return cannot be filed after 31st December of the relevant assessment year.

Example: For the previous year 2023-24, Mr. X did not file the return of income on the due date.

Can Mr. X file the return of income after the due date?

Answer: Yes, as per section 139(4), Mr. X can file a belated return. Mr. X may file the return of income at any time on or before 31st of December, 2024.

Following are the consequences of delay in filing the return of income:

- a) Loss (other than house property loss/unabsorbed Depreciation) cannot be carried forward.
- b) Levy of interest for late filing under section 234A.
- c) Levy of late fee under section 234F.
- d) Exemptions under sections 10A, 10B, are not available.
- e) Deduction under Part-C of Chapter VI-A shall not be available.

Revised Return [Section 139(5)]:

If any person having furnished a return under section 139(1) or a belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time -

- before three months prior to the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023-24); or
- before completion of assessment, whichever is earlier.

Hence, revised return cannot be filed after 31st December of the relevant assessment year.

Notes:

- a) Even belated returns can be revised within the prescribed time limit as mentioned above.
- b) Once a revised return is filed, the original return filed earlier should be taken to have withdrawn and is substituted by the revised return.
- c) Revision of returns is allowed only if mistake was unintentional. The benefit of section 139(5) cannot be claimed by a person who has filed fraudulent returns.
- d) There is no restriction on the number of times a return can be revised and it can be revised any number of times provided it is within the prescribed time limits.

Particulars to be furnished with the return [Section 139(6)]:

The prescribed form of the return shall, in certain specified cases, require the assessee to furnish the particulars of –

- a) income exempt from tax;
- b) assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary;
- c) his bank account and credit card held by him;
- d) expenditure exceeding the prescribed limits incurred by him under prescribed heads; and
- e) such other outgoings as may be prescribed.

Particulars to be furnished with return of income in the case of an assessee engaged in Business or Profession [Section 139(6A)]:

The prescribed form of the return shall, in the case of an assessee engaged in any business or profession, also require him to furnish –

- a) the report of any audit referred to in section 44AB.
- b) the particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof.
- c) the names and addresses of his partners, if any, in such business or profession.
- d) if he is a member of an association or body of individuals,
 - the names of the other members of the association or the body of individuals; and
 - 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.

Option to File Updated Return of Income [Section 139(8A)]:

Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.

This is irrespective of whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year.

For example, an updated return for A.Y. 2024-25 can be filed till 31.3.2027.

The provisions of updated return would not apply, if the updated return of such person for that assessment year –

- is a loss return; or
- has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or
- results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5)

Circumstances in which updated return cannot be furnished: No updated return can be furnished by any person for the relevant assessment year, where –

- a) an updated return has been furnished by him under this sub-section for the relevant assessment year; or
- b) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case; or
- c) he is such person or belongs to such class of persons, as may be notified by the CBDT.

If any person has a loss in any previous year and has furnished a return of loss on or before the due date of filing return of income under section 139(1), he shall be allowed to furnish an updated return if such updated return is a return of income.

Example: If Mr. X has furnished his return of loss for A.Y. 2023-24 on 31.5.2023 consisting of Rs.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.

If the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under section 32(2) or tax credit carried forward under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year.

Defective Return [Section 139(9)]:

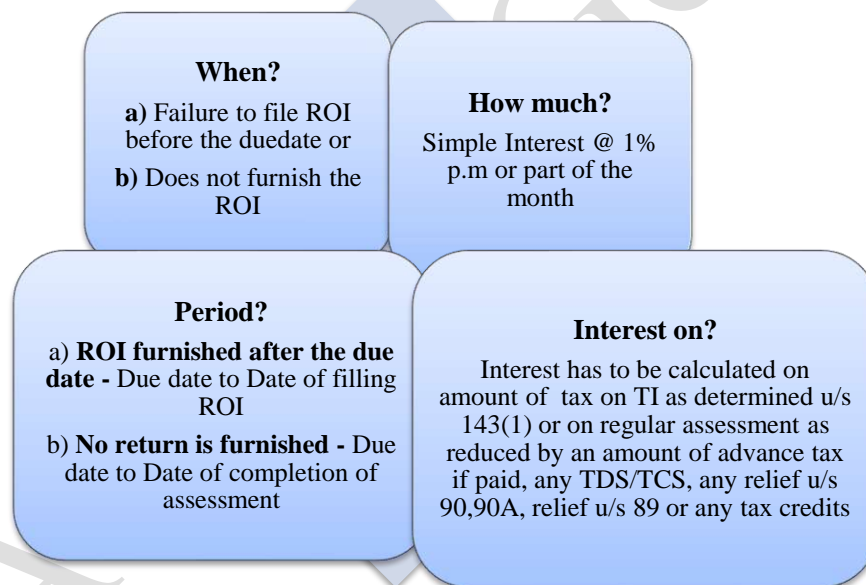
- a) Under this section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.
- b) Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the

defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.

- c) If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
- d) Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.

Interest for Default in Furnishing Return of Income [Section 234A]:

Interest under section 234A is attracted for failure to file a return of income on or before the due date under section 139(1) i.e., interest is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.



Fees for Delay in Furnishing Return of Income [Section 234F]:

Following are the provisions of this section-

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of Rs.5,000.

However, if the total income of the person does not exceed Rs.5 lakhs, the fees payable shall not exceed Rs.1,000.

PERMANENT ACCOUNT NUMBER [Section 139A]:

Every person, who has not been allotted any permanent account number, is obliged to obtain permanent account number, if;

Persons required to apply for PAN	Time limit for making such application
If his total income assessable during the previous year exceeds the maximum amount which is not chargeable to tax	On or before 31st May of the assessment year for which such income is assessable
Every person carrying on business or profession whose total sales or turnover or gross receipts are or is likely to exceed Rs.5,00,000 in any previous year.	Before the end of that financial year (previous year).
Every resident Person, other than an individual, which enters into a financial transaction of an amount aggregating to Rs.2,50,000 or more in a financial year.	On or before 31st May of the immediately following financial year
Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in above or any person competent to act on behalf of such person referred in above	On or before 31st May of the immediately following financial year in which the person referred enters into financial transaction specified therein.

