



INTERMEDIATE INCOME TAX



- ▶ Syllabus Strictly as per **ICAI** Study Material
- ▶ As Per Finance Act 2023

CA Jasmeet Singh



CA INTERMEDIATE

INCOME TAX

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PREFACE

A highly skilled professional team of CA Wallah works arduously to ensure that the students receive the best content for their CA-Intermediate exams.

A plethora of CA Study Material is available in the market but CA Wallah professionals at PW are continuously working to provide supreme quality study material for the CA-Intermediate students.

From the beginning, the content team comprising Subject Matter Experts, Content Creators, Reviewers, DTP operators, Proofreaders, and others is involved in shaping the material to their best knowledge and experience to produce powerful content for the students.

CA Wallah Faculties have adopted a novel style of presenting the content in easy-to-understand language and have provided the content team with expert guidance and supervision throughout the creation and curation of this book.

PW's CA Wallah strongly believes in conceptual and fun-based learning. CA Wallah provides highly exam-oriented content to bring quality and clarity to the students.

This book adopts a multi-faceted approach to mastering and understanding the concepts by having a rich diversity of questions asked in the CA-Intermediate examination and equipping the students with the knowledge for this highly competitive exam.

The main objective of this book is to provide an edge to your preparation with short & crisp yet high-quality content.

BOOK FEATURES

This book, especially designed for CA-Intermediate aspirants, contains:

- Syllabus coverage strictly as per ICAI study Material
- All ICAI Study Material Questions
- Detailed Theory with Exam prototype and Concept Applications Questions
- Short Notes and Solve Miscellaneous Examples
- Topic wise, Learning Plus and Advanced Level Questions covered in the Book
- Elaborated Solutions

ABOUT THE AUTHOR

Sir, CA Jasmeet Singh Arora is a highly qualified and experienced Chartered Accountant with a passion for teaching. With a strong academic background in both CA and B.Com, Jasmeet Sir has excelled in his field, passing his CA exams on the first attempt and receiving five exemptions in his CA Final exams. In addition to his impressive qualifications, he also possesses more than 10 years of experience in teaching, having mentored over 70,000 students both online and offline.

Jasmeet Sir is a firm believer in blended learning and adopts a learner-centric approach to his teaching. He understands that every student is unique and has different learning needs, and therefore aims to cater to those needs by providing a diverse range of teaching methods. With the use of real-life examples and innovative teaching techniques, he seeks to transform traditional pedagogical processes and make learning more accessible and enjoyable for his students.

Throughout his teaching career, Jasmeet Sir has been committed to providing high-quality education in subjects such as taxation and costing. His expertise in these areas has earned him a reputation as one of the best teachers in his field, and he has been recognized by the Institute of Company Secretaries of India (ICSI) and the Institute of Chartered Accountants of India (ICAI) Kanpur as a visiting faculty member. His dedication to his students is unwavering, and he strives to create a learning environment that is engaging, interactive, and challenging.

Jasmeet Sir's success as a teacher is due to his passion for his subject matter, his commitment to his students, and his ability to adapt to new teaching techniques and technologies. He believes that education is the key to unlocking the potential of young minds and creating a better future for all. His mission is to inspire and empower his students to achieve their full potential and to make a positive impact on society.

Jasmeet Singh Arora is a highly qualified and experienced Chartered Accountant with a passion for teaching. With a learner-centric approach to his teaching, he seeks to transform traditional pedagogical processes and make learning more accessible and enjoyable for his students. Through his expertise in subjects such as taxation and costing, he has earned a reputation as one of the best teachers in his field. His dedication to his students is unwavering, and he strives to create a learning environment that is engaging, interactive, and challenging. His mission is to inspire and empower his students to achieve their full potential and make a positive impact on society.

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■ INTRODUCTION

- In a Welfare State, the Government takes primary responsibility for the welfare of its citizens, as in matters of health care, education, employment, infrastructure, social security and other development needs. To facilitate these, Government needs revenue.
- The taxation is the primary source of revenue to the Government for incurring such public welfare expenditure.
- In other words, Government is taking taxes from public through its one hand and through another hand; it incurs welfare expenditure for public at large.
- However, no one enjoys handing over his hard-earned money to the government to pay taxes. Thus, taxes are compulsory or enforced contribution to the Government revenue by public.
- Government may levy taxes on income, business profits or wealth or add it to the cost of some goods, services, and transactions.

■ DIRECT TAX & INDIRECT TAX

There are two types of taxes: Direct Tax and Indirect Tax

- Tax, of which incidence and impact fall on the same person, is known as Direct Tax, such as Income Tax.
- On the other hand, tax, of which incidence and impact fall on two different persons, is known as Indirect Tax, such as GST.

Direct Tax	Indirect Tax
<ul style="list-style-type: none"> □ Incidence and impact fall on the same person □ Assessee, himself bears such taxes. Thus, it pinches the taxpayer. □ Levied on income □ E.g. Income Tax □ Progressive in nature i.e., higher tax are levied on person earning higher income and vice versa. 	<ul style="list-style-type: none"> □ Incidence and impact fall on two different persons □ Tax is recovered from the assessee, who passes such burden to another person. □ Levied on goods and services. □ E.g. GST, Customs Duty, etc. □ Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.

■ CONSTITUTIONAL VALIDITY OF TAXES

The Constitution of India is the supreme law of India. It consists of a Preamble, 22 parts containing 444 articles and 12 schedules. Any tax law, which is not in conformity with the Constitution, is called ultra vires the Constitution and held as illegal and void. Some of the provisions of the Constitution are given below:

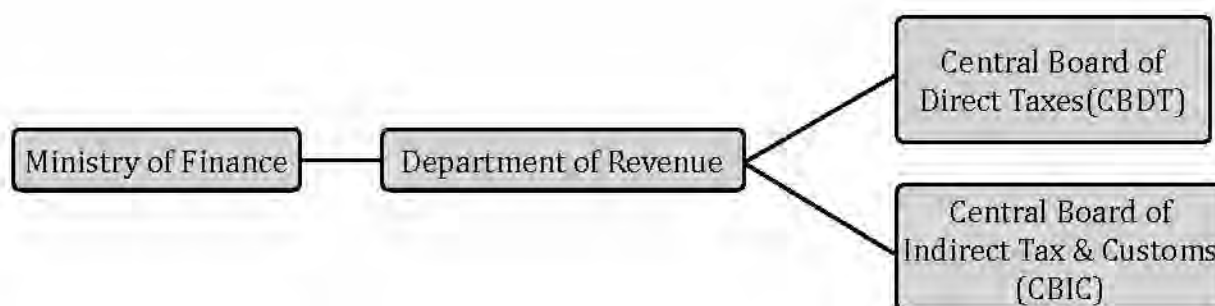
Article 265 of the Constitution lays down that no tax shall be levied or collected except by the authority of law. It means tax proposed to be levied must be within the legislative competence of the legislature imposing the tax.

Article 246 read with Schedule VII divides subject matter of law made by legislature into three categories:

- **Union list** (only Central Government has power of legislation on subject matters covered in the list)
- **State list** (only State Government has power of legislation on subject matters covered in the list)
- **Concurrent list** (both Central & State Government can pass legislation on subject matters).

Entry 82 of Union List - Taxes on income other than agricultural income i.e. Income-tax.

■ ADMINISTRATION OF TAX LAWS



- Both of the Boards have been constituted under the Central Board of Revenue Act, 1963.
- CBDT deals with levy and collection of all direct tax
- CBIC Deals with levy and collection of Central indirect tax.

■ SOURCES OF INCOME TAX LAW IN INDIA

1. Income tax Act, 1961 (Amended up to date)

The provisions of income tax extends to the whole of India and became effective from 1/4/1962 (Sec. 1). It contains sections 1 to 298 and schedules I to XIV. The Act contains provisions for determination of taxable income; determination of tax liability; procedure for assessment, appeals, penalties and prosecutions; and powers and duties of Income tax authorities.

2. The Finance Act (Annual Amendments)

- Every year, a Finance Bill is presented before the Parliament by the Finance Minister. The Bill contains various amendments which are sought to be made in the areas of direct and indirect taxes levied by the Central Government.
- When the Finance Bill is approved by both the Houses of Parliament and receives the assent of the President, it becomes the Finance Act. The provisions of such Finance Act are thereafter incorporated in the Income Tax 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, 2022 specifies the rates of tax for A.Y. 2022-23.

- ◆ **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, 2022 specifies the rates at which tax is deductible at source for F.Y. 2022-23
- ◆ **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. 2022-23.
- ◆ **Part IV** gives the rules for computing net agricultural income.

3. Income tax Rules, 1962 (Amended up to date)

- As per Sec. 295, the Board may, subject to the control of the Central Government, make rules for the whole or any part of India for carrying out the purposes of the Act.
- Such rules are made applicable by notification in the Gazette of India.
- These rules were first made in 1962 and are known as Income tax Rules, 1962.

4. Circulars and Notifications

Circulars

- Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.
- Circulars are issued for the guidance of the officers and/or assesseees.
- The department is bound by the circular While such circulars are not binding on the assesseees, they can take advantage of beneficial circular

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.

5. Judicial decision

- (a) **Decision of the Supreme Court:** Any decision given by the Supreme Court shall be applicable as law till there is any change in law by the Parliament. Such decision shall be binding on all the Courts, Tribunals, Income tax authorities, assessee, etc.
- (b) **Decisions given by a High Court or ITAT:** Decisions given by a High Court or ITAT are binding on all assesseees and Income tax authorities, which fall under their jurisdiction, unless it is over ruled by a higher authority.

■ LEVY OF INCOME-TAX

As per Section 4, Income of the previous year of a person is charged to tax in the immediately following assessment year.

■ PREVIOUS YEAR [SECTION 3]

- Previous Year means the financial year immediately preceding the Assessment Year.
- Income earned in a year is assessed in the next year.
- The year in which income is earned is known as Previous Year and the next year in which income is assessed is known as Assessment Year.
- It is mandatory for all assessee to follow financial year (from 1st April to 31st March) as previous year for Income-Tax purpose.

Business or profession newly set up during the financial year:

In such a case, the previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year:

If a source of income comes into existence in the said financial year, then, the previous year will commence from the date on which the source of income newly comes into existence and will end with 31st March of the financial year.

■ ASSESSMENT YEAR (A.Y.) [SECTION 2(9)]

- Assessment year means the period of 12 months commencing on the 1st day of April every year.
- It is the year (just after the previous year) in which income earned in the previous year is charged to tax.
- E.g., A.Y. 2024-25 is a year, which commences on April 1, 2024 and ends on March 31, 2025. Income of an assessee earned in the previous year 2023-24 is assessed in the A.Y. 2024-25.
- E.g., A.Y. 2024-25 is a year, which commences on April 1, 2023 and ends on March 31, 2024. Income of an assessee earned in the previous year 2023-24 is assessed in the A.Y. 2024-25.

■ ASSESSEE [SECTION 2(7)]

“Assessee” means,

- (a) a person by whom any tax or any other sum of money (i.e., penalty or interest) is payable under this Act
- (b) every person in respect of whom any proceeding under this Act has been taken (whether or not he is liable for any tax, interest or penalty) for the assessment of his income or loss or the Amount of refund due to him;
- (c) a person who is assessable in respect of income or loss of another person;
- (d) every person who is deemed to be an assessee under any provision of this Act; and
- (e) a person who is deemed to be an ‘assessee in default’ under any provision of this Act. E.g. A person, who was liable to deduct tax but has failed to do so, shall be treated as an ‘assessee in default’.

■ PERSON [SECTION 2(31)]

The term person includes the following:

- (i) An Individual;
- (ii) A Hindu Undivided Family (HUF);
- (iii) A Company;
- (iv) A Firm (Including LLP);
- (v) An Association of Persons (AOP) or a Body of Individuals (BOI), whether incorporated or not;
- (vi) A Local authority; &
- (vii) Every artificial juridical person not falling within any of the preceding categories.

■ CERTAIN CASES WHEN INCOME OF A PREVIOUS YEAR WILL BE ASSESSED IN THE PREVIOUS YEAR ITSELF

The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, this rule does not apply and the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

(a) Shipping business of non-resident [Section 172]

Where a ship, belonging to or chartered by a non-resident, carries passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income which is charged to tax in the same year in which it is earned.

(b) Persons leaving India [Section 174]

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

(c) AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 174A]

If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer apprehends that the AOP/BOI is likely to be dissolved in the same year or in the next year, he can make assessment of the income up to the date of dissolution as income of the relevant assessment year.

(d) Persons likely to transfer property to avoid tax [Section 175]

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

(e) Discontinued business [Section 176]

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

■ HEADS OF INCOME [SECTION 14]

According to Sec. 14 of the Act, all income of a person shall be classified under the following five heads:

1. Salaries;
2. Income from house property;
3. Profits and gains of business or profession;
4. Capital gains;
5. Income from other sources.

For computation of income, all taxable income should fall under any of the five heads of income as mentioned above. If any type of income does not become part of any one of the above mentioned first four heads, it should be part of the 5th head, i.e. Income from other sources, which may be termed as the residual head.

■ DIFFERENCE BETWEEN HEADS OF INCOME AND SOURCES OF INCOME

- There are only five heads of income as per Sec. 14 of the Act, but the assessee may generate the income from various sources. In the same head of income, there may be various sources of income.
- E.g. under the head 'Income from house property', there may be two or more house properties and each house property shall be termed as a source of income.
- The source of income decides under which head (among the five heads) income shall be taxable.

■ COMPUTATION OF INCOME

Step 1: Determine Residential Status

Step 2: Compute Income Under Each Head of Income

Step 3: Apply Clubbing of Income Provisions

Step 4: Set-off/carry forward and set-off of losses as per the provisions of the Act

Step 5: After Applying Step 2, 3 & 4 You will arrive at Gross total Income

Step 6: Claim Deductions Under Section 80C to 80U (if any From GTI)

Step 7: Total Income (Taxable Income) is arrived after claiming deductions from GTI

Total Income shall be rounded off u/s 288A in the multiples of 10 and for this purpose, any paisa shall be ignored and if the last digit is 5 or more, it will be rounded off to the higher multiple otherwise it will be rounded off to the lower multiple.

