

## INCOME FROM HOUSE PROPERTY

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### Concept 1: Basic Concept

- 1.1) **Income from House Property is chargeable to tax when the following conditions are satisfied:**
- a) There should be a **House Property**. The property should consist of building and lands appurtenant there to.
  - b) Assessee should be the **owner** of the House property. (Can be legal / deemed owner -
  - c) C10)
  - d) Assessee should not use the House Property for his **own business** or profession.
- Annual value of house property will be charged under the head “Income from house property”, where it is held by the assessee is stock-in-trade of a business also. However, the annual value of house of property being held as stock in trade would be treated as NIL for a period of two years (wef AY 20-21) from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority, if such property is not let-out during such period.

## INCOME FROM HOUSE PROPERTY

### Notes:

1) House property means Building and building should be a permanent structure. It cannot be a temporary structure like exhibitions, tents etc.

2) Hence rent received from letting out a vacant plot of land \_\_\_\_\_ (can/cannot) be taxed under Income from House property but it will be taxed \_\_\_\_\_

3) **Rental Income from Subletting cannot be taxed under \_\_\_\_\_.**

**It will be taxed under \_\_\_\_\_ or \_\_\_\_\_.**

4) **Property** situated in **foreign country** shall be taxed similar to the property situated in India.

5) However, the taxability will depend upon the residential status of the assessee.

**Case law reference:** The income earned by an assessee engaged in the business of letting Out of properties or rent would be taxable as business income. (Supreme Court ruling in Rayala Corporation (P) Ltd. v. Asstt. CIT)

Eg: Builders constructs & gives mall on rent. Such rental income shall be taxable under \_\_\_\_\_.

Explanation 3 has been inserted in sec 28 which says renting of residential property or a part of residential property will always be taxable under HP and never under PGBP. Even if developers/ builders are into business of renting of residential property it shall be taxed under Income from HP.



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6) House property means residential or commercial property e.g. Flat, office, showroom, godown etc.

### 1.2) Different types of properties:

A person may use the house property for his residential purpose or may give the property on rent. Factually, assessee can have more than one house property used for his residence. However as per Income tax, the assessee can treat only one house property, of his choice as Self Occupied and the other property that is used for residential purpose would be deemed to be let out. Hence there are following types of house properties. House property means resident property, growth, office, etc.

1) **Self Occupied**

2) **Let-out**

3) **Deemed to be let-out.**

## INCOME FROM HOUSE PROPERTY

CHARGING  
SECTION

### 1.3) As per section 22: Basis of charge is Gross Annual Value

GAV is the basis of charge for Income from HP. GAV of SO Property will be NIL.  
However as per Income Tax assessee can treat two houses as self occupied.  
wef AY 20-21 there will be no tax on notional rent of second self occupied house.  
However the deduction u/s 24 in respect of two self occupied properties will be limited to Rs. 2,00,000/ 30,000 as the case may be.

### 1.4) Computation of House Property:

Particulars	Self Occupied	Let out	Deemed to be let out
Gross annual value [GAV]	NIL	All steps	Step 1
Less:- Municipal Taxes	NIL	XXX	XXX
Net annual value[NAV]	NIL	XXX	XXX
Less:- deduction u/s 24			
1. Standard deduction	NIL	30 % of NAV	30 % of NAV
2. Interest on borrowed capital	XXX	XXX	XXX
Income from house property	(XXX)	XXX	XXX

### 1.5) Understanding Self occupied property

Particulars	Self Occupied

## INCOME FROM HOUSE PROPERTY

### Notes:

- i) **Interest on borrowed capital is allowed as deduction if loan is taken for:**
  - a) Purchase
  - b) Construction
  - c) Repairs
  - d) Reconstruction
  - e) Renovation of house property.
- ii) **There is a maximum ceiling for interest on borrowed capital in case of only Self Occupied** property. For self occupied property there is maximum ceiling for interest on borrowed capital of Rs.2,00,000, if **all the following conditions are satisfied**
  - a) Loan is taken for **purchase/ construction** of house property.
  - b) loan is taken **on or after 1<sup>st</sup> April 1999**.
  - c) In case of construction, the construction should be **completed within 5 years** from the date of taking loan. (The limit has been increased from 3 to 5 years w.e.f. A.Y.17-18)  
 Note: The deduction u/s 24a in respect of two house will be limited to 2,00,000
- iii) **If any of above condition are not satisfied then ceiling is Rs.30,000/-**

Note:- WEF AY 2020-21 the limit of 30,000/2,00,000 will apply to the total amount of deduction in case of 2 self occupied houses.