Further, for widening the tax base, every person who has not been allotted a PAN and intends to enter into such transaction as prescribed by the CBDT is also required to apply to the Assessing Officer for allotment of PAN.

Accordingly, Rule 114BA has been inserted to prescribe the following transactions:

Persons required to apply for PAN	Time limit for making such application
Every person, who intends to deposit cash in his one or more accounts with a banking company, co-operative bank or post office, if the cash deposit or the aggregate amount of cash deposit in such accounts during a financial year is Rs.20 lakh or more	At least 7 days before the date on which he intends to deposit cash over the specified limit, i.e., Rs.20 lakh or more.
Every person, who intends to withdraw cash from his one or more accounts with a banking company, co-operative bank or post office, if the cash withdrawal or the aggregate amount of cash withdrawal from such accounts during a financial year is Rs.20 lakh or more	At least 7 days before the date on which he intends to withdraw cash over the specified limit, i.e., Rs.20 lakh or more.
Any person, who intends to open a current account or cash credit account with a banking company or a co-operative bank, or a post Office	At least 7 days before the date on which he intends to open such account.

Accordingly, Rule 114BB has been inserted to prescribe that every person has to, at the time of entering into a transaction specified above, quote his permanent account number or Aadhaar number, as the case may be, in documents pertaining to such transaction, and every person, who receives such document, has to ensure that the said number has been duly quoted and authenticated.

Note: Quoting of PAN or Aadhaar number is, however, not required in case where the person depositing money or withdrawing money or opening a current account or cash credit account is the Central Government, the State Government or the Consular Office.

Besides above cases, the Assessing Officer may also allot a permanent account number to any other person by whom tax is payable. Any other person may also apply for a permanent account number.

Permanent Account Number (PAN) is a ten-digit alphanumeric number, issued in the form of a laminated card, by the Income Tax Department. PAN enables the department to link all transactions of the “person” with the department. These transactions include tax payments, TDS/TCS credits, returns of income/wealth/gift/, specified transactions, correspondence, and so on. PAN, thus, acts as an identifier for the “person” with the tax department.

Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions:

- a) in all returns to, or correspondence with, any income-tax authority;
- b) in all challans for the payment of any sum due under the Act;
- c) in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue.

Now quoting PAN is compulsory in the following transactions:

1. Sale/purchase of any immovable property valued at Rs. 10 lakhs or more, valued by the stamp valuation authority under section 50C at an amount exceeding Rs. 10 lakhs.
2. Sale/Purchase of Motor vehicle or a vehicle (excluding two wheeled vehicle, inclusive of any detachable side-car having an extra wheel) which requires registration under Motor Vehicles Act, 1988.
3. Time deposit exceeding Rs. 50,000 with a Bank/Banking Company/Banking Institution.
4. Deposit exceeding Rs. 50,000 in Post Office Savings Bank.
5. Contract for sale/purchase of securities exceeding Rs. 1 lakh.
6. Opening an account [not being time deposit mentioned in (c)] with a Banking Company or a co-operative bank to which the Banking Regulation Act, 1949 applies.
7. Opening of a demat account with a depository, participant, custodian of securities or any other person registered under section 12(1A) of the SEBI Act, 1992.
8. Application for installation of a telephone connection including mobile phone.
9. Payments to hotels of bills exceeding Rs. 50,000 at any one time.
10. Payment in cash for purchase of bank drafts or pay orders or banker’s cheque for an amount of Rs. 50,000 or more during any one day from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies.
11. Deposit in cash aggregating Rs. 50,000 during any one day with a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies.
12. Payment in cash in connection with travel to any foreign country of an amount exceeding Rs. 50,000 at any one time.
13. Making an application to any banking company or a co-operative bank or to any other company or institution for issue of a credit or debit card.
14. Payment of an amount of Rs. 50,000 or more to a Mutual Fund for purchase of its units.

15. Payment of Rs. 50,000 or more to a company for acquiring shares or debentures or bonds issued by it.
16. Payment of Rs. 50,000 or more to RBI for acquiring bonds issued by it.
17. Payment of an amount of Rs. 50,000 or more as life insurance premium to an insurer.
18. Payment to a dealer of an amount of Rs. 5 lakh or more at any one time, or against a bill for an amount of Rs. 5 lakh or more for purchase of bullion or jewellery.
19. Sale or purchase, by any person of goods or services of any nature other than those specified above - Amount exceeding two lakh rupees, per transaction.

Minor to quote PAN of parent or guardian:

Where a person, entering into any transaction referred to in this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction.

Intimation of PAN to person deducting or collecting tax at source:

Every person who receives any amount from which tax has been deducted at source shall intimate his PAN to the person responsible for deducting such tax.

Similarly, every buyer or licensee or lessee referred to in section 206C shall intimate his PAN to the person responsible for collecting such tax.

Inter-changeability of PAN with the Aadhaar number:

Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN, if he-

- has not been allotted a PAN but possesses the Aadhaar number
- has been allotted a PAN and has intimated his Aadhaar number to prescribed authority in accordance with the requirement contained in section 139AA(2).

PAN would be allotted in prescribed manner to a person who has not been allotted a PAN but possesses Aadhaar number.

Accordingly, the CBDT has, vide Notification, provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN, shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents.

Penalty for not complying with provisions relating to PAN or Aadhaar:

Penalty of Rs.10,000 is imposable u/s 272B for failure to comply with the provisions of section 139A, i.e. failure to obtain, quote, or authenticate PAN or holding of more than one PAN. Precisely as under:

- a) If assessee fails to quote or intimate his PAN or Aadhaar or quotes or intimates invalid PAN or Aadhaar.

- b) If assessee fails to quote or authenticate his PAN or Aadhaar in specified transactions.