Example

- (i) ₹5,28,456 shall be rounded off as 5,28,460
- (ii) ₹5,28,455 shall be rounded off as 5,28,460
- (iii) ₹5,28,454 shall be rounded off as 5,28,450
- (iv) ₹5,28,454.88 shall be rounded off as 5,28,450

■ DEFAULT TAX REGIME

(To be Discussed After Completing Deductions under Chapter VI-A)

Tax On Income of Individuals/Hindu Undivided family/AOPs/BOIs/Artificial Judicial Person [Section 115BAC]

1. Individuals/HUF/AoPs/BoIs or artificial judicial persons, other than those who exercise the option to opt out this regime under section 115BAC(6), have to pay tax in respect of their total income (other than income chargeable to tax at special rates under Chapter XII such as section 111A, 112, 112A, 115BB, 115BBJ etc.) at the following concessional rates, subject to certain conditions specified under section 115BAC(2) -

Income	Tax Rate
On First 3,00,000	Nil
Next 3,00,000	5%
Next 3,00,000	10%
Next 3,00,000	15%
Next 3,00,000	20%
Balance Income	30%

2. Conditions to be satisfied

The following are the conditions to be satisfied:

Certain deductions/exemptions not allowable: Section 115BAC(2) provides that while computing total income, the following deductions/exemptions would not be allowed:

Under the Head Salaries
<ul style="list-style-type: none">❑ Leave Travel concession S. 10(5)❑ House Rent Allowance S. 10(13A)❑ Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose) S.10(14)❑ Allowances Received By MPs and MLAs S.10(17)❑ No exemption of deductions from allowances or perquisites❑ No deduction u/s 16 Except Standard Deduction.
Under the Head House Property
Deduction of Interest on capital borrowed under S.24(b)
Profits & Gains From Business & Profession
<ul style="list-style-type: none">❑ Additional Depreciation❑ Investment Allowance S.32AD❑ Donation for scientific research S.35❑ Deduction u/s 35AD
Clubbing of Income
<ul style="list-style-type: none">❑ Deduction of ₹1500 in respect of minor child S. 10(32)
Set Off & Carry Forward of Losses
While computing total income, set-off of any loss - (i) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred above; or (ii) under the head house property with any other head of income; would not be allowed
Deductions Under Chapter VIA (Deduction u/s 80C to 80U)
<ul style="list-style-type: none">❑ Deductions under Chapter VI-A (other than employers contribution towards NPS under section 80CCD(2), Central Government contribution towards Agnipath Scheme under section 80CCH(2) and deduction in respect of employment of new employees under section 80JJAA).

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)(ia), however, cannot be claimed.

4. Additional points:

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 above. Such loss and depreciation would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

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

Example: 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 pays tax under default tax regime under section 115BAC for P.Y. 2023-24 relevant to A.Y. 2024-25, the amount so attributable to additional depreciation of earlier year remaining unabsorbed as on 1.4.2023 would not be eligible for set-off against current year income and no further deduction for such loss or depreciation shall be allowed for any subsequent year. Accordingly, the WDV of the block as on 1.4.2023 has to be increased by the said amount not allowed to be set-off.

5. 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 such individual/HUF/AoP/BoI or Artificial Juridical person is not having income from business or profession, he/it can exercise an option to shift out/opt out of the default tax regime under this section and such option has to be exercised along with the return of income to be furnished under section 139(1) for a previous year relevant to the assessment year. In effect, such individual/HUF/AoP/BoI or Artificial Juridical person can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. He may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.

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

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

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

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

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 (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both in accordance with the regular provisions of the Income-tax Act, 1961 and in accordance with the provisions of section 115BAC, in order to determine which is more beneficial 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.

■ COMPUTATION OF TAX LIABILITY (OLD REGIME/ALTERNATIVE SCHEME/NORMAL PROVISIONS)

A. In case of Individual/Hindu Undivided Family/AOP/BOI/Artificial Judicial Person/Local Authority

Resident individual of the age of 60 years or more at any time upto the end of relevant previous year but less than eighty years (senior citizen)

Income	Tax Rate
On First 3,00,000	Nil
Next 2,00,000	5%
Next 5,00,000	20%
Balance Income	30%

Resident individual of the age of 80 years or more at any time upto the end of relevant previous year (Very senior citizen)

Income	Tax Rate
On First 5,00,000	Nil
Next 5,00,000	20%
Balance Income	30%

Clarification regarding attaining prescribed age of 60 years/80 years on 31st March itself, in case of senior/very senior citizens whose date of birth falls on 1st April [Circular No. 28/2016, dated 27-07-2016]

An individual who is resident in India and of the age of 60 years or more (senior citizen) and 80 years or more (very senior citizen) is eligible for a higher basic exemption limit of ₹3,00,000 and ₹5,00,000, respectively.

A resident individual whose 60th birthday falls on 1st April, 2024, would be treated as having attained the age of 60 years in the P.Y. 2023-24, and would be eligible for higher basic exemption limit of ₹3 lakh in computing his tax liability for A.Y. 2024-25. Likewise, a resident individual whose 80th birthday falls on 1st April, 2023, would be treated as having attained the age of 80 years in the P.Y. 2023-24, and would be eligible for higher basic exemption limit of ₹5 lakh in computing his tax liability for A.Y. 2024-25.

Any other Individual & HUF or AOP/BOI or Artificial Judicial Person

Income	Tax Rate
On First 2,50,000	Nil
Next 2,50,000	5%
Next 5,00,000	20%
Balance Income	30%

Health and Education Cess

If any tax is charged for any specific purpose, it is called Cess. Health and Education Cess shall be charged @ 4% on the Amount of income tax.

Rounding off of Tax [Section 288B]

Any Amount payable, and the Amount of refund due, shall be rounded off in the multiples of ₹10 in the similar manner as in case of total income under section 288A.

Question 1: Compute the income the tax liability Of Binod (Resident, 45 Years).

Particulars	Amount (₹)
Income Under The Head Salary	4,00,000
Income Under Head House Property	5,00,000
Profits & Gains From Business & Profession	6,10,603
Deductions U/s 80C to 80U	1,50,000

Question 2: Suppose Age of Binod Is 60 Years

Question 3: Suppose Age of Binod Is 80 Years

Question 4: Calculate tax liability in following cases:

- (a) Mr X (Resident Age 40 Years) has total income of ₹7,00,000
- (b) Mr X (Resident Age 60 Years) has total income of ₹7,00,000
- (c) Mr X (Resident Age 80 Years) has total income of ₹7,00,000
- (d) MRX (Non-Resident Age 40 Years) has total income of ₹7,00,000
- (e) MRX (Non-Resident Age 60 Years) has total income of ₹7,00,000
- (f) MRX (Non-Resident Age 80 Years) has total income of ₹7,00,000

Surcharge

Surcharge is an additional tax payable over and above the income tax. Surcharge is levied as a percentage of income-tax, where total income exceeds ₹50 lakhs.

- (a) In case the Individual/HUF/AOP/BOI and Artificial Juridical Person pays tax under default tax regime under section 115BAC

Income	Rate
Total income does not exceed ₹ 50 lacs	Nil
Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores	25% of tax

(b) In case the Individual/HUF/AOP/BOI and Artificial Juridical Person pays tax under default tax regime under section 115BAC

Income	Rate
Total income does not exceed ₹ 50 lacs	Nil
Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores but does not exceed ₹ 5 crores	25% of tax
Total income exceeds ₹ 5 crores	37% of tax

Health & education cess shall be charged on the total of tax plus surcharge.

Note 1: Surcharge on Income tax payable on Capital gain u/s 112, 112A, 111A and dividend income shall not exceed 15%.

Note 2: If Total Income Exceeds 2 Crore Because of Income u/s 112, 112A, 111A or dividend income, then Maximum Surcharge applicable is 15%.

Note 3: An AOP consisting of only companies as members then Maximum Surcharge applicable is 15%.

Question 5: Calculate Income tax Liability in Following Cases under both the Tax Regime:

- Mr X (Resident Age 40 Years) has total income of ₹67,00,000
- Mr X (Resident Age 60 Years) has total income of ₹1,67,00,000
- MRX (Resident Age 80 Years) has total income of ₹3,67,00,000
- MRX (Non-Resident Age 60 Years) has total income of ₹6,67,00,000

Marginal Relief

- If due to applicability of surcharge (or higher surcharge is levied)
- Tax liability increases more than the increase in income
- Then assessee is eligible for Marginal Relief equals to Difference of Increase in Tax and Increase in Income.

Example:

If Mr. J has total income of ₹51,00,000, his tax liability if default scheme is not opted shall be computed in the manner given below:

Particulars	Tax
Tax On 51,00,000 as per Slab Rate	13,42,500
Add: Surcharge @ 10% of 13,42,500	1,34,250
Tax before Marginal Relief	14,76,750
Marginal Relief	(64,250)
Tax on 50,00,000 Before Cess	14,76,500
Tax on 50,00,000 Before Cess	13,12,500
Increase In Tax	1,64,250
Increase in income	1,00,000
Marginal Relief (1,64,250 - 1,00,000)	64,250

Tax after marginal relief	14,12,500
Add 4% HEC	56,500
Tax Liability	14,69,000

If Mr. J has total income of ₹1,02,00,000, his tax liability if default scheme is not opted shall be computed in the manner given below:

Particulars		Tax
Tax On ₹ 102,00,000 as per Slab Rate		28,72,500
Add: Surcharge @ 15% of 28,72,500		4,30,875
Tax before Marginal Relief		33,03,375
Marginal Relief		(9,625)
Tax on 1,02,00,000 Including Surcharge @15%	33,03,375	
Tax on 1,00,00,000 Including Surcharge @10%	30,93,750	
Increase In Tax	2,09,625	
Increase in income	2,00,000	
Marginal Relief	9,625	
Tax after marginal relief		32,93,750
Add 4% HEC		1,31,750
Tax Liability		34,25,500

If Mr. J has total income of ₹5,05,00,000, his tax liability if default scheme is not opted shall be computed in the manner given below:

Particulars		Tax
Tax On ₹ 5,05,00,000 as per Slab Rate		1,49,62,500
Add: Surcharge @ 37% of 28,72,500		55,36,125
Tax before Marginal Relief		2,04,98,625
Marginal Relief		(14,83,000)
Tax on 5,05,00,000 Including Surcharge @37%	2,04,98,625	
Tax on 5,00,00,000 Including Surcharge @25%	(1,85,15,625)	
Increase In Tax	19,83,000	
Increase in income	5,00,000	
Marginal Relief (1,64,250 - 1,00,000)	14,83,000	
Tax after marginal relief		1,90,15,625
Add 4% HEC		7,60,625
Tax Liability		1,97,76,250

Rebate [Section 87A]

(A) Rebate Under Default Regime (New Regime)

1. Applicable to: Resident Individual
2. Conditions to be satisfied: Total income of the assessee does not exceed ₹ 7,00,000.
3. Quantum of Rebate: Lower of the following:
 - (a) 100% of tax liability as computed above; or
 - (b) ₹ 25,000/-

(B) Rebate Under Old Regime (Normal Provisions)

1. Applicable to: Resident Individual
2. Conditions to be satisfied: Total income of the assessee does not exceed ₹ 5,00,000.
3. Quantum of Rebate: Lower of the following:
 - (a) 100% of tax liability as computed above; or
 - (b) ₹ 12,500/-

Question 6: Mr. J (Resident Age 40 Years) has gross total income ₹ 5,40,000 and deduction allowed under section 80C to 80U are ₹ 40,000. Compute his tax liability under Normal Provisions.

Question 7: Presume Age of Mr. J is 60 Years

Question 8: Presume Age of Mr. J is 82 Years and He is Non-Resident

Taxability of Casual Income

- As per section 2(24)(ix), casual income means 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 whatsoever.
- Casual income shall be taxable under the head Other Sources and it will be included in the gross total income and also total income but while computing tax liability, casual income shall be separated from total income and shall be taxable @ 30%.
- If any expense has been incurred to earn the casual income, then such expense shall not be allowed to deducted. For Example, Mr. J purchased Lottery for ₹10,000 and won ₹1,00,000 from such lottery ticket, then in this case ₹10,000 shall not be allowed to deducted and whole winning Amount (₹) of ₹1,00,000 shall be taxable @ 30%
- As per section 58(4), deduction under section 80C to 80U shall not be allowed from casual income however as per section 87A, rebate shall be allowed.

Question 9: Mr. X has income under the head Salary ₹5,00,000 and casual income ₹3,00,000 and deduction under section 80C to 80U ₹2,00,000. Calculate his tax liability

Question 10: If in the above case deduction allowed under section 80C to 80U is ₹6,00,000, tax liability shall be?

Question 11: Mr. J has casual income of ₹102,00,000 and deduction allowed under section 80C to 80U are ₹5,00,000, in this case his tax liability shall be?

Taxability of Capital Gains

There are two Types of Capital Gains

- (a) Long Term Capital Gains
- (b) Short Term Capital Gains

Further Long term and Short Term capital gain is divided as follows:

Long Term Capital Gains			Short Term Capital Gains		
u/s 112A	Special Income	10% on excess of ₹1Lakh	u/s 111A	Special Income	15%
u/s 112	Special Income	20%	Other STCG	Normal Income	Slab Rate

- If any person has transferred listed equity shares or listed units of equity oriented mutual funds or listed units of a business trust and has paid securities transaction tax, in such cases long term capital gain shall be taxable @ 10% on gain excess of ₹1,00,000 u/s 112A and short term capital gains shall be covered under section 111A and shall be taxable @ 15%
- Deduction u/s 80C to 80U shall not be allowed from capital gain u/s 112, 112A & 111A.
- Rebate u/s 87A shall not be allowed from income u/s 112A.

Special provision for resident individual/HUF

In case of a resident individual/HUF if total income excluding

- (a) long term capital gains u/s 112
- (b) short term capital gain covered under section 111A, and
- (c) LTCG u/s 112A

is below the Amount which is exempt from income tax (i.e. 2,50,000/3,00,000/5,00,000), in such cases deficiency in the exemption shall be allowed from long term capital gains or short term capital gain under section 111A or long term capital gains under section 112A as the case may be.

Question 12: From The Following Information Calculate tax liability of Mr. J (Resident Age 40 Years)

Particulars	Amount (₹)
Income Under The Head Salaries	6,00,000
Long Term Capital Gain u/s 112	1,00,000
Long Term Capital Gain u/s 112A	1,50,000
Short Term Capital Gain	25,000
Short Term Capital Gain u/s 111A	1,25,000
Casual Income	2,00,000
Deductions u/s 80C to 80U	2,50,000

Question 13: From The Following Information Calculate tax liability of Mr. J (Resident Age 40 Years)

Particulars	Amount (₹)
Income Under The Head Salaries	3,00,000
Long Term Capital Gain	6,00,000
Long Term Capital Gain u/s 112A	50,000
Deductions u/s 80C to 80U	2,50,000

Question 13A: Suppose In Above Question Mr. J is of 80 Year

Question 14: Calculate tax liability of Mr. J (Resident Age 40 Years), if he has Income From LTCG u/s 112A of ₹ 50,50,000

Question 15: Mr. X (Age 64 Years) is a resident individual, Details of his income is as follows:

- (a) LTCG ₹ 30,00,000
- (b) LTCG u/s 112A ₹ 10,00,000
- (c) LTCG u/s 111A ₹ 3,00,000
- (d) Other Income ₹ 28,00,000
- (e) Deduction u/s 80C to 80U ₹ 2,00,000

Calculate His Tax Liability.