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### 1.6) Understanding LO and DLO

Particulars	Let out(LO)	Deemed to be let out (DLO)

## INCOME FROM HOUSE PROPERTY

### Notes:

- i) **Interest on borrowed capital is allowed as deduction if loan is taken for:**
- |             |                   |
|-------------|-------------------|
| a) Purchase | b) Construction   |
| c) Repairs  | d) Reconstruction |
- e) Renovation of house property.
- ii) **Maximum ceiling for interest is not applicable to let out & deemed to be let-out.**

### Concept 2: CALCULATION OF GROSS ANNUAL VALUE:

#### Step 1.

Municipal valuation or fair rent whichever is higher, subject to standard rent. Step 1 is also called as **Expected rent. (ER)**

#### Step 1 =

No.	MV	FR	Std Rent	ER
1)	1,10,000	1,20,000	1,30,000	
2)	1,10,000	1,05,000	1,15,000	
3)	1,10,000	1,20,000	1,15,000	

#### Step 2.

Annual Rent Received or Receivable	XXX
Less: Unrealized rent of current year	XXX
Less: Loss due to vacancy	XXX
<b>GAV As per step 2 (Actual Rent)</b>	<b>XXX</b>

**Unrealized rent is allowed to be deducted if certain conditions are satisfied (Refer concept 13)**

The next Step i.e. Step 3 will be applicable only if

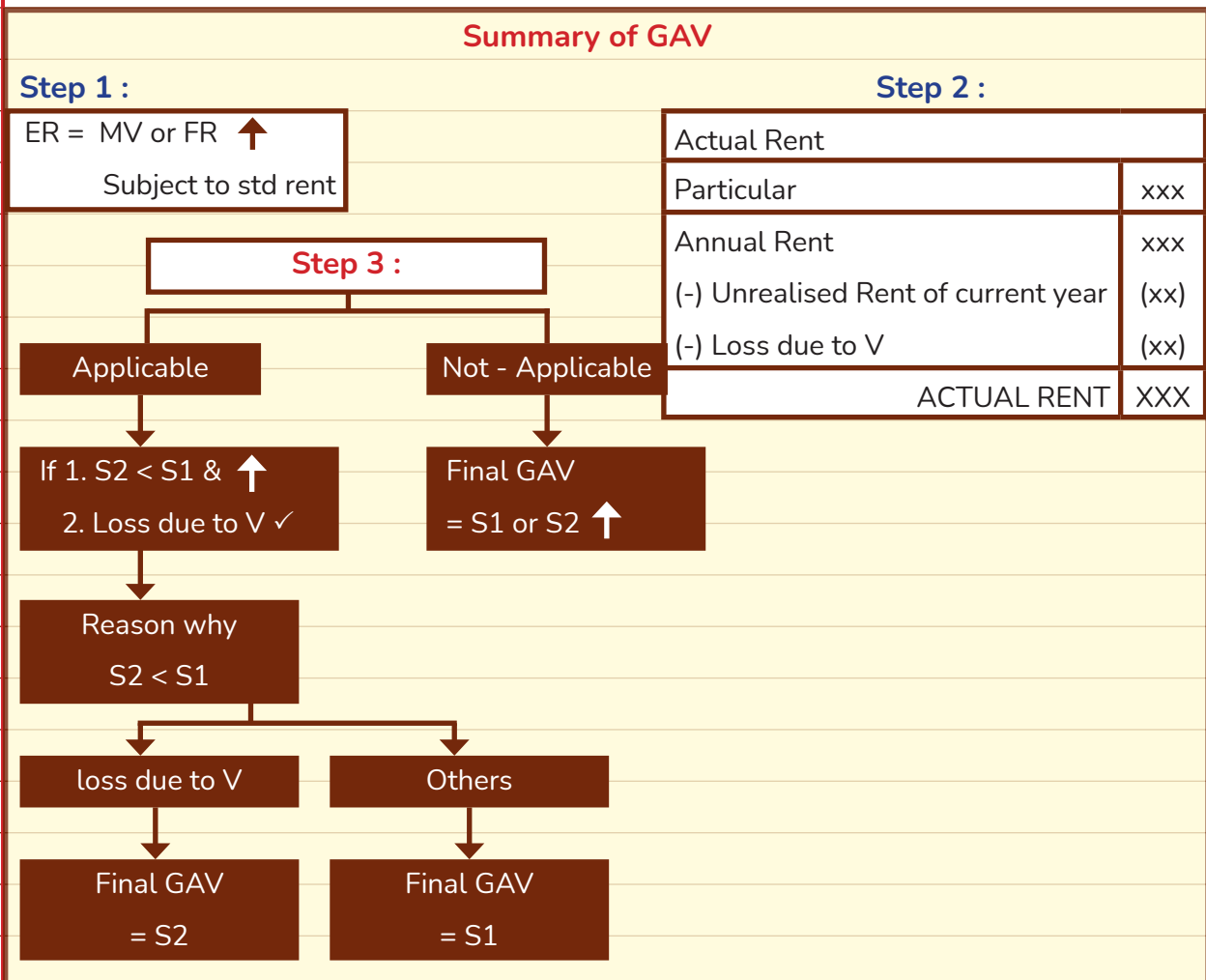
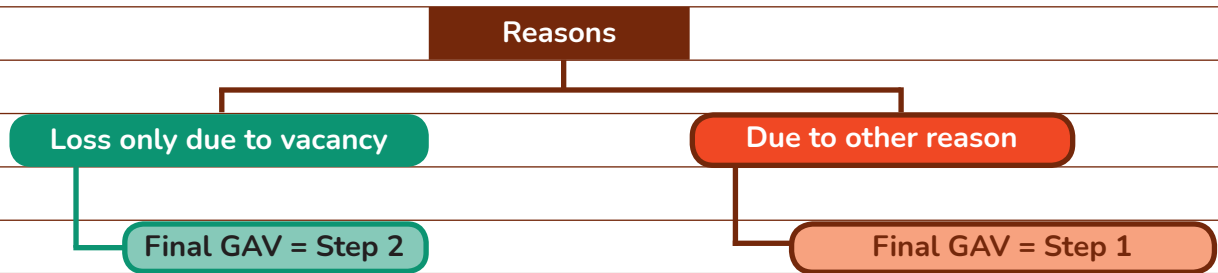