Note: It is necessary to give an opportunity to be heard to the person on whom the penalty under section 272B is proposed to be imposed.

QUOTING OF AADHAAR NUMBER [Section 139AA]:

Every person who is eligible to obtain Aadhaar number shall quote Aadhaar number mandatorily:

- a) In the application for the allotment of PAN
- b) In the Income tax return

As per section 139AA(1)(ii), with effect from 01.07.2017, every person who is eligible to obtain Aadhaar number has to quote Aadhaar number in the return of income.

Every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to prescribed authority on or before 31st March, 2022.

It is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted.

Note: Where the person does not possess the Aadhaar number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for PAN or in the return of income.

Provision not to apply to certain persons or class of persons:

The provisions of section 139AA relating to quoting of Aadhaar Number would, however, not apply to such person or class or classes of persons or any State or part of any State as may be notified by the Central Government.

Accordingly, the Central Government has notified that the provisions of section 139AA relating to quoting of Aadhaar Number would not apply to an Individual who does not possess the Aadhaar number or Enrolment ID and is:

- a) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- b) a non-resident as per Income-tax Act, 1961;
- c) of the age of 80 years or more at any time during the previous year;
- d) not a citizen of India.

Fee for default relating to intimation of Aadhaar number [Section 234H]:

Where a person, who is required to intimate his Aadhaar Number under section 139AA(2), fails to do so on or before the notified date i.e., 31.3.2022, he shall be liable to pay such fee, as may be prescribed, at the time of making intimation under section 139AA(2) after 31.3.2022.

However, such fee shall not exceed Rs.1,000.

As per the proviso to section 139AA(2), in case of failure to intimate the Aadhar Number, PAN would be made inoperative after the date so notified i.e., 31.3.2022 in such manner as may be prescribed.

Rule 114AAA specifies the manner of making PAN inoperative:

(1) Date from which PAN becomes inoperative:

Where a person, who has been allotted PAN as on the 1.7.2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same on or before the 31.3.2022, the PAN of such person shall become inoperative, and he shall be liable for payment of fee specified under section 234H read with Rule 114(5A).

(2) When and how inoperative PAN can become operative:

Where the person has intimated his Aadhaar number after 31.3.2022, after payment of fee specified under section 234H read with Rule 114(5A), his PAN would become operative within 30 days from the date of intimation of Aadhaar number.

(3) Further consequences of failure to intimate Aadhar Number:

A person, whose PAN has become inoperative, shall be liable for further consequences, namely-

- Refund of any amount of tax or part thereof, due under the provisions of the Act shall not be made;
- Interest shall not be payable on such refund for the period, beginning with the date specified and ending with the date on which it becomes operative;
- Where tax is deductible in case of such person, such tax shall be deducted at higher rate, in accordance with provisions of section 206AA;
- Where tax is collectible at source in case of such person, such tax shall be collected at higher rate, in accordance with provisions of section 206CC.

(4) Date from which consequences specified in Rule 114AAA would become effective [Circular No. 3/2023 dated 28.03.2022]:

Rule 114AAA(4) provides that the provisions of sub-rule (3) shall have effect from the date specified by the Board.

Accordingly, the CBDT has, vide this Circular specified that the consequences specified above will be effective from 1.7.2023 and would continue till the PAN becomes operative by intimating Aadhaar number.

A fee of Rs. 1,000 will continue to apply to make the PAN operative by intimating the Aadhaar number.

However, these consequences of PAN becoming inoperative shall not be applicable to those persons who have been provided exemption from intimating Aadhaar number.

Persons authorized to verify the return of income [Section 140]:

This section specifies the persons who are authorized to verify the return of income-

Sl No.	Assessee	Circumstance	Authorized Persons
1	Individual	Where Individual is absent from India	The Individual himself or any person duly authorized by him in this behalf holding a valid power of attorney from the individual (such POA should be attached to return of income).
		Where Individual is mentally incapacitated from attending his affairs.	His guardian or any other person competent to act on his behalf.
		Where for any other reason, it is not possible for the individual to verify the return.	Any person duly authorized by him in this behalf holding a valid power of attorney from the individual (such POA should be attached to return of income).
		In circumstances not covered above	Individual himself
2	Hindu Undivided Family	Where Karta is absent from India	Any other adult member of HUF
		Where Karta is mentally incapacitated from attending his affairs.	
		In circumstances not covered above	Karta himself
3	Company	Where from any unavoidable reason Managing Director is not able to verify the return	Any director of the company or Any other person as may be prescribed for this purpose.
		Where there is no Managing Director	
		Where the company is not resident in India	A person who holds a valid power of attorney from such Company to do so (such POA should be attached to return of income)
		Where the company being wound up (whether under the orders of a court or otherwise) or Where any person has been appointed as the receiver of any assets of the company	Liquidator
		Where the management of the company has been taken over by the Central government or any state government under any law	The Principal Officer of the company
		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
		In circumstances not covered above	Managing director of the company

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4	Firm	Where for any unavoidable reason Managing Partner is not able to verify the return or Where there is no Managing Partner.	Any Partner of the firm, not being a minor.
		In circumstances not covered above	The Managing partner of the firm
5	LLP	Where for any unavoidable reason such designated partner is not able to verify the return; or where there is no designated partner.	Any partner of the LLP or any other person as may be prescribed for this purpose
		In circumstances not covered above	Designated partner
6	Local Authority	-	The principal officer
7	Political Party	-	The Chief Executive 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.

SELF-ASSESSMENT TAX (SAT) [Section 140A]:

Self-assessment tax means tax paid by the assessee on the basis of self-assessment before filing of return of Income. Self-Assessment is simply a process where a person himself assesses his tax liability on the income earned during the particular previous year and submits Income Tax Return to the department.