Question 16: Suppose in above question Other income is Rs 1,72,00,000. Calculate His Tax Liability.

Question 17: Mr. X (Age 64 Years) is a resident individual, Details of his income is as follows:

- (a) LTCG ₹ 2,00,000
- (b) LTCG u/s 112A ₹ 1,10,00,000
- (c) LTCG u/s 111A ₹ 1,13,00,000
- (d) Other Income ₹ 20,00,000
- (e) Deduction u/s 80C to 80U ₹ 2,00,000

Calculate His Tax Liability.

Unexplained money, investments etc. [Section 115BBE]

- Such deemed income shall 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 such income.

(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 the financial year immediately preceding the assessment 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.

Example If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹25,000) during the financial year ending 31.3.2023 but he has recorded to have spent ₹15,000

in acquiring it, the Assessing Officer can add ₹10,000 (i.e., the difference of the market value of such gold and ₹15,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

- (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.

Analysis Of Taxability Of Special Income

Normal Income is taxable as per slab rate and also eligible for deduction u/s 80C to 80U. However Special income is taxable at special rates as given under:

Particulars	LTCG Sec 112A	LTCG Sec 112	STCG Sec 111A	Casual Income Sec 115 BB	Net Winnings From Online Game	Unexplained money Sec 115BBE
Rabate U/s 87A	Not Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed
Deduction U/S80C-80 U	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed
Rate	10% on income above ₹ 1 Lakh	20%	15%	30%	30%	78%

B. In case of Partnership Firm Including LLP

Special Income	Tax Rate
LTCG u/s 112A	10% of gain in excess of ₹ 1 Lakh
LTCG u/s 112	20%
STCG u/s 111A	15%
Casual Income	30%
Other Income	30%
Surcharge	12% provided total income is exceeding ₹ 1 crore.
Marginal Relief	Marginal relief shall be allowed if income has exceeded ₹ 1 crore.
Health & Education Cess	4%

C. In case of Domestic Company

If company Opts for Old Regime		If company is a new manufacturing* company and opts to pay tax under S. 115 BAB	If company Opts for new Regime u/s 115BAA
If Total Turnover or gross receipts of the previous year 2021-22 does not exceed 400 Crore	25%	15%	22%
In All other cases	30%		
Manufacturing domestic company who opts to pay tax under section 115BA	25%		
Surcharge			
Income	Rate	10% (Irrespective of Income)	10% (Irrespective of Income)
Exceeds 1 Crore but upto 10 Crore	7%		
Exceeds 10 Crore	12%		
Marginal Relief			
Allowed		Not Allowed	Not Allowed
Health & Education Cess			
4%		4%	4%
Special Income		Tax Rate	
LTCG u/s 112A		10% of gain in excess of ₹ 1 Lakh	
LTCG u/s 112		20%	
STCG u/s 111A		15%	
Casual Income		30%	

*New manufacturing company means company registered on or after 1.10.2019 and starts production on or before 31.3.2024

Note: If Domestic company opts for S. 115BAA or S. 115BAB then deduction under chapter VI-A shall not be allowed except u/s 80JJAA and 80M.

Example: Compute the tax liability of X Ltd., a domestic company, assuming that the total income of X Ltd. is ₹10,01,00,000 and the total income does not include any income in the nature of capital gains. Assuming, Total Turnover or gross receipts of the previous year 2020-21 exceeds 400 Crore.

Total income	10,01,00,000
Tax on @ 30%	3,00,30,000
Add: Surcharge @ 12%	36,03,600
Tax before marginal relief	3,36,33,600

Less: Marginal Relief		(14,33,600)
Tax + surcharge @ 12% on income of ₹10,01,00,000	3,36,33,600	
Tax + surcharge @ 7% on income of ₹10,00,00,000	(3,21,00,000)	
Increase in tax	15,33,600	
Increase in income	1,00,000	
Marginal Relief (15,33,600 - 1,00,000)	14,33,600	
Tax after marginal relief		322,00,000
Add: HEC @ 4%		12,88,000
Tax Liability		334,88,000

Example: Suppose in above question if X ltd. Opted for new regime u/s 115BAA

Total income	10,01,00,000
Tax on @ 22%	2,20,22,000
Add: Surcharge @ 10%	22,02,200
Tax before cess	2,42,24,200
Add: HEC @ 4%	9,68,968
Tax Liability	2,51,93,168
Round off	2,51,93,170

D. In Case of Foreign Company

Special Income	Tax Rate
LTCG u/s 112A	10% of gain in excess of ₹ 1 Lakh
LTCG u/s 112	20%
STCG u/s 111A	15%
Casual Income	30%
Other income	40%
Surcharge	
Income	Rate
Exceeds 1 Crore but upto 10 Crore	2%
Exceeds 10 Crore	5%

Question 18: Compute tax liability of ABC Ltd. a domestic company. The company has income under the head Business/Profession ₹5,00,00,000. Deduction under chapter VI-A available is ₹ 1,00,00,000. (Turnover for FY 2021-22 is 200 Crore)

Old Regime

Gross Total income	5,00,00,000
Less: Deductions under section 80C to 80 U	1,00,00,000
Total Income	4,00,00,000
Tax on @ 25%	1,00,00,000
Add: Surcharge @ 7%	7,00,000
Tax before cess	1,07,00,000
Add: HEC @ 4%	4,28,000
Tax Liability	1,11,28,000

New Regime

Gross Total income	5,00,00,000
Less: Deductions under section 80C to 80 U	NIL
Total Income	5,00,00,000
Tax on @ 22%	1,10,00,000
Add: Surcharge @ 10%	11,00,000
Tax before cess	1,21,00,000
Add: HEC @ 4%	4,84,000
Tax Liability	1,25,84,000

Question 19: Suppose ABC ltd. is a foreign company

Gross Total income	5,00,00,000
Less: Deductions under section 80C to 80 U	1,00,00,000
Total Income	4,00,00,000
Tax on @ 40%	1,60,00,000
Add: Surcharge @ 2%	3,20,000
Tax before cess	1,63,20,000
Add: HEC @ 4%	6,52,800
Tax Liability	1,69,72,800

Question 20: Suppose in above example assessee is partnership firm.

Gross Total income	5,00,00,000
Less: Deductions under section 80C to 80 U	1,00,00,000
Total Income	4,00,00,000
Tax on @ 30%	1,20,00,000
Add: Surcharge @ 12%	14,40,000
Tax before cess	1,34,40,000
Add: HEC @ 4%	5,37,600
Tax Liability	1,39,77,600

E. In case of Co-operative Societies

Old Regime

Income	Tax Rate
On First 10,000	10%
Next 10,000	20%
Balance	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

Surcharge:

Levied @ 7% if total income exceeds 50 lakhs but doesn't exceed 10 crore

Levied @ 12% if total income exceeds 10 Crore

New Regime (i.e. opted for section 115BAD or section 115BAE)

If Co-operative society satisfy the conditions of S. 115BAD/115BAE then, Surcharge: Levied @ 10% compulsorily.

Marginal Relief: Not Applicable

PRACTICE QUESTIONS

1. Mr X Age 42 Years is resident in India and his incomes are as follows:

- (a) Income under the head Salary ₹ 1,90,000
- (b) Income under the head House Property ₹ 60,000
- (c) Long term capital gains ₹ 2,30,000
- (d) Short term capital gain under section 111A ₹ 2,40,000
- (e) Casual Income ₹ 70,000
- (f) Deduction under section 80C to 80U ₹ 2,00,000

Calculate His Tax Liability.

Sol.

Particulars	Amount
Income Under The Head Salaries	1,90,000
Income Under The Head House Property	60,000
Income Under The Head Capital Gains	
LTCG u/s 112	2,30,000
STCG u/s 111A	2,40,000
Income Under The Head Other Sources (Casual Income)	70,000
Gross Total Income	7,90,000
Deductions from gross total income [Section 80C to 80U] (Allowed from Normal Income)	2,00,000
Total Income	5,90,000

Computation of Tax

Particulars	Amount
Tax on Normal Income ₹ 50,000 as per Slab rate	Nil
Tax on Special Income	
LTCG u/s 112 (2,30,000 -2,00,000) @ 20%	6,000
STCG u/s 111A (2,40,000 @ 15%)	36,000
Casual Income 70,000 @ 30%	21,000
Tax Liability Before Cess	63,000
Add: 4% HEC	2,520
Tax Liability	65,520

2. Presume In Above Question Mr X Is Non Resident.

Sol.

Computation of Tax

Particulars	Amount
Tax on Normal Income ₹ 50,000 as per Slab rate	Nil
Tax on Special Income	
LTCG u/s 112 (2,30,000 @ 20%)	46,000
STCG u/s 111A (2,40,000 @ 15%)	36,000
Casual Income 70,000 @ 30%	21,000
Tax Liability Before Cess	1,03,000
Add: 4% HEC	4,120
Tax Liability	1,07,120

3. Presume in Ques. 1 Mr. X is of 62 Years Resident

Sol.

Computation of Tax

Particulars	Amount
Tax on Normal Income ₹ 50,000 as per Slab rate	Nil
Tax on Special Income	
LTCG u/s 112 (2,30,000 - 2,30,000) @ 20%	Nil
STCG u/s 111A (2,40,000 - 20,000 @ 15%)	33,000
Casual Income 70,000 @ 30%	21,000
Tax Liability Before Cess	54,000
Add: 4% HEC	2,160
Tax Liability	56,160

4. Presume in Ques. 1 Mr. X is of 82 Years Non-Resident

Sol.

Computation of Tax

Particulars	Amount
Tax on Normal Income ₹ 50,000 as per Slab rate	Nil
Tax on Special Income	
LTCG u/s 112 (2,30,000 @ 20%)	46,000
STCG u/s 111A (2,40,000 @ 15%)	36,000
Casual Income 70,000 @ 30%	21,000
Tax Liability Before Cess	1,03,000
Add: 4% HEC	4,120
Tax Liability	1,07,120

5. Presume In question 1 his salary income is 90,000 Instead of 1,90,000. Calculate His Tax Liability. Assuming he is:

(a) Resident

(b) Non Resident

Sol.

(a) Resident

Particulars	Amount
Income Under The Head Salaries	90,000
Income Under The Head House Property	60,000
Income Under The Head Capital Gains	
LTCG u/s 112	2,30,000
STCG u/s 111A	2,40,000
Income Under The Head Other Sources (Casual Income)	70,000
Gross Total Income	6,90,000
Deductions from gross total income [Section 80C to 80U] (Allowed from Normal Income)	1,50,000
Total Income	5,40,000

Computation of Tax

Particulars	Amount
Tax on Normal Income	Nil
Tax on Special Income	
LTCG u/s 112 (2,30,000 - 2,30,000) @ 20%	NIL
STCG u/s 111A (2,40,000 - 20,000 @ 15%)	33,000
Casual Income 70,000 @ 30%	21,000
Tax Liability Before Cess	54,000
Add: 4% HEC	2,160
Tax Liability	56,160

(b) Non-Resident

Computation of Tax

Particulars	Amount
Tax on Normal Income ₹ 50,000 as per Slab rate	Nil
Tax on Special Income	
LTCG u/s 112 (2,30,000 @ 20%)	46,000
STCG u/s 111A (2,40,000 @ 15%)	36,000
Casual Income 70,000 @ 30%	21,000
Tax Liability Before Cess	1,03,000
Add: 4% HEC	4,120
Tax Liability	1,07,120

6. Mr. X (Age 64 Years) is a resident individual, Details of his income for the Previous Year is as follows:

(a) LTCG ₹ 30,00,000

(b) LTCG u/s 112A ₹ 10,00,000

(c) STCG u/s 111A ₹ 3,00,000

- (d) Income under head salaries ₹ 28,00,000
 (e) Casual Income ₹ 3,00,000
 (f) Deduction u/s 80C to 80U ₹ 2,00,000
 Calculate His Tax Liability.

Sol.

Particulars	Amount
Income under head salaries	28,00,000
Income Under head capital gains	
LTCG	30,00,000
LTCG 112A	10,00,000
STCG 111A	3,00,000
Income from other sources (Casual Income)	3,00,000
Gross Total Income	74,00,000
Deductions u/s 80C to 80U (Allowed from normal income)	2,00,000
Total Income	72,00,000

Calculation of Tax

Particulars	Amount
Tax on Normal Income ₹ 26,00,000 as per Slab Rate	5,90,000
Tax on special income	
LTCG 30,00,000 @ 20%	6,00,000
LTCG 112A (10,00,000 - 1,00,000)@ 10%	90,000
STCG 111A 3,00,000 @ 15%	45,000
Casual Income 3,00,000 @ 30%	90,000
Tax Before Surcharge	14,15,000
Add: Surcharge @ 10%	1,41,500
Tax Before cess	15,56,500
Add: 4% HEC	62,260
Tax Liability	16,18,760

7. Suppose in above question Income under head salaries is Rs 68,00,000. Calculate His Tax Liability.

Particulars	Amount
Income under head salaries	68,00,000
Income Under head capital gains	
LTCG	30,00,000
LTCG 112A	10,00,000

STCG 111A	3,00,000
Income from other sources (Casual Income)	3,00,000
Gross Total Income	1,14,00,000
Deductions u/s 80C to 80U (Allowed from normal income)	2,00,000
Total Income	1,12,00,000

Sol. Calculation of Tax

Particulars	Amount
Tax on Normal Income ₹ 66,00,000 as per Slab Rate	17,90,000
Tax on special income	
LTCG 30,00,000 @ 20%	6,00,000
LTCG 112A (10,00,000 – 1,00,000) @ 10%	90,000
STCG 111A 3,00,000 @ 15%	45,000
Casual Income 3,00,000 @ 30%	90,000
Tax Before Surcharge	26,15,000
Add: Surcharge @ 15%	3,92,250
Tax Before cess	30,07,250
Add: 4% HEC	1,20,290
Tax Liability	31,27,540

8. Mr. X (Age 64 Years) is a resident individual, Details of his income for the Previous Year is as follows:

- (a) LTCG ₹ 2,00,000
- (b) LTCG u/s 112A ₹ 1,10,00,000
- (c) STCG u/s 111A ₹ 1,13,00,000
- (d) Salary (Computed) ₹ 20,00,000
- (e) Deduction u/s 80C to 80U ₹ 2,00,000

Calculate His Tax Liability.