- 1)
- 2)

If Step 3 is not applicable then Final GAV =

# INCOME FROM HOUSE PROPERTY

## Step 3.

If Step 3 is applicable then find out the reasons. Why Step 2 is less than Step 1?



## Concept 3: Municipal Taxes

### 3.1) Municipal Tax are levied by local authority.

Municipal Taxes are allowed only on **payment basis** and only when **paid by the owner**. In case The property is situated in foreign country, the taxes levied by local authority of foreign country are also deductible.



Accident Spot

# INCOME FROM HOUSE PROPERTY

## Concept 4: Deduction u/s 24

### 4.1) Standard Deduction u/s 24(a)

- 1) It is equal to 30% of NAV
- 2) No standard deduction for SO property.

### 4.2) Interest on borrowed capital u/s 24(b)

Interest on borrowed capital studied above in detail.

- a) Interest on new loan taken to repay the original loan is allowable as a deduction. However, interest on unpaid interest i.e. cumulative interest is not deductible.
- b) Interest payable out of India on which TDS is not paid or deducted is not deductible.
- c) Pre – construction Interest:



### Note :

- 1) Interest on loan is allowed on accrual basis
- 2) Interest on fresh loan taken to repay old loan is allowable u/s 24b.
- 3) Interest on unpaid interest is not allowable u/s 24b.