Every person, before furnishing return under sections 139(return of income), 142(1), 148 (issue of notice where income has escaped assessment) and 153A (Assessment in case of search or requisition) shall make self-assessment of his income and pay the tax, if due on the basis of such assessment. The total tax payable is calculated on the total income of the assessee after considering the following amount:

- a) the amount of tax already paid under any provision of this Act;
- b) any tax deducted or collected at source;
- c) any relief of tax claimed under section 89; and
- d) any tax credit claimed to be set off in accordance with the provisions of section 115JD.

In case of delay in furnishing return of income, self-assessment tax shall also include interest for delay under section 234A and fee for delay under section 234F.

Such determined value of tax along with the interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax is paid before furnishing the return and the proof of payment of such tax is attached with the return. Such amount paid before furnishing of return is known as Self-Assessment Tax.

Order of adjustment of amount paid by the assessee:

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.

Consequence of failure to pay tax, interest or fee:

If any assessee fails to pay the whole or any part of such of tax or interest or fee, he shall be deemed to be an assessee in default in respect of such tax or interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

TAX ON UPDATED RETURN [Section 140B]:

(1) Payment of tax, additional tax, interest and fee before furnishing updated return of income:

In a case where no return is furnished earlier [Section 140B(1)]:

Where no return of income under section 139(1) or 139(4) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest and fee payable for delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3), before furnishing the return.

(2) In a case where return is furnished earlier [Section 140B(2)]:

Tax to be paid along with interest before furnishing updated return:

Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest payable for default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3) (as reduced by the amount of interest paid under the provisions of this Act in the earlier return) before furnishing the return.

Note: The updated return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

(3) Additional income-tax payable at the time of updated return [Section 140B(3)]:

The additional income-tax payable at the time of furnishing the updated return under section 139(8A) would be –

S.No.	Time of furnishing updated return	Additional Income- tax Payable
i	If such return is furnished after expiry of the time available under section 139(4) or 139(5) of the assessment year and before completion of the period of 12 months from the end of the relevant assessment year;	25% of aggregate of tax and interest payable, as determined in (1) above
ii	If such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.	50% of aggregate of tax and interest payable, as determined in (1) above

For the purpose of computation of Additional income-tax”-

- tax would include surcharge and cess, by whatever name called, on such tax.
- the interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished under section 139(8A), as reduced by interest paid in the earlier return, if any.

Note: An updated return furnished under section 139(8A) would be regarded as defective return as referred u/s 139(9) unless such return of income is accompanied by the proof of payment of tax as required under section 140B.

PROBLEMS:

- 1) Explain with brief reasons whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:
 - a) Belated return filed under section 139(4).
 - b) Return already revised once under section 139(5).
 - c) Return of loss filed under section 139(3).

Solution:

As per section 139(5), any person who has furnished a return under section 139(1) or 139(4) can file a revised return at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier, if he discovers any omission or any wrong statement in the return filed earlier.

Accordingly,

- a) A belated return filed under section 139(4) can be revised.
- b) A return revised earlier can be revised again as the first revised return replaces the original return.

Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

It implies that a return of income can be revised more than once within the prescribed time.

- c) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

- 2) Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:
 - a) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.
 - b) Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.

Solution:

- a) **True:** Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.

- b) **False:** Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

- 3) Explain the term "return of loss" under the Income-tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?

Solution:

A return of loss is a return which shows certain losses.

Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- Business loss to be carried forward under section 72(1),
- Speculation business loss to be carried forward under section 73(2),
- Loss from specified business to be carried forward under section 73A(2), in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC.
- Loss under the head "Capital Gains" to be carried forward under section 74(1); and
- Loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3)

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation under section 32 can be carried forward even if return of loss has not been filed as required under section 139(3).

“The Expert in anything was once a beginner”

CHAPTER-9

COMPUTATION OF TOTAL INCOME AND TAX LIABILITY

Steps for Computation of Total Income & Tax Liability:

- 1) Determination of residential status
- 2) Classification of income under different heads
- 3) Computation of income under each head
- 4) Clubbing of income of spouse, minor child etc.
- 5) Set off or carry forward & set off of losses
- 6) Computation of Gross Total Income (GTI)
- 7) Deductions from Gross Total Income (GTI)
- 8) Computation of Total Income (TI)
- 9) Computation of Tax Liability

The total income of an individual is arrived at after making deductions under Chapter VI-A from the Gross Total Income.

As we have learnt earlier, Gross Total Income is the aggregate of the income computed under the 5 heads of income, after giving effect to the provisions for clubbing of income and set-off and carry forward & set-off of losses.

Format for Computation of Total Income:

Particulars	Amount
Income from Salary	XXXX
Income from House Property	XXXX
Profits & Gains of Business or Profession	XXXX
Capital Gains	XXXX
Income from Other Sources	XXXX
	XXXX
Adjustment in respect of:	
Add: Clubbing of Income	XXXX
Less: Set off and carry forward of losses	(XXXX)
Gross Total Income	XXXX
Less: Deductions Under Chapter VIA	(XXXX)
Taxable/ Total Income	XXXX

Problems on Total Income & Tax Liability:

- 1) Ms. Vaishali, employed in a private sector company, furnishes following information for the year ended 31.03.2024.

Particulars	Rs.
Income from salary (Computed)	3,45,000
Bank Interest (Fixed Deposit)	15,000
Tax on non-monetary perquisite paid by employer	20,000
Amount contributed by her during the year are given below:	
Contribution to recognized provident fund	60,000
Health insurance premium-on self (paid by crossed cheque)	7,000
Medical expenditure for dependent sister with disability	20,000

Compute the total taxable income & tax liability of Ms. Vaishali for the A.Y 2024-25 assuming that she exercises the option of shifting out of the default tax regime under section 115BAC.

- 2) Shri Madan (age 61 years) gifted a building owned by him to his son's wife Smt. Hema on 01.10.2023. The building fetched a rental income of Rs.10,000 per month throughout the year. Municipal tax for the first half-year of Rs.5000 was paid in June 2023 and the municipal tax for the second half-year was not paid till 31.10.2024.