Sol. Computation of Total Income

Particulars	Amount
Income under head Salaries	20,00,000
Income under head Capital Gain	
LTCG u/s 112	2,00,000
LTCG u/s 112A	1,10,00,000
LTCG u/s 111A	1,13,00,000
Gross Total Income	2,45,00,000
Less: Deduction u/s 80C to 80U	2,00,000
Total Income	2,43,00,000

Computation of Tax

Particulars	Amount
Tax on Normal Income ₹ 18,00,000 as per Slab rate	3,50,000
Tax on Special Income	
LTCG (2,00,000 @ 20%)	40,000
LTCG u/s 112A (1,10,00,000 - 1,00,000) @ 10%	10,90,000
STCG u/s 111A (1,13,00,000 @ 15%)	16,95,000
Tax Before Surcharge	31,75,000
Add: Surcharge @ 15%	4,76,250
Tax Before Cess	36,51,250
Add: 4% HEC	1,46,050
Tax Liability	37,97,300

9. Mr. J has income as given below:

Income under the head PGBP	₹ 300,00,000
LTCG 112A	₹ 51,00,000
STCG 111A	₹ 50,00,000
Dividend from domestic company	₹ 100,00,000

Compute his tax liability.

Sol. **Computation of Total Income and Tax Liability of Mr. X**

Particulars	Amount
Income under the head PGBP	300,00,000
LTCG 112A	51,00,000
STCG 111A	50,00,000
Dividend from domestic company	100,00,000
Gross Total Income	501,00,000
Less: Deductions u/s 80C to 80U	Nil
Total Income	501,00,000

Computation of Tax Liability

Tax on LTCG 50,00,000 (51,00,000 - 1,00,000) @ 10% u/s 112A	5,00,000
Tax on STCG 50,00,000 @ 15% u/s 111A	7,50,000
Tax on 4,00,00,000 at slab rate	118,12,500
Tax Before Surcharge	1,30,62,500
Add: Surcharge @ 15% on 12,50,000	1,87,500

Add: Surcharge on Dividend Income (1,18,12,500/4,00,00,000 × 1,00,00,000 = 29,53,125) × 15%	4,42,968.75
Add: Surcharge on PGBP Income (1,18,12,500/4,00,00,000 × 3,00,00,000 = 88,59,375) × 25%	22,14,843.75
Tax Before cess	159,07,812.50
Add: Health and education cess @ 4%	6,36,312.50
Tax Liability	165,44,125
Rounded off u/s 288B	165,44,130

10. Suppose income in Q.11 under the head PGBP ₹ 600,00,000

Sol. **Computation of Total Income and Tax Liability of Mr. X**

Income under the head PGBP	600,00,000
LTCG 112A	51,00,000
STCG 111A	50,00,000
Dividend from domestic company	100,00,000
Gross Total Income	801,00,000
Less: Deductions u/s 80C to 80U	Nil
Total Income	801,00,000

Computation of Tax Liability

Tax on LTCG 50,00,000 (51,00,000-1,00,000) @ 10% u/s 112A	5,00,000
Tax on STCG 50,00,000 @15% u/s 111A	7,50,000
Tax on 7,00,00,000 at slab rate	208,12,500
Tax Before Surcharge	220,62,500
Add: Surcharge @ 15% on 12,50,000	1,87,500
Add: Surcharge on Dividend Income (208,12,500/7,00,00,000 × 1,00,00,000=29,73,214.29) × 15%	4,45,982.14
(208,12,500/7,00,00,000 × 6,00,00,000 = 178,39,285.71) × 37%	66,00,535.71
Tax Before cess	292,96,517.85
Add: Health and education cess @ 4%	11,71,860.71
Tax Liability	304,68,378.56
Rounded off u/s 288B	304,68,380

11. Suppose income in Q.11 under the head PGBP ₹90,00,000

Sol. **Computation of Total Income and Tax Liability of Mr. X**

	₹
Income under the head PGBP	90,00,000
LTCG 112A	51,00,000
STCG 111A	50,00,000

Dividend from domestic company	100,00,000
Gross Total Income	201,00,000
Less: Deductions u/s 80C to 80U	Nil
Total Income	201,00,000

Computation of Tax Liability

Tax on LTCG 50,00,000 (51,00,000-1,00,000) @ 10% u/s 112A	5,00,000
Tax on STCG 50,00,000 @15% u/s 111A	7,50,000
Tax on 1,90,00,000 at slab rate	55,12,500
Tax Before Surcharge	67,62,500
Add: Surcharge @ 15%	10,14,375
Tax Before cess	77,76,875
Add: Health and education cess @ 4%	3,11,075
Tax Liability	80,87,950

12. Mr X has income as given below:

Income under the head Salary	₹ 150,00,000
LTCG 112A	₹ 21,00,000
STCG 111A	₹ 10,00,000
Dividend from domestic company	₹ 30,00,000

Compute his tax liability.

Sol. **Computation of Total Income and Tax Liability of Mr. X**

	₹
Income under the head Salary	150,00,000
LTCG 112A	21,00,000
STCG 111A	10,00,000
Dividend from domestic company	30,00,000
Gross Total Income	211,00,000
Less: Deductions u/s 80C to 80U	Nil
Total Income	211,00,000

Computation of Tax Liability

Tax on LTCG 20,00,000 (21,00,000-1,00,000) @ 10% u/s 112A	2,00,000
Tax on STCG 10,00,000 @15% u/s 111A	1,50,000
Tax on 1,80,00,000 at slab rate	52,12,500
Tax Before Surcharge	55,62,500

Add: Surcharge @ 15%	8,34,375
Tax Before cess	63,96,875
Add: Health and education cess @ 4%	2,55,875
Tax Liability	66,52,750

13. Suppose in Q.14 income under the head Salary ₹ 300,00,000

Sol. **Computation of Total Income and Tax Liability of Mr. X**

	₹
Income under the head Salary	300,00,000
LTCG 112A	21,00,000
STCG 111A	10,00,000
Dividend from domestic company	30,00,000
Gross Total Income	361,00,000
Less: Deductions u/s 80C to 80U	Nil
Total Income	361,00,000

Computation of Tax Liability

Tax on LTCG 20,00,000 (21,00,000-1,00,000) @ 10% u/s 112A	2,00,000
Tax on STCG 10,00,000 @15% u/s 111A	1,50,000
Tax on 3,30,00,000 at slab rate	97,12,500
Tax Before Surcharge	100,62,500
Add: Surcharge @ 15% on 3,50,000	52,500
Add: Surcharge on Dividend Income (97,12,500/3,30,00,000 × 30,00,000 = 8,82,954.55) × 15%	1,32,443.18
Add: Surcharge on salary Income (97,12,500/330,00,000 × 300,00,000 = 88,29,545.45) × 25%	22,07,386.36
Tax Before cess	124,54,829.54
Add: Health and education cess @ 4%	4,98,193.18
Tax Liability	129,53,022.72
Rounded off u/s 288B	129,53,020

■ MEANING OF AGRICULTURAL INCOME SECTION 2(1A)

The term Agricultural Income is defined in three parts under Income Tax Act under section 2(1A) (a), 2(1A) (b), 2(1A) (c) as given below:

1. Income from leasing out of agricultural land Section 2(1A) (a) If any person has given any agricultural land on rent, rent so received (either in cash or in kind) shall be considered to be agricultural income and shall be exempt from income tax.
However if any interest is recovered for late payment of rent then such interest will be taxable under head other sources.
2. Income from Agricultural Operations Section 2(1A)(b), If any person is engaged in agricultural activities, income derived from such agricultural operations shall be considered to be agricultural income.

Note:

1. If any shareholder has received dividend from a company having income from agricultural activities, such income shall not be considered to be agricultural income rather it will be considered to be dividend income.
2. If any partnership firm has agricultural income, it will be exempt from income tax and if partnership firm has paid any salary or interest to the partners, it will be considered to be agricultural income to the partners as decided in R.M. Chidambaram Pillai v CIT (SC)

Agriculture Operation meaning

If any person has performed the following two operations, it will be called agriculture.

1. **Basic Operations:** In order to constitute agriculture, there must be basic operations like ploughing of land, sowing of seeds, planting and similar kind of operations on the land.
2. **Subsequent Operations:** After carrying out basic operations, there must be subsequent operations like weeding, digging the soil around the growth, watering of the plant at regular intervals, using pesticides and insecticides to protect the crop and it will also include pruning, cutting, harvesting etc.

Analysis

Operation	Income
Only Basics Operations	Agriculture income
Basics Operations & Subsequent Operations	Agriculture income
Only Subsequent Operations	Non Agriculture income

3. Any income derived from any building provided all the following conditions are satisfied.
 - (i) The building is on or in the immediate vicinity of agricultural land.
 - (ii) It is occupied by the cultivator or receiver of rent or revenue.
 - (iii) It is used as a dwelling house or as a store-house or other out-house.
 - (iv) The land is assessed to land revenue or it is situated in rural area.

Income which is partially agricultural and partially from business

Rule	Business	Agriculture %	Non-Agriculture %
7A	Manufacture of Rubber	65%	35%
7B(1)	Sale of coffee grown and cured by seller.	75%	25%
7B(1A)	Sale of coffee grown, cured, roasted and grounded by seller in India with or without mixing chicory or other flavouring ingredients	60%	40%
8	Growing and manufacturing tea in India.	60%	40%

Partial integration of agricultural income with non-agricultural income

Addition of agricultural income to non agricultural income for computation of tax is known as partial integration.

Conditions

1. The assessee is an individual or HUF or BOI, or AOP or artificial juridical person. (The integration is not applicable to firm and company); and
2. Non-agricultural income i.e. normal income exceeds basic exemption; and
3. Agricultural income exceeds ₹ 5,000.

Step 1: Calculate tax on total income including agriculture income (Without Cess)

Step 2: Calculate tax on (Maximum Amount (₹) Not chargeable to tax + Agriculture Income) (Without Cess)

Step 3: Tax Payable (Without Cess) = Step2 - Step3

Step 4: Add Cess.

Illustration 1

Compute tax, Business Income ₹ 9,00,000; LTCG ₹ 3,00,000. STCG STT 50,000, Lottery income ₹ 40,000. Deduction u/s 80C 1,00,000, Agricultural Income ₹ 1,50,000.

Illustration 2

Mr. X, a resident, has provided the following particulars of his income for the Previous year 2023-24.

- (i) Income under the head salary ₹ 3,40,000
- (ii) Income under the head house property ₹ 3,00,000
- (iii) Agricultural income from a land in Jaipur ₹ 1,80,000
- (iv) Expenses incurred for earning agricultural income ₹ 1,20,000

Compute his tax liability assuming his age is - (a) 45 years (b) 70 years

Illustration 3

Mr. X grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹ 10 lacs, and the cost of cultivation of such sugarcane is ₹ 5 lacs. The cost of cultivation of the balance sugarcane (70%) is ₹ 14 lacs and the market value of the same is ₹ 22 lacs. After incurring ₹ 1.5 lacs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹ 25 lacs. Compute Mr. X's business income and agricultural income and also compute Tax Liability.

Illustration 4

Mr. X is engaged in growing and manufacturing of rubber. These are then sold in the market for ₹ 30 lacs. The cost of growing rubber plants is ₹ 10 lacs and that of manufacturing rubber is ₹ 8 lacs. Compute his total income

Residential Status & Scope of Total Income

■ RESIDENTIAL STATUS [SECTION 6]

Whether a particular income shall be taxed or not shall depend on the residential status and the type of income. Residential status infact explains connection of the person with the country and types of income explains the connection of the income with the country. If the person do not have any connection and also the incomes do not have any connection with the country, the income shall not be taxable but if either the person or the income has any connection, the income is taxable.

For this purpose, Assesseees are categorized into three broad categories on the basis of their residential status.

1. Resident and ordinarily resident
2. Resident but not ordinarily resident
3. Non-resident

The residential status of an assessee is determined with reference to each previous year.

■ RESIDENTIAL STATUS OF INDIVIDUALS [SECTION 6(1)/6(6)(A)]

According to section 6(1), an individual is said to be resident in India in any previous year, if he satisfies any one of the following two conditions:

- (i) He stays in India for 182 days or more during the relevant previous year
- (ii) He stays in India for 60 days or more and also for 365 days or more during 4 years preceding the relevant previous year.

If the individual satisfies any one of the conditions mentioned above, he is a resident, otherwise the individual is a non- resident.

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 in the territorial waters of India shall be considered to be stay in India. (1 nautical mile = 1.1515 miles = 1.852 Kms).

It is not necessary that the period of stay must be continuous nor it is essential that the stay should be at the usual place of residence, business or employment of the individual.

For the purpose of counting the number of days stayed in India, both the date of departure aswell as the date of arrival are considered to be in India.

Meaning of Not-ordinarily resident Section 6(6)(a)

An individual who is resident of India shall be considered to be NOR if he has complied with at least one of the conditions given below:

- (i) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less or
- (ii) If such individual has been non-resident in India in 9 years out of 10 previous years preceding the relevant previous year.

Income Tax Act has defined NOR but we can define ROR in the manner given below:

An individual is said to be a resident and ordinarily resident if he satisfies both the following conditions:

- (i) He is a resident in any 2 out of the last 10 years preceding the relevant previous year, and
 - (ii) His total stay in India in the last 7 years preceding the relevant previous year is 730 days or more.
- If the individual satisfies both the conditions mentioned above, he is a resident and ordinarily resident but if only one or none of the conditions are satisfied, the individual is a resident but not ordinarily resident.

Illustration 1: Determine residential status of Mr. X for the assessment year 2024-25, who stays in India during various financial years as under:

Previous Years	Stay
2023-24	100
2022-23	200
2021-22	91
2020-21	90
2019-20	89
2018-19	87
2017-18	91
2016-17	82
2015-16	90
2014-15	88
2013-14	89
2012-13	86
2011-12	87
2010-11	89
2009-10	90

Illustration 2: Mr.X an American citizen has come to India for the first time on 10.07.2019, as an employee of a multinational company. The particulars of his arrival and departure are as given below:

Date of arrival	Date of departure
10.07.2019	07.08.2020
07.10.2021	27.11.2021
01.03.2022	01.02.2023
10.05.2023	30.03.2024

Not yet returned Determine his residential status for previous year 2021-22 to 2023-24.