## INCOME FROM HOUSE PROPERTY

### Concept 5: Other points:

- 5.1) HP- A **part is let out** & part of H.P. is **self occupied** then income will be **computed separately** For let out and S.O. portion
- 5.2) HP-**Let out for period** and **self occupied for a period**, then treat is a **L.O.**
- 5.3) In case of **resident and ordinary resident**, their **global income is taxed in India**. Hence, Income earned from **house properties** situated in **foreign countries** is taxable in India under the head "Income from House property".
- 5.4) **Income** derived from **any farm building** or land appurtenant thereto **from agricultural Purposes** shall be treated as **agricultural income**. (we will learn it in the chapter of agricultural income)
- 5.5) Under Income from HP **sometimes notional income** as **taxed instead of real income**. E.g. unsold inventory lying vacant in case of builders, and sometimes ER is treated as GAV.

### Concept 6: Exceptions- When Income will not be taxed under Income from HP

Annual value of House Property shall always be charged to tax under income from House Property.

This rule has following **two exceptions**.

- a) In case of **composite rent**, the **letting out activity is inseparable** then it will be charged to tax under the head PGBP or income from Other Sources.
- b) If the **letting out property is incidental or subservient** to the business then the income shall be charged to tax under the head Profits and gains from Business & Profession.

### Concept 7: Cases when GAV of house property is NIL.

- a) **Self occupied**.
- b) A let out property which is **vacant for 12 months**.
- c) When a house property is **not occupied due to business or employment** carried out at some other place. At that other place assessee resides at in a house not owned by the assessee. No other benefit is derived from this house property.
- d) GAV will be Nil (w.e.f. AY 18-19)
  - i) Any property is **held as stock in trade**
  - ii) It is not **let out** during the whole or any part of the year
  - iii) GAV will be NIL only for up to 2 years (wef AY 20-21) from end of FY in which Certificate of completion of property is obtained (Upto last year this concession was available only for 1 year)



## INCOME FROM HOUSE PROPERTY

### Concept 8: Loss from House Property:

(We will learn it in detail in the chapter of set off and carry forward of losses.)

### Concept 9: Arrears of Rent/unrealized rent: [Section 25 A]

- a) New provision has been introduced to commonly cover arrears of rent & unrealized rent recovered.
- b) Both will be chargeable to tax in the year of receipt/realized.
- c) Chargeable to tax under the head income from house property irrespective of whether the assessee is or is not the owner of house property.
- d) 30% standard deduction is available from both arrears as well as unrealized rent.

### Concept 10: DEEMED OWNER: Section 27

SITUATION	DETAILS
Transfer to a spouse	<p>In case of transfer of house property by an individual to his or her spouse otherwise than for adequate consideration, the transferor is deemed to be the owner of property.</p> <p><b>Exception:</b> 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.</p>
Transfer to a minor child	<p>In case of transfer of house property by an individual to his or her minor child otherwise than for adequate consideration, the transferor would be deemed to be owner of the house property transferred.</p> <p><b>Exception:</b> In case of transfer to minor married daughter, the transferor is not be deemed to be the owner.</p>
Holder of impartible estate	<p>The impartible estate is a property which is not legally divisible. The holder of an impartible estate shall be deemed to be the individual owner of all properties comprised in the estate.</p> <p><b>Example:</b> Raja Pratap singh is one of the ex-rulers of a former princely State. He has divided all his properties amongst his three sons. However, he could not transfer a building (i.e. a temple) which is given to his eldest son (all the three brothers have the right to enjoy the property. The eldest brother holds the property as trustee on behalf of his younger brothers). So now, the eldest son is deemed owner of that building (i.e. a temple)</p>

## INCOME FROM HOUSE PROPERTY

<b>Member of Co-operative society etc</b>	A member of Co-Operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, shall be deemed to be owner of that building or part thereof allotted to him although the co-operative society/ company/ association is the legal owner of that building.
<b>Person in possession of a Property</b>	A person who is allowed to take or retain the possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act shall be the deemed owner of that house property. This would include cases where the- a. Possession of property has been handed over to the buyer b. Sale consideration has been paid or promised to be paid to the seller by the buyer c. Sale deed has not been executed in favour of the buyer, although certain other documents like power of attorney agreement to sell/will etc. have been executed In the above case, the buyer would be deemed to be the owner of the property although it is not registered in his name.
<b>Person having right in property for a period not less than 12 yrs</b>	A person who acquires any rights by way of lease for not less than 12 years, shall be deemed to be the owner of that building or part thereof. Exception: Any rights (of renewal given to the tenant) by way of lease from month to month or for a period not exceeding one year.