Incomes of Shri Madan and Smt. Hema other than income from house property are given below:

Name	Business Income (Rs.)	Capital gain (Rs.)	Other sources (Rs.)
Shri Madan	1,00,000	50,000 (long term)	1,50,000
Smt. Hema	(75,000)	2,00,000 (short term)	50,000

Note: Capital gain does not relate to gain from shares and securities.

Compute the total income of Shri Madan and Smt. Hema taking into account income from property and also compute their income-tax liability for the assessment year 2024-25 assuming that they opt out of the default tax regime under section 115BAC.

- 3) State under which heads the following incomes are taxable:
- a) Rental income in case of dealer in property
 - b) Dividend on shares in case of a dealer in shares
 - c) Salary received by a partner from his partnership firm
 - d) Rental income of machinery
 - e) Winnings from lotteries by a person having the same as business activity
 - f) Salaries payable to a Member of Parliament.
 - g) Receipts without consideration
 - h) In case of retirement, interest on employee's contribution if provident fund is Unrecognized.

- 4) Determine the total income of Mr. Chand from the following information for the A.Y 2024-25 assuming he opt out of the default tax regime under section 115BAC:

Particulars	Rs.
Interest received on enhanced compensation (It relates to land in the financial year 2018-19. Out of the above, Rs.65,000 for financial year 2023-24 and the balance relate to preceding years)	4,00,000
Business loss relating to discontinued business of the assessment 2017-18 brought forward and eligible for set off	1,50,000
Current year business income (i.e financial year 2023-24; computed)	1,10,000

- 5) Dr. Gurumoorthy, a resident individual at Madurai, aged 50 years is running a clinic. His Income and Expenditure account for the year ending March 31st 2024 is under:

Expenditure	Amount	Income	Amount
To Medicine consumed	8,40,000	By Consultation and Medical Charges	21,00,000
To Staff salary	4,25,000	By Income-tax refund (including interest of Rs.1,500)	16,500
To Clinical Consumables	1,55,000	By Dividend from Indian companies	27,000
To Rent paid	1,20,000	By Winnings from lottery (Net of TDS)	35,000
To Administrative expenses	3,00,000	By Rent	54,000
To Donation to IIT Delhi for Research approved under section 35(2AA)	1,00,000		
To Net profit	2,92,500		
	22,32,500		22,32,500

- a) Rent paid includes Rs.36,000 paid by cheque towards rent for his residence.
- b) Clinic equipment's are:
 01.04.2023 Opening WDV Rs.4,50,000
 07.02.2024 acquired (cost) Rs.1,00,000
- c) Rent received relates to property let out at Madurai. Gross annual value Rs.54,000. The municipal tax of Rs.9,000, paid in January 2024 has been included in 'administrative expenses'.
- d) Dr. Gurumoorthy availed a loan of Rs.5,50,000 from a bank for higher education of his daughter. He repaid principal of Rs.50,000 and interest thereon Rs.65,000 during the year 2023-24.
- e) He paid Rs.60,000 as tuition fee to the university for full time education of his son.
- From the above, compute the total taxable income of Dr. Gurumoorthy for the A.Y 2024-25.

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- 6) Mr. Vidyasagar, a resident individual aged 64, is a partner in Oscar Musicals & Co., a partnership firm. He also runs a wholesale business in medical products. The following details are made available for the year ended 31.03.2024:

SL No	Particulars	Amount	Amount
1)	Interest on capital received from Oscar Musicals & Co @ 15%		1,50,000
2)	Interest from bank on fixed deposits (Net of TDS Rs.1,500)		13,500
3)	Income tax refund received relating to assessment year 2020-21 including interest of Rs.2,300		34,500
4)	Net Profit from wholesale business		5,60,000
	Amount debited include the following:		
	Depreciation as per books	34,000	
	Motor Car Expenses	40,000	
	Municipal taxes for the shop (for two half years; payment for one-half year made on 12-6-2023 and for the other on 14-11-2025)	7,000	
	Salary to manager by way of single cash payment	21,000	
5)	The WDV of the assets (as on 1-4-2024) used in the above wholesale business is as under: Computers Motor Car (20% used for personal use)	1,20,000 3,20,000	
6)	Life Insurance Premium paid for major son	60,000	
7)	Public Provident Fund of his wife	70,000	

Compute the total income of the assessee for the assessment year 2024-25 assuming he opt out of the default tax regime under section 115BAC. The computation should show the proper heads of income & also his tax liability.

- 7) Calculate the income-tax liability for the assessment year 2024-25 in the following cases:

Assessee	Mr.A (age 45)	Mr.B (age 42)	Mr.C (age 81)	Mr.D (age 82)
Residential Status	Resident	Non-Resident	Resident	Non-Resident
Total income other than long-term capital gain	2,40,000	2,80,000	5,90,000	4,80,000
Long-term capital gain	15,000 from sale of vacant site	10,000 from sale of listed shares (STT Paid)	60,000 from sale of agricultural land in rural area	Nil

- 8) Balamurugan furnishes the following information for the year ended 31-03-2024:

Particulars	Rs.
Income from business	(1,35,000)
Income from House property	(15,000)
Lottery winning (Gross)	500,000
Speculation business income	100,000
Income by way of salary	60,000
Long term capital gain	70,000

Compute his total income, tax liability and advance tax obligations under default tax regime.

- 9) Gross total income of Mr. X, a tax consultant based at Mumbai, is Rs.18,00,000 (income from profession Rs.17,00,000 and interest on bank deposit Rs.1,00,000). He pays Rs.3,00,000 as house rent. He deposits Rs.50,000 in public provident fund.

Compute his taxable income for the assessment year 2024-25-

- A. Option 1:** Regular provisions of the Act (Optional Scheme)
B. Option 2: Default tax regime as per Section 115BAC

- 10) Mr. A, aged 32 years, is employed with XYZ (P) Ltd. on a basic salary of Rs.50,000 p.m. He has received transport allowance of Rs.15,000 p.m. and house rent allowance of Rs.20,000 p.m. from the company for the P.Y. 2023-24. He has paid rent of Rs.25,000 p.m. for an accommodation in Delhi. Mr. A has paid interest of Rs.2,10,000 for housing loan taken for the construction of his house in Mumbai. The construction of the house is completed in March, 2024 and his parents live in that house.