Illustration 3: Mr. X an American citizen has come to India for the first time on 01.07.2020 as an executive of a multinational company. His employer has allowed him to visit USA every year and for this purpose he will be leaving India every year on 1st November and shall come back on

31st December, besides that he has visited Hong Kong on several occasions in connection with the official work, because he is looking after the employer's operations in Hong Kong also, with details asunder:

Date of leaving India	Date of arriving in India
10.09.2020	30.09.2020
07.02.2021	08.05.2021
11.07.2021	21.10.2021
10.02.2022	23.07.2022
11.02.2023	12.06.2023
01.02.2024	10.04.2024

Determine his residential status for the previous years 2023-24.

Illustration 4: Mr. X, the Australian cricketer comes to India for 105 days every year. Find out his residential status for the A.Y. 2024-25.

Illustration 5: Mr. X, a Canadian citizen, comes to India for the first time during the P.Y.2019-20. During the financial years 2019-20, 2020-21, 2021-22, 2022-23 & 2023-24 he was in India for 55 days, 60 days, 90 days, 150 days and 70 days respectively. Determine his residential status for the A.Y.2024-25.

Illustration 6: On 01.06.2021 Mr. X, a Malaysian citizen leaves India after stay of 10 year During the financial year 2022-23 he comes to India for a period of 46 days. Later, he returns to India for one year on 10.10.2023.

Determine Mr. X's residential status for the assessment year 2024-25.

■ DEEMED RESIDENT [SECTION 6(1A)] [AMENDED BY FA, 2020]

- Indian Citizen whose total income excluding foreign income but including income of foreign Business which is controlled from India exceeds ₹ 15 Lakh during the previous year would be deemed to be Resident but Not Ordinarily Resident in India in that previous year,
- If he is not liable to pay tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

Residential status of Individual covered in special category.

1. Any individual who is a citizen of India and has left India for taking up any business or profession or employment outside India shall be resident in India, if his stay in India is more than or equals to 182 days during relevant previous year.
2. Any individual who is a citizen of India and has left India as a member of crew of an Indian ship shall be resident in India, if his stay in India is more than or equals to 182 days during relevant previous year.

The time period mentioned in Continuous Discharge Certificate shall be considered to be the period of stay outside India and remaining time period shall be considered to be stay in India.

3. Any individual who is a citizen of India or is a person of Indian origin and is having business/ profession/employment outside India and has come to India on a visit.

However, Indian Citizen or person of Indian origin whose total income excluding foreign income but including income of foreign Business which is controlled from India exceeds ₹ 15 Lakh, shall be resident but not ordinarily resident in India, if:

- (i) He is in india for a period of 120 days or more during relevant previous year, and
 - (ii) He is india for a period of 365 days or more during 4 Previous Year immediately preeciding Relevant Previous Year
- [Amended By FA, 2020]**

A person is said to be of Indian origin if he or either of his parents or either of his grandparents (including parents of mother) were born in undivided India. e.g. Mr. X has taken birth in UK and is a citizen of UK but his grand father has taken birth in India in 1942, in this case Mr. X will be considered to be person of Indian origin.

Illustration 7: Mr. X, an Indian citizen, leaves India on 22.09.2023 for the first time, to work as an officer of a company in France. Determine his residential status for the A.Y. 2024-25.

Illustration 8: Mr. X and Mrs..X are settled outside India for the purpose of employment and they came to India on 15.10.2023 on a visit for 7 months. Both of them are Indian citizens. In the earlier years they were in India as follows:

Year	Mr. X	Mrs. X
2022-23	235 Days	365 Days
2021-22	330 Days	30 Days
2020-21	Nil	28 Days
2019-20	118 Days	120 Days

Find out the residential status of Mr. X and Mrs. X for the assessment year 2024-25.

Illustration 9: Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in international traffic departing from Chennai port on 6th June, 2023. From the following details for the P.Y.2022-23 , 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:

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

Illustration 10: Mr. J born in Lahore, Pakistan on 1st july 1943. He took the citizenship of Australia in the year 2000 and since then residing there with Family. He came to India on 10th November 2016 for the first time after 10/8/2000 and since then he is visiting India for 100 days but in the previous year 2023-24 he is present in India for 150 days. Determine his Residential status for the AY 2023-24 from the following information:

Source of Income	Case A	Case B
Indian	10 Lakh	18 Lakh
Foreign	6 Lakh	6 Lakh
Total Income	16 Lakh	24 Lakh

■ RESIDENTIAL STATUS OF HUF SECTION 6(2)/6(6)(B)

According to section 6(2), an HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India otherwise, it will be considered to be non-resident.

As control and management of HUF is in the hands of its Karta hence place of stay of Karta shall be taken into consideration i.e. if Karta is out of India throughout the year, HUF shall be Non-resident but if Karta has come to India for a few days, HUF shall be resident.

The expression 'control and management' refers to the central control and management and not to the carrying on of day-to-day business by servants, employees or agents.

Meaning of Not-ordinarily resident Section 6(6)(b)

If an HUF is resident, According to section 6(6)(b), it will be considered to be NOR if its Kartahas complied with at least one of the conditions given below:

- (i) If the karta is in India during the 7 previous years preceding the relevant previous year for a period of 729 days or less.
- (ii) If the karta is non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or If karta has not complied with even a single condition, HUF shall be ROR.

Illustration 11: Karta of one Hindu Undivided Family comes to India every year for minimum 60 days and maximum 91 days. Determine residential status of the Hindu Undivided Family and also that of the Karta for the assessment year 2024-25.

Illustration 12: One Hindu Undivided Family is being managed partly from Mumbai and partly from Nepal. Mr. X (a foreign citizen), Karta of Hindu Undivided Family, comes on a visit to India every year since 1982 in month of April for 105 days.

Determine residential status of the Hindu Undivided Family and also that of the Karta in his individual capacity for the assessment year 2024-25.

■ RESIDENTIAL STATUS OF PARTNERSHIP FIRM OR AOP/BOI [SECTION 6(2)]

A firm and an AOP would be resident in India if the control and management of its affairs is situated wholly or partly in India. Where the control and management of the affairs is situated wholly outside India, the firm and AOP would become a non-resident.

E.g. X&Y partnership firm has two partners Mr. X and Mr. Y and Mr. X is working partner and is in USA throughout the year and Mr. Y is a dormant partner and is in India throughout the year, in this case partnership firm shall be non-resident but if Mr. X has come to India for a few days, partnership firm shall be resident.

■ RESIDENTIAL STATUS OF COMPANY [SECTION 6(3)]

An Indian company is always resident in India even if its control and management is outside India or its business is outside India.

A foreign company shall be resident in India if its place of effective management, at any time in that year, is in India.

"Place of effective management" to mean 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.

e.g. R Ltd. was incorporated in India and it has business in many countries outside India, in this case company shall be considered to be resident.

e.g. J Ltd. was incorporated outside India and place of effective management is in India, in this case company shall be considered to be resident.

e.g. Samsung Electronics Co., Ltd. was incorporated in South Korea and place of effective management is also in South Korea, in this case company shall be considered to be non-resident.

Illustration 13: ABC Inc., a Swedish company headquartered at Stockholm, not having a permanent establishment in India, has set up a liaison office in Mumbai in April, 2020 in compliance with RBI guidelines to look after its day to day business operations in India, spread awareness about the company's products and explore further opportunities. The liaison office takes decisions relating to day to day routine operations and performs support functions that are preparatory and auxiliary in nature. The significant management and commercial decisions are, however, in substance made by the Board of Directors at Sweden. Determine the residential status of ABC Inc. for A.Y. 2024-25.

Illustration 14: Wipro Ltd. an Indian company has most of its business outside India. Determine its residential status.

Illustration 15: Shrine International Ltd. is incorporated in Mauritius and its place of effective management is in Mauritius. Determine its residential status for the assessment year 2024-25.

Illustration 16: Vista Ltd., a foreign company and it carries on majority of its operations and decision making activities from Delhi and Mumbai but some part of operational activities and few decisions are being taken from the place at which registered office of Vista Ltd. is located, i.e. Colombo.

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

■ RESIDENTIAL STATUS OF OTHER PERSONS [SECTION 6(4)]

Local authorities and artificial juridical persons would be resident in India if the control and management of its affairs is situated wholly or partly in India. Where the control and management of the affairs is situated wholly outside India, they would become non-residents.

■ TAX INCIDENCE/SCOPE OF TOTAL INCOME

Scope of Total Income or Tax Incidence [Section 5]

According to section 5, scope of total income or tax incidence in various status shall be as given below:

1. Resident and ordinarily resident – In case of ROR, the following incomes shall be taxable.
 - (i) income accruing/arising in India.
 - (ii) income received or deemed to be received in India even if accruing/arising abroad.
 - (iii) income accruing/arising abroad and received abroad. In short, ROR has to pay tax on his world income in India.
2. Resident but not ordinarily resident – The following incomes shall be taxable.
 - (i) income accruing/arising in India.
 - (ii) income received or deemed to be received in India even if accruing/arising abroad.
 - (iii) income accruing/arising abroad and received abroad but from a business controlled from India or from a profession which was set up in India.

Profession set up in India means that it was originally setup in India and subsequently there was an expansion outside India.

E.g. Mr. X started his profession of an advocate in Delhi and subsequently he opened his branch outside India, it will be called profession setup in India.

3. Non-resident –The following incomes shall be taxable.

- (i) income accruing/arising in India.
- (ii) income received or deemed to be received in India even if accruing/arising abroad.

Income by way of salary, received by non-resident seafarers, for services rendered outside India on a foreign going ship (with Indian flag or foreign flag) and received into the NRE bank account maintained with an Indian bank shall not be included in the total income.

Analysis

Income Accrue or Arise/ Deemed To Accrue or Arise	Income Received/Deemed To Be Received	Income
India	India	Indian
India	Outside India	Indian
Outside India	India	Indian
Outside India	Outside India	Foreign

Income	ROR	NOR	NR
Indian	Taxable	Taxable	Taxable
Foreign	Taxable	Non - Taxable Exception: Following Foreign Incomes are Taxable. Business Income: Business Controlled From India. Professional Income: Profession Set Up in india	Non - Taxable

■ INCOME DEEMED TO BE RECEIVED IN INDIA [SECTION 7]

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

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

1. Any income accruing or arising to an assessee in any place outside India whether directly or indirectly
 - (a) through or from any business connection in India,
 - (b) through or from any property, any asset or source of income in India,
 - (c) through the transfer of a capital asset situated in India would be deemed to accrue or arise in India.

'Business connection' shall include any business activity carried out through a person acting on behalf of the non-resident. For a business connection to be established, the person acting on behalf of the non-resident:

- (a) Must have an authority to conclude contracts on behalf of the non-resident in India Or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident.

(b) In a case, where he has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident, or

(c) habitually secures orders in India, mainly or wholly for the non-resident.

Further, there may be situations when the person acting on behalf of the non-resident (Say A) secures order for other non-residents (Say B). In such situation, business connection for other non-residents (i.e B) is established if,

(a) such other non-resident (i.e B) controls the non-resident (i.e. A) or

(b) such other non-resident (i.e B) is controlled by the non-resident (i.e. A)

(c) such other non-resident is subject to same control as that of non resident (i.e both A & B

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.

In the case of a non-resident, the following shall not, however, be treated as business connection in India

(a) Purchase of goods in India for export [Explanation 1(b) to section 9(1)(i)]: In the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export.

(b) Collection of news and views in India for transmission out of India: In the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India.

(c) Shooting of cinematograph films in India [Explanation 1(d) to section 9(1)(i)]: In the case of a non-resident, no income shall be deemed to accrue or arise in India through or from operations which are confined to the shooting of any cinematograph film in India, if such non-resident is:

(i) an individual, who is not a citizen of India or

(ii) a firm which does not have any partner who is a citizen of India or who is resident in India; or

(iii) a company which does not have any shareholder who is a citizen of India or who is resident in India.

2. Income, which falls under the head "Salaries", deemed to accrue or arise in India, if it is earned in India. Salary payable for service rendered in India would be treated as earned in India.

3. Income from 'Salaries' which is payable by the Government to a citizen of India for services rendered outside India would be deemed to accrue or arise in India. However, allowances and perquisites paid or allowed outside India by the Government to an Indian citizen for services rendered outside India is exempt, by virtue of section 10(7).

4. Interest Under section 9(1)(v), an interest is deemed to accrue or arise in India if it is payable by –

(i) the Government;

(ii) a person resident in India;

Exception: Where it is payable in respect of any debt incurred or money borrowed and used for the purposes of a business or profession carried on by him outside India or for the purposes of making or earning any income from any source outside India, it will not be deemed to accrue or arise in India.

(iii) a non-resident when it is payable in respect of any debt incurred or moneys borrowed and used for the purpose of a business or profession carried on in India by him.

Exception: Interest on moneys borrowed by the non-resident for any purpose in India other than a business or profession, will not be deemed to accrue or arise in India.

5. Royalty will be deemed to accrue or arise in India when it is payable by -

(i) the Government;

(ii) a person who is a resident in India

Exception: where it is payable in respect for the transfer of any right or the use of any property or information used or for the utilization of services for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India; or

(iii) a non-resident only when the royalty is payable in respect of any right, property or information used or services utilised for purposes of a business or profession carried on in India or for the purposes of making or earning any income from any source in India.

6. Fees for technical services

Any fees for technical services will be deemed to accrue or arise in India if they are payable by-

(i) the Government,

(ii) a person who is resident in India Exception: Where the fees are payable in respect of technical services utilised in a business or profession carried on by such person outside India or for the purpose of making or earning any income from any source outside India.

(iii) a person who is a non-resident, only where the fees are payable in respect of services utilised in a business or profession carried on by the non-resident in India or where such services are utilised for the purpose of making or earning any income from any source in India.

■ POINTS TO REMEMBER

1. Indian Agriculture income is exempt from tax u/s 10.
2. Past untaxed income shall not be taxable in current year.
3. Gift received from relatives is exempt without any limit.
4. Gift received from non-relative is exempt upto ₹ 50,000 and whole gift is taxable if it exceeds ₹ 50,000.

Illustration 15: Mr. X has income as under:

1. He has income from a business in Germany Amounting to ₹ 3,00,000 and half of it was received in India.
2. He has interest income of ₹ 1,00,000 from UK Development Bond and entire interest income was credited to a bank account in UK. Subsequently, the Amount (₹) was transferred in India.
3. He has a business in Bombay and entire income of ₹ 3,00,000 was received in UK.
4. He has one house property in Ghaziabad and income of ₹ 5,00,000 was received in UK.
5. He has received salary income of ₹ 5,00,000 (computed) in India and half of the services were rendered in UK and half in India.