### Concept 11: Property owned by co-owner [Section 26]

- a) If a house property is **owned by two or more person such persons** are known as co-owners. This is applicable if following conditions are satisfied.
- 1) House property is owned by two or more persons.
  - 2) Their **respective shares are definite** and ascertainable.
- b) If above conditions are satisfied then share of each co-owner in the income of the property shall be included in total income of each co-owner shall not be assessed as an 'AOPs'
- c) Concessional tax treatment in respect of self -occupied property is applicable to each co- owner Share of income from house property is taxed as each co-owners individual income.

# INCOME FROM HOUSE PROPERTY

## Concept 12: Composite rent:

a) **What is Composite Rent?**

The owner of a property may sometimes receive rent in respect of building as well as other assets like say, furniture, plant and machinery or for

**Composite rent means**

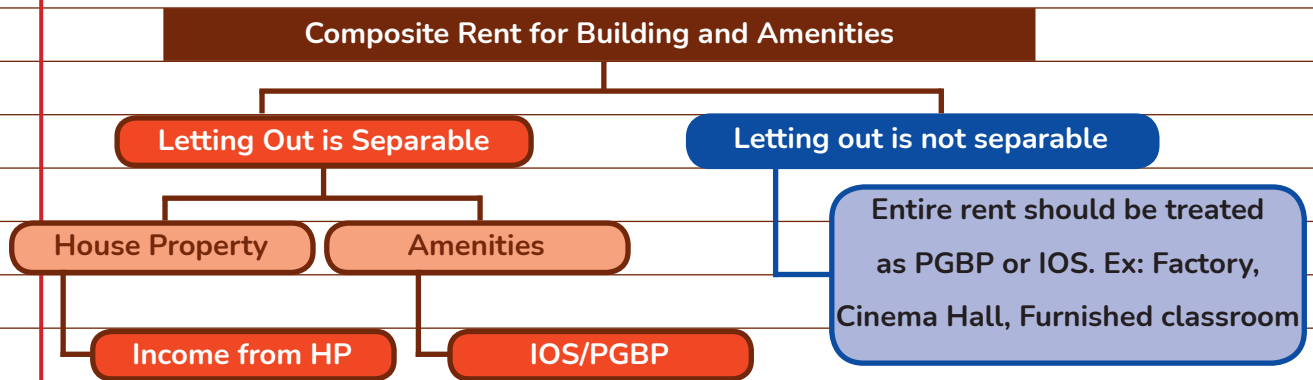
Rent for  
the Building

+

Rent for facilities  
like lift, furniture,  
and other assets

different services provided in the building, for e.g. lifts, security, power backup, maintenance, gardening etc. The amount so received is known as composite rent.

b) **Tax Treatment**



## Concept 13: Conditions of Rule 4

If the following conditions of Rule 4 are satisfied then unrealized rent will be allowed as a deduction while calculating step 2

- a) Tenancy is a bonafide.
- b) The defaulting tenant has vacated the property
- c) He does not occupy any other property of the assessee.
- d) Legal action has been initiated or assessee can convince the AO that taking legal action is of no use.

## Concept 14: 115 BAC

Exemptions	115 BAC	Old Regime
1. Int on borrowed capital for SO property	x	✓
2. Int on borrowed capital is allowed in both regime for LO/DLO properties.	✓	✓

## INCOME FROM HOUSE PROPERTY

### *Budget Quotes*

*(1<sup>st</sup> February 2019) {Finance Act 2019}*

*“Currently, income tax on notional rent is payable if one has more than one self-occupied House. Considering the difficulty of the middle class having to maintain families at two locations on account of their job, children’s education, care of parents, etc. I am proposing to exempt levy of income tax on notional rent on a second self-occupied house.”*

*-Piyush Goyal*