Other Information:

- Contribution to PPF - Rs.1,50,000
- Contribution to pension scheme referred to in section 80CCD - Rs.50,000
- Payment of medical insurance premium for father, who is of the age of 65 - Rs.55,000
- Payment of medical insurance premium for self and spouse - Rs.32,000

Compute the total income and tax liability of Mr. A for the A.Y. 2024-25 in the most beneficial manner.

- 11) Mr. Kadam is entitled to a salary of Rs.40,000 per month. He is given an option by his employer either to take house rent allowance or a rent free accommodation which is owned by the company. The HRA amount payable was Rs.7,000 per month. The rent for the hired accommodation was Rs.6,000 per month at New Delhi.

Advice Mr. Kadam whether it would be beneficial for him to avail HRA or Rent Free Accommodation. Give your advice on the basis of "Net Take Home Cash benefits".

Assume Mr. Kadam exercises the option to shift out of the default tax regime under section 115BAC.

CHAPTER-10**ALTERNATE MINIMUM TAX (AMT)****ALTERNATE MINIMUM TAX (AMT) [Section 115JC]:**

Where the regular income tax payable for a previous year by a person other than a company is less than the alternate minimum tax payable for such previous year, then the adjusted total income shall be deemed to be the total income of that person for such previous year and it shall be liable to pay income tax on such adjusted total income @ 18.5%.

The provisions regarding AMT has been broadened to cover all persons other than a company, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading C (deductions in respect of certain incomes) or under Section 10AA or under Section 35AD, shall be liable to pay AMT.

Alternate Minimum Tax can be understood from the following points-

- a) The provisions of Section 115JC dealing with alternate minimum tax shall apply in respect of all assessee's other than a Company.
- b) Where the regular income tax payable under the normal provisions is less than the alternate minimum tax for the previous year, then the adjusted total income shall be deemed to be the total income of that person for such previous year and pay income tax on such total income at the rate 18.5%.
- c) Therefore for every assessment year two parallel computations are required to be made. The first being computation of total income as per the normal provisions and other being computation of adjusted total income as per section 115JC.
- d) Alternate minimum tax represents the amount of tax on adjusted total income at 18.5%. Surcharge shall be applied where adjusted total income exceeds Rs.50Lakhs/1crore/10crore as the case may be. Also health & education cess at 4% shall be levied in all cases.

Applicability of Alternate Minimum Tax:**The provisions of alternate minimum tax shall apply to any person who has claimed deduction-**

- a) Under Section 80IA, 80IB, 80IAB, 80IC, 80ID, 80IE, 80JJA, 80JJAA, 80LA, 80M, 80QQB and 80RRB specified under Part C of Chapter VI-A -Income based deductions (except section 80P).
- b) Under Section 35AD- Capital expenditure of Specified business.
- c) Under Section 10AA- Profits of SEZ units.

It is further provided that the provisions of AMT shall not apply to an Individual or a Hindu undivided family or an Association of persons or a Body of individuals (whether incorporated or not) or an Artificial juridical person if the adjusted total income of such person does not exceed 20 lakh rupees.

Format for Computation of tax under Section 115JC:

	Particulars	Amount
	<u>Step-1:</u>	
	Compute the total income as per the normal provisions of the act	XXXX
	Compute the tax at the rate applicable to the Assessee	XXXX
Add:	Surcharge as applicable	XXXX
Add:	Health & Education Cess @ 4%	XXXX
	Tax Payable under normal provisions (A)	XXXX
	<u>Step-2:</u>	
	Total Income as per normal provisions	XXXX
Add:	<u>Adjustments of Section 115JC:</u>	
	a) Deduction claimed under Part C of Chapter VI-A (Except Section 80P)	XXXX
	b) Deduction under section 10AA	XXXX
	c) Deduction under section 35AD, as reduced by the depreciation allowable under section 32, as if no deduction under section 35AD was allowed in respect of the asset for which such deduction is claimed	XXXX
	Adjusted Total Income	XXXX
	Compute the tax at the rate of 18.5% on adjusted total income	XXXX
Add:	Surcharge if adjusted total income exceeds the specified limits	XXXX
Add:	Health & Education Cess @ 4%	XXXX
	Alternate Minimum Tax payable (B)	XXXX
	<u>Step-3:</u>	
	Higher of A or B shall be tax payable under section 115JC	XXXX
	Tax Credit under Section 115JD (B-A)	XXXX

Tax Credit for Alternate Minimum Tax [Section 115JD]:

- a) Where any amount of alternate minimum tax paid in excess of the tax payable under the normal provisions of that previous year, such excess shall be treated as credit available to the assessee.

$$\text{Tax Credit} = \text{Alternate Minimum Tax Paid} - \text{Tax Payable under the normal provisions}$$

- b) The amount of such credit shall be carried forward to the subsequent years and be set-off against excess tax payable under the normal provisions over the tax on adjusted total income.

$$\text{Tax Credit to be set-off} = \text{Regular Income tax payable} - \text{Alternate Minimum Tax}$$

- c) Such credit can be carried forward and set-off within a period of 15 assessment years immediately succeeding the assessment year in which tax credit is determined.
- d) The final tax to be paid after set-off should not be less than alternate minimum tax.

- e) Assessee is not entitled to any interest on the tax credit allowed under this section.

Notes:

1. Every person to which this section applies shall obtain a report, before the specified date referred to in section 44AB, from an accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report by that date.
2. All other provisions of the act, like advance tax, interest u/s 234A/B/C shall apply to assessee who is liable to pay AMT.
3. Provisions of AMT shall not apply to a person who who is paying tax under the default tax regime as per section 115BAC or section 115BAD/115BAE.
A person who is paying tax under the default tax regime under section 115BAC would not be eligible to claim AMT credit.