(Presume all the above incomes are computed incomes) Compute his income presuming that he is NOR, NR and ROR.

Particulars	ROR	NOR	NR
Income from a business in Germany	3,00,000	1,50,000	1,50,000
Interest income of from UK Development Bond	1,00,000	-	-
Business Income from Bombay	3,00,000	3,00,000	3,00,000
Income From House Property In Bombay	5,00,000	5,00,000	5,00,000
Salary Income Received In India	5,00,000	5,00,000	5,00,000
Total Income	17,00,000	14,50,000	14,50,000

Illustration 16: Mr. X earns the following income during the financial year 2023-24: (Presume all the above incomes are computed incomes)

Particulars	Amount (₹)
Income from house property in London, received in India	60,000
Profits from business in Japan and managed from there (received in Japan)	9,00,000
Dividend from foreign company, received in India	30,000
Dividend from Indian company, received in England	50,000
Profits from business in Kenya, controlled from India, Profits received in Kenya	3,00,000
Profits from business in Delhi, managed from Japan	7,00,000
Capital gains on transfer of shares of Indian companies, sold in USA and gains were received there	2,00,000
Pension from former employer in India, received in Japan	50,000
Profits from business in Pakistan, deposited in bank there	20,000
Profit on sale of asset in India but received in London	8,000
Past untaxed profits of UK business of 2017-18 brought into India in 2019-20	90,000
Interest on Government securities accrued in India but received in Paris	80,000
Interest on USA Government securities, received in India	20,000
Salary earned in Bombay, but received in UK	60,000
Income from property in Paris, received there	1,00,000

Determine the gross total income of Mr. X if he is (i) resident and ordinarily resident, resident but not ordinarily resident, non-resident in India during the financial year 2023-24.

Particulars	ROR	NOR	NR
Income from house property in London	60,000	60,000	60,000
Profits from business in Japan and managed from there (received in Japan)	9,00,000	-	-
Dividend from foreign company, received in India	30,000	30,000	30,000
Dividend from Indian company, received in England	50,000	50,000	50,000

Profits from business in Kenya, controlled from India, Profits received in Kenya	3,00,000	3,00,000	-
Profits from business in Delhi, managed from Japan	7,00,000	7,00,000	7,00,000
Capital gains on transfer of shares of Indian companies, sold in USA and gains were received there	2,00,000	2,00,000	2,00,000
Pension from former employer in India, received in Japan	50,000	50,000	50,000
Profits from business in Pakistan, deposited in bank there	20,000	-	-
Profit on sale of asset in India but received in London	8,000	8,000	8,000
Past untaxed profits of UK business of 2017-18 brought into India in 2019-20	-	-	-
Interest on Government securities accrued in India but received in Paris	80,000	80,000	80,000
Interest on USA Government securities, received in India	20,000	20,000	20,000
Salary earned in Bombay, but received in UK	60,000	60,000	60,000
Income from property in Paris, received there	1,00,000	-	-
Total Income	25,78,000	15,58,000	12,58,000

Illustration 17: Determine the taxability of the following incomes in the hands of a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2024-25

Particulars	Amount (₹)
Interest on UK Development Bonds, 50% of interest received in India	10,000
Income from a business in Chennai (50% is received in India)	20,000
Profits on sale of shares of an Indian company received in London	20,000
Dividend from British company received in London	5,000
Profits on sale of plant at Germany 50% of profits are received in India	40,000
Income earned from business in Germany which is controlled from Delhi (₹40,000 is received in India)	70,000
Profits from a business in Delhi but managed entirely from London	15,000
Income from property in London deposited in a Indian Bank at London, brought to India	50,000
Interest for debentures in an Indian company received in London.	12,000
Fees for technical services rendered in India but received in London	8,000
Profits from a business in Bombay managed from London	26,000
Pension for services rendered in India but received in Burma	4,000
Income from property situated in Pakistan received there	16,000
Past foreign untaxed income brought to India during the previous year	5,000
Income from agricultural land in Nepal received there and then brought to India	18,000

Income from profession in Kenya which was set up in India, received there but spent in India	5,000
Gift received on the occasion of his wedding	20,000
Interest on savings bank deposit in State Bank of India	10,000
Income from a business in Russia, controlled from Russia	20,000
Dividend from Reliance Petroleum Limited, an Indian Company	5,000
Agricultural income from a land in Rajasthan	15,000

Particulars	ROR	NOR	NR
Interest on UK Development Bonds, 50% of interest received in India	10,000	5,000	5,000
Income from a business in Chennai	20,000	20,000	20,000
Profits on sale of shares of an Indian company received in London	20,000	20,000	20,000
Dividend from British company received in London	5,000	-	-
Profits on sale of plant at Germany 50% of profits are received in India	40,000	20,000	20,000
Income earned from business in Germany which is controlled from Delhi	70,000	70,000	40,000
Profits from a business in Delhi but managed entirely from London	15,000	15,000	15,000
Income from property in London deposited in an Indian Bank at London, brought to India	50,000	-	-
Interest for debentures in an Indian company received in London.	12,000	12,000	12,000
Fees for technical services rendered in India but received in London	8,000	8,000	8,000
Profits from a business in Bombay managed from London	26,000	26,000	26,000
Pension for services rendered in India but received in Burma	4,000	4,000	4,000
Income from property situated in Pakistan received there	16,000	-	-
Past foreign untaxed income brought to India during the previous year	-	-	-
Income from agricultural land in Nepal received there and then brought to India	18,000	-	-
Income from profession in Kenya which was set up in India, received there but spent in India	5,000	5,000	-
Gift received on the occasion of his wedding	-	-	-
Interest on savings bank deposit in State Bank of India	10,000	10,000	10,000
Income from a business in Russia, controlled from Russia	20,000	-	-
Dividend from Reliance Petroleum Limited, an Indian Company	5,000	5,000	5,000
Agricultural income from a land in Rajasthan	-	-	-
Total Income	3,54,000	2,45,000	2,40,000

■ ILLUSTRATIONS

Illustration 1: 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, 2022. From the following details for the P.Y. 2022-23, determine the residential status of Mr. Anand for A.Y. 2023-24, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2022-23) is 400 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6 th June, 2022
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9 th December, 2022

Solution:

In this case, since Mr. Anand is an Indian citizen and leaving India during P.Y. 2022-23 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more.

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., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1).

Therefore, the period beginning from 6th June, 2022 and ending on 9th December, 2022, 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. 2022-23 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during the P.Y. 2022-23 is less than 182 days, he is a non-resident for A.Y. 2023-24.

Illustration 2: 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 2023-24.
- (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. 2022-23?

Solution:

- (a) Determination of Residential Status of Mr. Brett Lee for the A.Y. 2023-24:
 Period of stay during previous year 2022-23 = 100 days
 Calculation of period of stay during 4 preceding previous years (100 × 4 = 400 days)

2021-22	100 days
2020-21	100 days
2019-20	100 days
2018-19	100 days
Total	400 days

Mr. Brett Lee has been in India for a period more than 60 days during previous year 2022-23 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions under section 6(1), he is a resident for the assessment year 2023-24.

Computation of period of stay during 7 preceding previous years = $100 \times 7 = 700$ days

2021-22	100 days
2020-21	100 days
2019-20	100 days
2018-19	100 days
2017-18	100 days
2016-17	100 days
2015-16	100 days
Total	700 days

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the A.Y. 2023-24. [See Note below]

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the previous year 2022-23 relevant to the assessment year 2023-24.

NOTE: An individual, not being an Indian citizen, would be not-ordinarily resident person if he satisfies any one of the conditions specified under section 6(6), i.e.,

- (i) If such individual has been non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or
- (ii) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less.

In this case, since Mr. Brett Lee satisfies condition (ii), he is a not-ordinarily resident for the A.Y. 2023-24.

- (b) If the above facts relate to Mr. Srinath, an Indian citizen, who residing in Australia, comes on a visit to India, he would be treated as non-resident in India, irrespective of his total income (excluding income from foreign sources), since his stay in India in the current financial year is, in any case, less than 120 days.
- (c) In this case, if Srinath's total income (excluding income from foreign sources) exceeds ₹15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y.2022-23, since his stay in India is 120 days in the P.Y.2022-23 and 480 days (i.e., 120 days \times 4 years) in the immediately four preceding previous years.

If his total income (excluding income from foreign sources) does not exceed ₹15 lakh, he would be treated as non-resident in India for the P.Y.2022-23, since his stay in India is less than 182 days in the P.Y.2022-23.

Illustration 3: Mr. B, a Canadian citizen, comes to India for the first time during the P.Y. 2018-19. During the financial years 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23, he was in India for 55 days, 60 days, 90 days, 150 days and 70 days, respectively. Determine his residential status for the A.Y. 2023-24.

Solution: During the previous year 2022-23, Mr. B was in India for 70 days and during the 4 years preceding the previous year 2022-23, he was in India for 355 days (i.e. 55+ 60+ 90+ 150 days).

Thus, he does not satisfy the basic condition under section 6(1). Therefore, he is a non-resident for the previous year 2022-23.

Illustration 4: 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. 2022-23 after 15 years. He comes to India on 1.4.2022 and leaves for Australia on 1.12.2022. Determine the residential status of Mr. E and the HUF for A.Y. 2023-24.

Solution:

(a) During the P.Y. 2022-23, Mr. E has stayed in India for 245 days (i.e. 30 + 31 + 30 + 31 + 31 + 30 + 31 + 30 + 1 days). Therefore, he is a resident. However, since he has come to India after 15 years, he does not satisfy the condition for being ordinarily resident.

Therefore, the residential status of Mr. E for the P.Y. 2022-23 is resident but not ordinarily resident.

(b) Since the business of the HUF is transacted from Australia and policy decisions are taken there, it is assumed that the control and management is in Australia i.e., the control and management is wholly outside India. Therefore, the HUF is a non-resident for the P.Y. 2022-23.

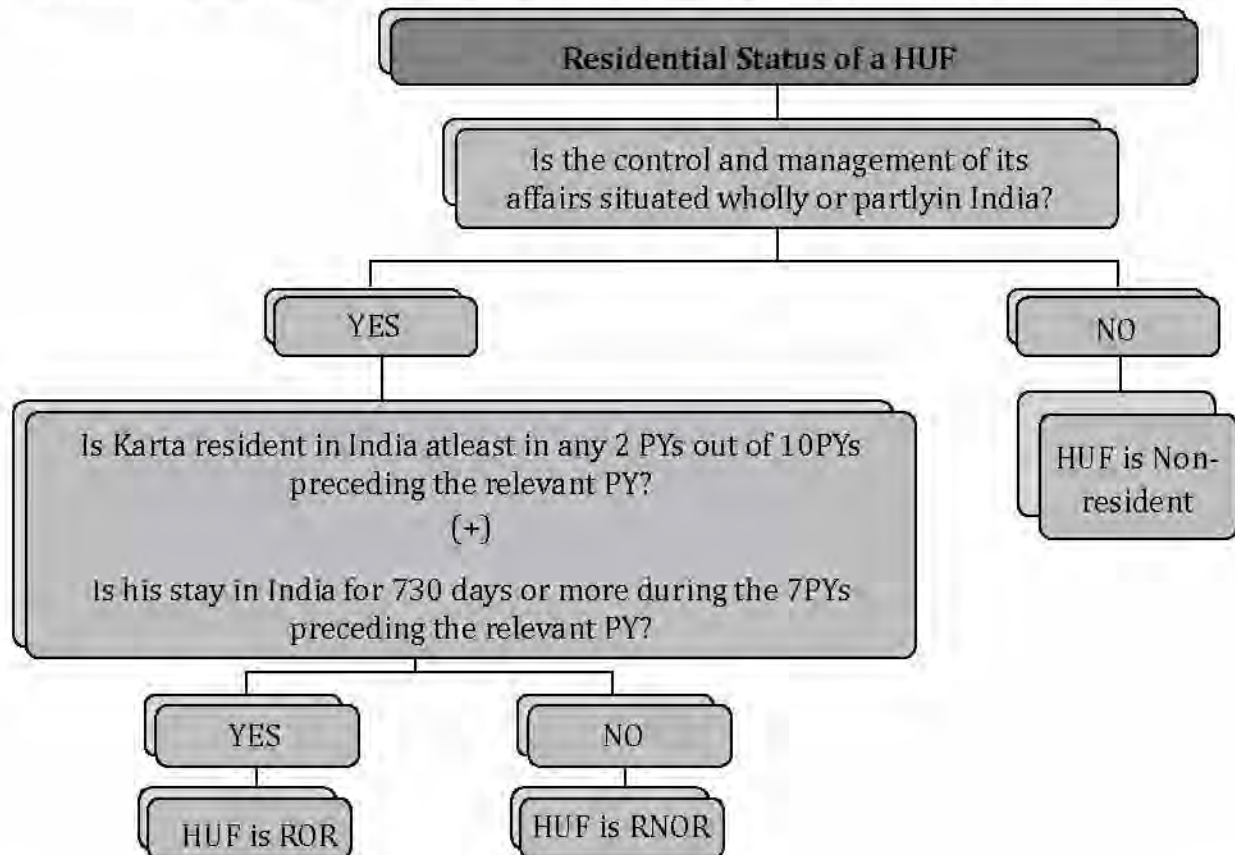


Illustration 5: From the following particulars of income furnished by Mr. Anirudh pertaining to the year ended 31.3.2023, compute the total income for the assessment year 2023-24, if he is:

- (i) Resident and ordinary resident;
- (ii) Resident but not ordinarily resident;
- (iii) Non-resident

	Particulars	
(a)	Short term capital gains on sale of shares of an Indian Company, received in Germany	15,000
(b)	Dividend from a Japanese Company, received in Japan	10,000
(c)	Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75,000
(d)	Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75,000
(e)	Dividend from RP Ltd., an Indian Company	6,000

Solution: Computation of total income of Mr. Anirudh for the A.Y. 2023-24

Particulars		Resident & ordinary resident	Resident but not ordinarily resident	Non-Resident
1.	Short term capital gains on sale of shares of an Indian company, received in Germany	15,000	15,000	15,000
2.	Dividend from a Japanese company, received in Japan	10,000	-	-
3.	Rent from property in London deposited in a bank in London [See Note (i) below]	52,500	-	-
4.	Dividend from RPLtd., an Indian Company	6,000	6,000	6,000
5.	Agricultural income from land in Gujarat [See Note (ii) below]	-	-	-
Total Income		83,500	21,000	21,000

NOTES:

- (i) It has been assumed that the rental income is the gross annual value of the property. Therefore, deduction @30% under section 24, has been provided and the net income so computed is taken into account for determining the total income of a resident and ordinarily resident.

Particulars		₹
1.	Rent received (assumed as gross annual value)	75,000
2.	Less: Deduction under section 24 (30% of ₹ 75,000)	22,500
	Income from house property	52,500

- (ii) Agricultural income is exempt under section 10(1).

Illustration 6: Mr. David, an Indian citizen aged 40 years, a Government employee serving in the Ministry of External Affairs, left India for the first time on 31.03.2022 due to his transfer to High Commission of Canada. He did not visit India any time during the previous year 2022-23. He has received the following income for the Financial Year 2022-23:

S. No.	Particulars	₹
(i)	Salary (Computed)	5,00,000
(ii)	Foreign Allowance [not included in (i) above]	4,00,000
(iii)	Interest on fixed deposit from bank in India	1,00,000
(iv)	Income from agriculture in Nepal	2,00,000
(v)	Income from house property in Nepal	2,50,000

Compute his Gross Total Income for Assessment Year 2023-24.

Solution: As per section 6(1), Mr. David is a non-resident for the A.Y. 2023-24, since he was not present in India at any time during the previous year 2022-23.

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or deemed to accrue or arise in India.

In view of the above provisions, income from agriculture in Nepal and income from house property in Nepal would not be chargeable to tax in the hands of David, assuming that the same were received in Nepal. Income from 'Salaries' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India as per section 9(1)(iii). Hence, such income is taxable in the hands of Mr. David, even though he is a non-resident.

However, allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7). Hence, foreign allowance of ₹ 4,00,000 is exempt under section 10(7) in the hands of Mr. David.

Gross Total Income of Mr. David for A.Y. 2023-24

Particulars	₹
Salaries (computed)	5,00,000
Income from other sources (Interest on fixed deposit in India)	1,00,000
Gross Total Income	6,00,000

Illustration 7: 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 below 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.

Illustration 8: Compute the total income in the hands of an individual aged 35 years, being a resident and ordinarily resident, resident but not ordinarily resident, and non-resident for the A.Y. 2023-24 -

Particulars	Amount (₹)
Interest on UK Development Bonds, 50% of interest received in India	10,000
Income from a business in Chennai (50% is received in India)	20,000
Short term capital gains on sale of shares of an Indian company, received in London	20,000
Dividend from British company received in London	5,000
Long term capital gains on sale of plant at Germany, 50% of gains are received in India	40,000
Income earned from business in Germany which is controlled from Delhi (₹ 40,000 is received in India)	70,000
Profits from a business in Delhi but managed entirely from London	15,000
Income from house property in London deposited in a Bank at London, brought to India (Computed)	50,000
Interest on debentures in an Indian company, received in London	12,000
Fees for technical services rendered in India but received in London	8,000
Profits from a business in Mumbai, managed from London	26,000
Income	from
Past foreign untaxed income brought to India during the previous year	5,000
Income from agricultural land in Nepal, received there and then brought to India	18,000
Income from profession in Kenya which was set up in India, received there but spent in India	5,000
Gift received on the occasion of his wedding	20,000
Interest on savings bank deposit in State Bank of India	12,000
Income from a business in Russia, controlled from Russia	20,000
Dividend from Reliance Petroleum Limited, an Indian Company	5,000
Agricultural income from a land in Rajasthan	15,000

Solution: Computation of total income for the A.Y. 2023-24

Particulars	Resident and ordinarily resident	Resident but not ordinarily resident	Non-resident
Interest on UK Development Bonds, 50% of interest received in India	10,000	5,000	5,000
Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000
Short term capital gains on sale of shares of an Indian company, received in London	20,000	20,000	20,000
Dividend from British company received in London	5,000	-	-
Long term Capital gains on sale of plant at Germany, 50% of gains are received in India	40,000	20,000	20,000
Income earned from business in Germany which is controlled from Delhi, out of which ₹ 40,000 is received in India	70,000	70,000	40,000
Profits from a business in Delhi but managed entirely from London	15,000	15,000	15,000
Income from house property in London deposited in a Bank at London, later on remitted to India	50,000	-	-
Interest on debentures in an Indian company, received in London	12,000	12,000	12,000
Fees for technical services rendered in India but received in London	8,000	8,000	8,000
Profits from a business in Mumbai, managed from London	26,000	26,000	26,000
Income from property situated in Nepal and received there	16,000	-	-
Past foreign untaxed income brought to India during the previous year		-	-
Income from agricultural land in Nepal, received there and then brought to India	18,000	-	-
Income from profession in Kenya which was set up in India, received there but spent in India	5,000	5,000	-
Gift received on the occasion of his wedding [not taxable]	-	-	-
Interest on savings bank deposit in State Bank of India	12,000	12,000	12,000
Income from a business in Russia, controlled from Russia	20,000	-	-
Dividend from Reliance Petroleum Limited, an Indian Company	5,000	5,000	5,000
Agricultural income from a land in Rajasthan [Exempt under section 10(1)]	-	-	-

Gross Total Income	3,52,000	2,18,000	1,83,000
Less: Deduction under section 80TTA [Interest on savings bank account subject to a maximum of rupees]	10,000	10,000	10,000
Total Income	3,42,000	2,08,000	1,73,000

■ TEST YOUR KNOWLEDGE

1. Mr. Ram, an Indian citizen, left India on 22.09.2022 for the first time to work as an officer of a company in Germany. Determine the residential status of Ram for the assessment year 2023-24.

Sol. Under section 6(1), an individual is said to be resident in India in any previous year if he satisfies any one of the following conditions -

- (i) He has been in India during the previous year for a total period of 182 days or more, or
- (ii) He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the previous year.

In the case of Indian citizens leaving India for employment, the period of stay during the previous year must be 182 days instead of 60 days given in (ii) above.

During the previous year 2022-23, Mr. Ram, an Indian citizen, was in India for 175 days only (i.e., 30+31+30+31+31+22 days). Thereafter, he left India for employment purposes.

Since he does not satisfy the minimum criteria of 182 days stay in India during the relevant previous year, he is a non-resident for the A.Y. 2023-24.

2. Mr. Dey, a non-resident, residing in US since 1990, came back to India on 1.4.2021 for permanent settlement. What will be his residential status for assessment year 2023-24?

Sol. Mr. Dey is a resident in A.Y. 2023-24 since he has stayed in India for a period of 365 days (more than 182 days) during the P.Y. 2022-23.

As per section 6(6), a person will be "Not ordinarily Resident" in India in any previous year, if such person, inter alia,:

- (a) has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or
- (b) has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less. If he does not satisfy either of these conditions, he would be a resident and ordinarily resident.

For the previous year 2022-23 (A.Y. 2023-24), his status would be "Resident but not ordinarily resident" since he was non-resident in 9 out of 10 previous years immediately preceding the P.Y. 2022-23. He can be resident but not ordinarily resident also due to the fact that he has stayed in India only for 365 days (i.e., less than 730 days) in 7 previous years immediately preceding the P.Y. 2022-23.

3. Mr. Ramesh & Mr. Suresh are brothers and they earned the following incomes during the financial year 2022-23. Mr. Ramesh settled in Canada in the year 1996 and Mr. Suresh settled in Delhi. Compute the total income for the A.Y. 2023-24.

Sr. No.	Particulars	Mr. Ramesh (₹)	Mr. Suresh (₹)
1.	Interest on Canada Development Bonds (only 50% of interest received in India)	35,000	40,000
2.	Dividend from British company, received in London	28,000	20,000
3.	Profits from a business in Nagpur, but managed directly from London	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company, received in India	60,000	90,000
5.	Income from a business in Chennai	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi	7,000	12,000
8.	Agricultural income from a land situated in Andhra Pradesh	55,000	45,000
9.	Rent received in respect of house property at Bhopal	1,00,000	60,000
10.	Life insurance premium paid	-	30,000

Sol. Computation of total income of Mr. Ramesh & Mr. Suresh for the A.Y. 2023-24

Sr. No.	Particulars	Mr. Ramesh (Non-Resident) (₹)	Mr. Suresh (Resident) (₹)
1.	Interest on Canada Development Bond (See Note 2)	17,500	40,000
2.	Dividend from British Company received in London (See Note 3)	-	20,000
3.	Profits from a business in Nagpur but managed directly from London (See Note 2)	1,00,000	1,40,000
4.	Short term capital gain on sale of shares of an Indian company received in India (See Note 2)	60,000	90,000
5.	Income from a business in Chennai (See Note 2)	80,000	70,000
6.	Fees for technical services rendered in India, but received in Canada (See Note 2)	1,00,000	-
7.	Interest on savings bank deposit in UCO Bank, Delhi (See Note 2)	7,000	12,000

8.	Agricultural income from a land situated in Andhra Pradesh (See Note 4)	-	-
9.	Income from house property at Bhopal (See Note 5)	70,000	42,000
	Gross Total income	4,34,500	4,14,000
	Less: Deduction under Chapter VI-A		
	Section 80C - Life insurance premium	-	30,000
	Section 80TTA (See Note 6)	7,000	10,000
	Total Income	4,27,500	3,74,000

NOTES:

1. Mr. Ramesh is a non-resident since he has been living in Canada since 1996. Mr. Suresh, is settled in Delhi, and thus, assumed as a resident and ordinarily resident.
2. In case of a resident and ordinarily resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:

(i) Income received or deemed to be received in India; and

(ii) Income accruing or arising or deemed to accrue or arise in India.

Therefore, fees for technical services rendered in India would be taxable in the hands of Mr. Ramesh, even though he is a non-resident.

The income referred to in Sl. No. 3,4,5 and 7 are taxable in the hands of both Mr. Ramesh and Mr. Suresh since they accrue or arise/deemed to accrue or arise in India.

Interest on Canada Development Bond would be fully taxable in the hands of Mr. Suresh, whereas only 50%, which is received in India, is taxable in the hands of Mr. Ramesh.

3. Dividend received from British company in London by Mr. Ramesh, a non-resident, is not taxable since it is accrued and received outside India. However, such dividend received by Mr. Suresh is taxable, since he is a resident and ordinarily resident.
4. Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.
5. Income from house property-

	Mr. Ramesh (₹)	Mr. Suresh (₹)
Rent received	1,00,000	60,000
Less: Deduction under section 24(a) @30%	30,000	18,000
Net income from house property	70,000	42,000

The net income from house property in India would be taxable in the hands of both Mr. Ramesh and Mr. Suresh, since the accrual and receipt of the same are in India.

6. In case of an individual, interest upto ₹ 10,000 from savings account with, inter alia, a bank is allowable as deduction under section 80TTA.

4. Examine the correctness or otherwise of the statement - "Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus".

Sol. This statement is correct.

As per Explanation to section 9, 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 -

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

In effect, the income by way of fees for technical services, interest or royalty from services utilised 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 and irrespective of whether the non-resident has a residence or place of business or business connection in India.

5. Examine with reasons whether the following transactions attract income-tax in India in the hands of recipients:
- (i) Salary payable by Central Government to Mr. John, a citizen of India of ₹ 7,00,000 for the services rendered outside India.
 - (ii) Interest on moneys borrowed from outside India ₹ 5,00,000 by a non-resident for the purpose of business within India say, at Mumbai.
 - (iii) Post office savings bank interest of ₹ 19,000 received by a resident assessee, Mr. Ram, aged 46 years.
 - (iv) Royalty paid by a resident to a non-resident in respect of a business carried on outside India.
 - (v) Legal charges of ₹ 5,00,000 paid in Delhi to a lawyer of United Kingdom who visited India to represent a case at the Delhi High Court.

Sol.

	Taxable/ Not Taxable	Amount liable to tax (₹)	Reason
(i)	Taxable	6,50,000	As per section 9(1)(iii), salaries payable by the Government to a citizen of India for service rendered outside India shall be deemed to accrue or arise in India. Therefore, salary paid by Central Government to Mr. John for services rendered outside India would be deemed to accrue or arise in India since he is a citizen of India. He would be entitled to standard deduction of ₹ 50,000 under section 16(ia).
(ii)	Taxable	5,00,000	As per section 9(1)(v)(c), interest payable by a non-resident on moneys borrowed and used for the purposes of business carried on by such person in India shall be deemed to accrue or arise in India in the hands of the recipient.
(iii)	Partly Taxable	5,500	The interest on Post office savings bank a/c would be exempt u/s 10(15)(i) only to the extent of ₹ 3,500 in case of an individual a/c. Further, interest upto ₹ 10,000, would be allowed as deduction u/s 80TTA from Gross Total Income. Balance ₹ 5,500 i.e., ₹ 19,000 - ₹ 3,500 - ₹ 10,000 would be taxable in the hands of Mr. Ram, a resident.

(iv)	Not Taxable	-	Royalty paid by a resident to a non-resident in respect of a business carried outside India would not be taxable in the hands of the non-resident provided the same is not received in India. This has been provided as an exception to deemed accrual mentioned in section 9(1)(v)(b).
(v)	Taxable	5,00,000	In case of a non-resident, any income which accrues or arises in India or which is deemed to accrue or arise in India or which is received in India or is deemed to be received in India is taxable in India. Therefore, legal charges paid in India to a non-resident lawyer of UK, who visited India to represent a case at the Delhi High Court would be taxable in India.

PRACTICE QUESTIONS

1. Mr Dhruv, a person of Indian origin and citizen of Country X, got married to Ms. Deepa, an Indian citizen residing in Country X, on 4th February, 2023 and came to India for the first time on 20-02-2023. He left for Country X on 12th August, 2023. He returned to India again on 20-01-2024 with his wife to spend some time with his parents-in law for 30 days and thereafter returned to Country X on 18.02.2024.

He received the following gifts from his relatives and friends of her wife during 01-04-2023 to 31-03-2024 in India:

- ♦ From parents of wife ₹ 1,01,000
- ♦ From married sister of wife ₹ 11,000
- ♦ From very close friends of his wife ₹ 2,82,000

- (a) Determine his residential status and compute the total income chargeable to tax along with the amount of tax payable on such income.
- (b) Will your answer change if he has received ₹ 16,00,000 instead of ₹ 2,82,000 from very close friends of his wife during the previous year 2023-24 and he stayed in India for 400 days during the 4 years preceding the previous year 2023-24?

Sol. (a) Determination of residential status and computation of total income and tax payable of Mr. Dhruv

Under section 6(1), an individual, being a person of Indian origin and who comes on a visit to India during the previous year and his total income other than the income from foreign source exceeds ₹ 15,00,000, is said to be resident in India, if he stayed in India for a total period of 120 days or more during that previous year and for 365 days or more during the 4 years immediately preceding the relevant previous year.