Income based Deductions which are required for computation of Adjusted Total Income:

- 1) **Section 80-IA:** Deduction in respect of profits and gains from industrial undertakings or enterprise engaged in infrastructure development.
- 2) **Section 80-IAB:** Deduction in respect of profit and gains by an undertaking or an enterprise engaged in development of Special Economic Zone.
- 3) **Section 80-IB:** Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.
- 4) **Section 80-IC:** Special provisions in respect of certain undertakings or enterprises in certain special category States.
- 1) **Section 80-JJA:** Deduction in respect of profits and gains from the business of collecting and processing bio-degradable waste – Available to all assessee's carrying on the business of collecting and processing bio-degradable waste for the first 5 years.
- 2) **Section 80-JJAA:** Deduction of 30% of additional employee cost in respect of employment of new employees for 3 years.
- 5) **Section 80LA:** Deduction in respect of certain incomes of Offshore Banking Units.
- 6) **Section 80M:** Deduction in respect of certain inter-corporate dividends.
- 7) **Section 80P:** Deduction in respect of income of co-operative societies.
- 8) **Section 80QQB:** Deduction in respect of royalty income, etc., of authors of certain books other than text books – Available to resident individual, for a maximum deduction of Rs.3,00,000.
- 9) **Section 80RRB:** Deduction in respect of royalty on patents – Available to Resident Individual, maximum of Rs.3,00,000.

PROBLEMS:

- 1) Sachin, an LLP computed his total taxable income at Rs.16 Lakhs after availing deduction u/s 10AA of Rs.130Lakhs. You are required to advice LLP for the tax payable for the A.Y 2024-25.
- 2) In case of AB & Associates, a proprietary concern, compute the tax credit available u/s 115JD at the end of following years-

A.Y	Tax on Total Income	Tax on Adjusted Total Income
2023-24	7,50,000	9,50,000
2024-25	8,20,000	6,80,000

“Aim for success, not perfection. Never give up your right to be wrong, because then you will lose the ability to learn new things and move forward with your life. Remember that fear always lurks behind perfectionism.”



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TDS Chart:

Section	Description	Threshold Limit	Payer	Type of Payee	Rate of TDS	Time of deduction	Payments / Income exempted from TDS
192	Salary	Basic exemption limit (Rs.2.5/Rs.3 Lakh, as the case may be)	Any person responsible for paying income under the head "Salaries" [Employer]	Employee (R or NR)	Average rate of income-tax computed on the basis of the rates in force.	At the time of payment	Allowances, to the extent exempt under section 10, and exempt perquisites would be excluded.
192A	Premature Withdrawal from EPF	Aggregate Payment exceeds Rs.50,000		Individual	10%	At the time of payment	If employee has rendered 5years of continuous service
193	Interest on Securities	> Rs.10,000 for 8% Savings (Taxable) Bonds, 2003/7.75% Savings (Taxable) Bonds,2018 > Rs.5,000 for Interest on Debentures issued by a company in which the public are substantially interested, paid or credited to a resident Individual or HUF by an a/c payee cheque. No threshold in any other case.	Any person	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.	No TDS if interest is paid - ➤ To LIC, GIC, other insurance company. ➤ On PFCL & IRFCL bonds ➤ On Government Securities ➤ DMAT Securities
194	Dividend	> Rs.5,000 for Individual Shareholder. No threshold in any other case.	The Principal Officer of a domestic Company	Any Resident Shareholder	10%	At the time of credit of such income to the account of the payee or at the time of payment, WIE	Dividend credited or paid to LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them.

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194A	Interest other than interest on securities	<p>Payment exceeding Rs.40,000 in a financial year, in case of interest paid by –</p> <p>(i) a banking company;</p> <p>(ii) a co-operative society engaged in banking business; and</p> <p>(iii) Deposits with post office under a notified scheme.</p> <p>In all the above cases, if payee is a resident senior citizen, tax deduction limit is >Rs.50,000</p> <p>>Rs.5000 in a F.Y in all other cases</p>	Any person, other than an Individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.	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.	<p>1) Interest credited or paid to:</p> <ul style="list-style-type: none"> - any banking company, or a cooperative society engaged in the business of banking - any financial corporation established by or under a Central, State or Provincial Act. - the Life Insurance Corporation of India. - the Unit Trust of India; - any company and cooperative society carrying on the business of insurance. - notified institution, association, body or class of institutions, associations or bodies. <p>2) Interest credited or paid by a firm to a partner.</p> <p>3) Interest credited or paid by a co-operative society to its member or to any other co-operative society.</p>
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Income Tax

194B	Winnings from any lottery, crossword puzzle or card game or other game of any sort. (other than winnings from any online game)	Payment of an amount exceeding Rs.10,000	Any Person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment	-
194BA	Winnings from online games	<i>On the net winnings in a person's user account</i>	<i>Any Person responsible for paying income by way of such winnings</i>	<i>Any Person</i>	30%	<i>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.</i>	
194BB	Winnings from horse race	Payment of an amount exceeding Rs.10,000	Book Maker or a person holding license for horse racing, wagering or betting in any race course.	Any Person	30%	At the time of payment	-

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194C	Payments to Contractors	Single sum credited or paid exceeding Rs.30,000 OR The aggregate of sums credited or paid during the financial year exceeding Rs.1,00,000.	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.	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.	Any sum credited or paid to a contractor in transport business, who owns ten or less goods carriages at any time during the previous year if the contractor furnishes a declaration to that effect along with his PAN to the person paying or crediting such sum. Any sum credited or paid by an Individual or HUF exclusively for personal purposes of such Individual or HUF (for personal contract).
194D	Insurance Commission	Amount exceeding Rs.15,000 in a financial year.	Any person	Any Resident [Insurance Agent]	10% for Domestic Company. 5% for all other payee.	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	Aggregate amount of payment in a financial year is Rs.1,00,000 or more	Insurance Company	Any Resident [Insured]	5%	At the time of payment	Sums which are exempt under section 10(10D).

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194G	Commission on sale of lottery tickets	Payment exceeding Rs.15,000 in a financial year.		Any resident	5%	At the time of Credit of such income to the account of the payee or at the time of payment, WIE.	
194H	Commission or brokerage	Payment exceeding Rs.15,000 in a financial year.	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.	Any resident	5%	At the time of Credit of such income to the account of the payee or at the time of payment, WIE.	Commission or brokerage payable by BSNL or MTNL to their PCO franchisees.
194-I	Rent	Payment exceeding Rs.2,40,000 in a financial year.	Any person, other than an individual or HUF not liable to tax audit u/s 44AB in the immediately preceding financial year.	Any resident	For P & M or equipment-2%. For land, building, furniture or fixtures-10%	At the time of Credit of such income to the account of the payee or at the time of payment, WIE.	-
194-IA	Payment on transfer of immovable property other than agricultural land	Payment \geq Rs.50 lakh (Consideration for transfer or SDV, WIH)	Any person, being a transferee. (Buyer)	Resident Transferor (Seller)	1% of actual consideration or SDV, WIH	At the time of credit of such sum to the account of the transferor or at the time of payment, WIE.	Payment for transfer of agricultural Land.
194-IB	Payment of Rent by certain Individuals/ HUF	Rent in excess of Rs.50,000 per month or part of month.	Individual/HUF, whose accounts are not liable to audit u/s 44AB in preceding financial year	Any Resident	5%	TDS is to be deducted only at the time of credit of rent (for the last month of the	When the individual or HUF is covered u/s 194I.

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						previous year or last month of tenancy if the property is vacated during the year) to the account of payee or the payment, whichever is earlier.	
194J	Fees for professional or technical services/ Royalty/ Non-compete fees/ Director remuneration	Payment exceeding Rs.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 not liable to tax audit u/s 44AB in the immediately preceding financial year.	Any Resident	2% - Payee engaged in the business of operation of call center or fees for technical services (not being a professional services) or royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films 10% - all other cases	At the time of Credit of such income to the account of the payee or at the time of payment, whichever is earlier.	Individuals and HUFs are not required to deduct tax at source under section 194J on royalty and non-compete fees. Any sum by way of fees for professional services credited or paid by an Individual or HUF exclusively for personal purposes of such individual or any member of HUF.

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194K	Income in respect of Units of Mutual Fund, specified undertaking, specified company	Payment exceeding Rs.5,000 in a financial year	Any Person responsible for paying any income in respect of— (a) units of a Mutual Fund specified u/s 10(23D); or (b) units from the Administrator of the specified undertaking; or (c) units from the specified company,	Any Resident	10%	At the time of Credit of such income to the account of the payee or at the time of payment, whichever is earlier.	If the income is of the nature of capital gains.
194LA	Compensation on acquisition of certain immovable property	Payment exceeding Rs.2,50,000 in a financial year	Any person	Any Resident	10%	At the time of payment	Compensation on acquisition of agricultural land whether rural or urban.
194M	a) Payments to contractors b) Commission or brokerage c) Fees for professional services	Payment exceeding Rs.50,00,000 in a financial year	Individual or HUF other than those who are required to deduct TDS u/s 194C/H/J	Any Resident contractor or professionals	5%	At the time of Credit of such income to the account of the payee or at the time of payment, whichever is earlier.	

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194N	Cash withdrawals	<p>Payment exceeding Rs.1Crore in a financial year. <i>However, if the recipient is a co-operative society, tax is required to be deducted on any sum exceeding Rs.3 crore.</i></p> <p>TDS to be deducted if withdrawal exceeds Rs.20 Lakhs in a financial year, if the recipient has not furnished the return of income for the last 3 Assessment years. (In the above case, TDS has to be deducted at 5% if the withdrawal exceeds Rs.1crore/ Rs.3crore)</p>	<p>a) A banking company or any bank or banking institution b) A Co-operative society engaged in carrying on the business of banking c) Post office</p>	Any person	2% of sum exceeding Rs.1crore/ Rs.1crore /Rs.20 Lakhs.	At the time of payment of such sum	<p>Payment made to-</p> <p>(i) Government, (ii) banking company, cooperative society engaged in carrying on the business of banking, post office, (iii) banking correspondents, (iv) White Label ATM operators(WLATMO).</p>
<p>For the purposes of section 194N, credit for tax deducted at source shall be given to the person from whose account tax is deducted and paid to the Central Government account for the assessment year relevant to the previous year in which such tax deduction is made.</p>							
194P	Pension (along with interest on bank account)	Basic exemption limit (3,00,000/5,00,000, as the case may be)	Notified specified bank	Specified senior citizen	Rates in force	At the time of payment of such sum	
<p>Specified senior citizen means an individual, being a resident in India, who-</p> <ul style="list-style-type: none"> ➤ is of the age of 75 years or more at any time during the PY; ➤ is having pension income and no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and ➤ has furnished a declaration to the specified bank. <p>Note: Such Specified senior citizen is exempted from filing Income tax returns.</p>							

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194Q	Purchase of goods	> Rs.50 lakhs in a previous year	Buyer, who is responsible for paying any sum to any resident for purchase of goods.	Any resident	0.1% of sum exceeding Rs.50 lakhs (Excluding GST or any other tax)	At the time of Credit of such amount to the account of the payee or at the time of payment, whichever is earlier.	When the income is wholly exempt in the hands of the seller
Buyer means a person whose total sales, gross receipts or turnover from business exceeds Rs.10 crores during the FY immediately preceding the FY in which the purchase of goods is carried out.							
194R	Benefit or Perquisite	Aggregate value of Benefit or Perquisite > Rs.20,000 in a financial year	Any Person other than Individual/HUF, whose accounts are not liable to audit u/s 44AB in preceding financial year	Any Resident	10%	Before providing such benefit or perquisite	