However, in case, the total income other than the income from foreign source does not exceed ₹ 15,00,000, the said individual is said to be resident in India, only if he stayed in India for a total period of 182 days or more during that previous year.

Since in the present case, total income other than from foreign source, of Mr. Dhruv, a person of Indian origin does not exceed ₹ 15,00,000, he would be said to be resident in India, only if he stayed in India for 182 days or more during the previous year.

His stay in India during the previous year 2023-24 is as under:

P.Y. 2023-24

01.04.2023 to 12.08.2023 134 days

20.01.2024 to 18.02.2024 30 days

Total 164 days

Since Mr. Dhruv has stayed in India during the previous year for less than 182 days, he is said to be non-resident. Accordingly, his total income and tax payable would be computed in the following manner:

Computation of total income and tax payable of Mr. Dhruv

Particulars	Amount
Income from other sources	
Cash gifts received from non-relatives is chargeable to tax as per section 56(2)(x) if the aggregate value of such gifts exceeds ₹ 50,000	
₹ 1,01,000 received from parents of wife would be exempt, since parents of wife fall within the definition of 'relatives' and gifts from a relative are not chargeable to tax.	NIL
₹ 11,000 received from married sister-in-law is exempt, since sister of wife falls within the definition of relative and gifts from a relative are not chargeable to tax	NIL
Gift received from close friends of his wife of ₹ 2,82,000 is taxable under section 56(2)(x) since the said sum exceeds ₹ 50,000	2,82,000
Total Income	2,82,000
Tax on total income of ₹ 2,82,000 [5% of ₹ 32,000 in excess of ₹ 2,50,000, being the basic exemption limit]	1600
Add: Health and Education cess@4%	64
Total tax payable	1,664
Total tax payable (rounded off)	1,660

- (b) Determination of residential status and computation of total income and tax payable of Mr. Dhruv (if he has received cash gifts from non-relative for ₹ 16,00,000):

Where an individual, being a person of Indian origin comes on visit to India and he is having total income other than income from foreign sources exceeding ₹ 15 lakhs during the previous year, such individual is said to be resident in India, if he stays in India during the previous year for 120 days or more and for 365 days or more during the 4 years immediately preceding the relevant previous year. As per section 6(6), such individual whose stay in India is for 120 days or more but less than 182 days in the P.Y. 2023-24 would be resident but not ordinarily resident irrespective of his residential status or no. of days of stay in India in the immediately preceding PYs.

Mr. Dhruv, is a person of India origin who has come on a visit to India during the previous year. Since his total income other than income from foreign sources exceeds ₹ 15,00,000; and his stay in India is for 164 days during the P.Y. 2023-24 and for 400 days during the 4 years immediately preceding the P.Y. 2023-24, he is resident but not ordinarily resident in India for the P.Y. 2023-24.

In such case, his total income and tax payable would be computed in the following manner:
Computation of total income and tax payable of Mr. Dhruv for the A.Y. 2024-25

Particulars	Amount
Income from other sources	
Cash gifts received from non-relatives is chargeable to tax as per section 56(2)(x) if the aggregate value of such gifts exceeds ₹ 50,000.	
1,01,000 received from parents of wife would be exempt, since parents of wife fall within the definition of 'relatives' and gifts from a relative are not chargeable to tax.	NIL
11,000 received from married sister-in-law is exempt, since sister of wife falls within the definition of relative and gifts from a relative are not chargeable to tax.	NIL
Gift received from close friends of his wife of ₹ 16,00,000 is taxable under section 56(2)(x) since the amount of cash gifts exceeds ₹ 50,000.	16,00,000
Total Income	16,00,000
Tax on total income of ₹ 16,00,000	1,80,000
Upto ₹ 3,00,000 Nil	
3,00,001 - ₹ 6,00,000 [₹ 3,00,000 @ 5%] 15,000	
6,00,001 - ₹ 9,00,000 [₹ 3,00,000 @ 10%] 30,000	
9,00,001 - ₹ 12,00,000 [₹ 3,00,000 @ 15%] 45,000	
12,00,001 - ₹ 15,00,000 [₹ 3,00,000 @ 20%] 60,000	
15,00,001 - ₹ 16,00,000 [₹ 1,00,000 @ 30%] 30,000	
Add: Health and Education cess@4%	7,200
Total tax payable	1,87,200

NOTE: Since his tax payable as per normal provisions is ₹ 3,04,200 [₹ 2,92,500 (₹ 1,12,500 plus 30% on ₹ 6,00,000 income exceeding ₹ 10,00,000) plus ₹ 11,700, being health and education cess @4%], which is higher than the tax payable default tax regime under section 115BAC, it is beneficial for him to opt for section 115BAC.

2. You are required to determine the residential status of Mr. Dinesh, a citizen of India, for the previous year 2023-24. Mr. Dinesh is a member of crew of a Singapore bound Indian ship, carrying passengers in the international waters, which left Kochi port in Kerala, on 16th August, 2023. Following details are made available to you for the previous year 2023-24

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Dinesh	16/8/2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Dinesh	21/1/2024

In June, 2023, he had gone out of India to Dubai on a private tour for a continuous period of 27 days.

During the last four years preceding the previous year 2023-24, he was present in India for 425 days. During the last seven previous years preceding the previous year 2023-24, he was present in India for 830 days

Sol. Determination of residential status of Mr. Dinesh for the P.Y. 2023-24

As per Explanation 1 to section 6(1), where an Indian citizen leaves India as a member of crew of an Indian ship, he will be resident in India only if he stayed in India for 182 days during the relevant previous year.

As per Explanation 2 to section 6(1)1, in case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of an eligible voyage, not include the period commencing from the date entered into the Continuous Discharge Certificate in respect of joining of ship by the said individual for the eligible voyage and ending on the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

Eligible voyage includes a voyage undertaken by an Indian ship engaged in the carriage of passengers in international traffic, originating from any port in India and having its destination at a port outside India.

In this case, voyage is undertaken by a foreign bound Indian ship engaged in the carriage of passengers in international traffic, originating from a port in India (i.e., the Kochi port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage.

Therefore, the period from 16th August, 2023 and ending on 21st January, 2024 has to be excluded for computing the period of stay of Mr. Dinesh in India. Accordingly, the period of 159 days [16+30+31+30+31+21] has to be excluded for computing the period of his stay in India during the P.Y.2023-24.

Further, since Mr. Dinesh had also gone out of India to Dubai on a private tour for a continuous period of 27 days in June, 2022, such period has also to be excluded for computing his period of stay in India during the P.Y.2023-24. Consequently, the period of stay in India during the P.Y. 2022-23 would be 180 days [i.e., 366 days - 159 days - 27 days], which is less than 182 days.

Thus, Mr. Dinesh would be a non-resident for A.Y. 2024-25.

Since the residential status of Mr. Dinesh is "non-resident" for A.Y. 2024-25 consequent to his number of days of stay in India in P.Y. 2023-24, being less than 182 days, his period of stay in India in the earlier previous years become irrelevant.

3. Mr. Shridhar (age 45 years), a citizen of India, serving in the Ministry of Finance in India, was transferred to Indian Embassy in Australia on 15th March 2023. His income during the financial year 2023-24 is given here under:

Particulars	₹
Rent from a house situated at Australia, received in Australia. Thereafter, remitted to Indian bank account.	5,25,000
Interest on Post office savings bank account in India	4,500
Salary from Government of India	9,25,000
Foreign Allowances from Government of India	8,00,000

Mr. Shridhar did not come to India during the financial year 2022-23. Compute his Gross Total Income.

Sol. Mr. Shridhar is a non-resident for the A.Y.2024-25, since he was not present in India at any time during the previous year 2023-24 [Section 6(1)].

As per section 5(2), a non-resident is chargeable to tax in India only in respect of following incomes:

- (i) Income received or deemed to be received in India; and
- (ii) Income accruing or arising or income deemed to accrue or arise in India. Computation of Gross Total Income of Mr. Shridhar.

Particulars	₹
Foreign Allowance from Government of India	Nil
[Any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt under section 10(7)].	
Gross Salary	9,25,000
Less: Standard Deduction under section 16(ia) of ₹ 50,000, being lower of gross salary or ₹ 50,000	50,000
Income from House Property	8,75,000
Rent from a house situated at Australia, received in Australia (Income from property situated outside India would not be taxable in India in the hands of a non-resident, since it neither accrues or arises in India nor is it deemed to accrue or arise in India nor is it received in India)	
	Nil
Income from Other Sources	
Interest on Post office savings bank account – exempt upto ₹ 3,500	1,000
Gross Total Income	8,76,000

NOTE: Interest on Post office saving bank account of ₹ 1,000 would be allowed as deduction under section 80TTA.

4. Mrs. Rohini, aged 62 years, was born and brought up in New Delhi. She got married in Russia in 1996 and settled there since then. Since her marriage, she visits India for 60 days each year during her summer break. The following are the details of her income for the previous year ended 31.03.2024:

S. No.	Particulars	Amount (in ₹)
1.	Pension received from Russian Government	65,000
2.	Long-term capital gain on sale of land at New Delhi (computed)	3,00,000
3.	Short-term capital gain on sale of shares of Indian listed companies in respect of which STT was paid both at the time of acquisition as well as at the time of sale (computed)	60,000
4.	Premium paid to Russian Life Insurance Corporation at Russia	75,000
5.	Rent received (equivalent to Annual Value) in respect of house property in New Delhi	90,000

You are required to ascertain the residential status of Mrs. Rohini and compute her total income and tax liability in India assuming assessee has not opted S.115BAC.

Sol. An Indian citizen or a person of Indian origin who, being outside India, comes on a visit to India (and whose total income, other than from foreign sources, does not exceed ₹ 15,00,000) would be resident in India only if he or she stays in India for a period of 182 days or more during the previous year.

Since Mrs. Rohini is a person of Indian origin who comes on a visit to India only for 60 days in the P.Y.2023-24 and her income other than from foreign sources does not exceed ₹ 15,00,000, she is non-resident for the A.Y. 2024-25.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to her in India. Accordingly, her total income and tax liability would be determined in the following manner:

Computation of total income and tax liability of Mrs. Rohini

Particulars	Amt (₹)
Salaries	
Pension received from Russian Government [Not taxable, since it neither accrues or arises in India nor is it received in India]	Nil
Income from House Property	
Annual Value [Rental Income from house property in New Delhi is taxable, 90,000 since it is deemed to accrue or arise in India, as it accrues or arises from a property situated in India]	
Less: Deduction u/s 24(a) @ 30% 27,000	63,000
Capital Gains	
Long-term capital gains on sale of land at New Delhi [Taxable, since it is deemed to accrue or arise in India as it is arising from transfer of land situated in India]	3,00,000
Short-term capital gains on sale of shares of Indian listed companies in respect of which STT was paid [Taxable, since it is deemed to accrue or arise in India, as such income arises on transfer of shares of Indian listed companies]	
60,000	
Gross Total Income	4,23,000
Less: Deduction under Chapter VI-A	
Deduction under section 80C	63,000
Life insurance premium 2 of ₹ 75,000 [Premium paid to Russian Life Insurance Corporation allowable as deduction. However, the same has to be restricted to gross total income excluding LTCG and STCG, as Chapter VI-A deductions are not allowable against such income chargeable to tax u/s 112 and 111A, respectively]	

Total Income	3,60,000
Computation of Tax Liability	
Long-term capital gains taxable @20% u/s 112 [3,00,000 × 20%]	60,000
Short-term capital gains taxable @15% u/s 111A [60,000 × 15%]	9,000
	69,000
Add: Health and Education Cess @4%	2,760
Tax Liability	71,760

NOTE: The benefit of adjustment of unexhausted basic exemption limit against long-term capital gains taxable u/s 112 and short-term capital gains taxable u/s 111A is not available in case of non-resident. Further, rebate u/s 87A is not allowable to a non-resident, even if his income does not exceed ₹ 5 lakh.

5. Rajesh was employed in Axis Ltd., Mumbai. He received a salary of ₹ 45,000 p.m. from 1.04.2022 to 20.09.2022. He resigned and left for Dubai for the first time on 28.09.2023 and got monthly salary of rupee equivalent of ₹ 90,000 from 1.10.2023 to 31.03.2024. His salary for October to December was credited in his Mumbai bank account directly and the salary for January to March 2024 was credited in his Dubai bank account.

The cost of his air tickets to Dubai costing ₹ 1,50,000 was funded by her sister staying in London. The cost of his initial stay at Dubai costing ₹ 40,000 was funded by one of his friends staying in Delhi.

He further received interest of ₹ 10,500 on his fixed deposits and ₹ 7,500 on his savings a/c with his Mumbai bank. He also paid LIC Premiums of ₹ 15,000 for self, ₹ 10,000 for spouse and ₹ 25,000 for dependent mother aged 71 years. Compute taxable income of Mr. Rajesh for the Assessment Year 2023-24 assuming S.115BAC is not opted.

- Sol.** In case of an Indian citizens leaving India for employment during the relevant previous year, the period of their stay during that previous year for being treated as a resident of India must be 182 days or more.

During the previous year 2023-24, Mr. Rajesh, an Indian citizen, was in India for 181 days only (i.e., 30+31+30+31+31+28 days). Thereafter, he left India for employment purposes.

Since he does not satisfy the minimum criteria of 182 days, he is a non-resident for the A.Y. 2024-25.

A non-resident is chargeable to tax in respect of income received or deemed to be received in India and income which accrues or arises or is deemed to accrue or arise to him in India. Hence, salary for January to March 2024, which was credited in his Dubai bank account for services rendered in Dubai, would not be taxable in the hands of Mr. Rajesh.

Computation of taxable income of Mr. Rajesh

Particulars	Amount (₹)
Salary	
Salary from 1.4.2020 to 20.9.2020 $[45,000 \times 5 + 45,000 \times 20/30]$	2,55,000
Salary from 1.10.2020 to 31.12.2020 $[90,000 \times 3]$	2,70,000
Gross Salary	5,25,000
Less: Standard deduction u/s 16(ia)	50,000
	4,75,000
Income from Other Sources	
Interest on fixed deposits	10,500
Interest on Savings account	7,500
Gross Total Income	4,93,000
Less: Deduction under Chapter VI-A	
Deduction under section 80C	25,000
LIC premium for self and spouse [LIC premium for mother is not allowed for deduction]	
Deduction under section 80TTA	7,500
Total Income	4,60,500

6. Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fee for technical services is to be taxed in India irrespective of territorial nexus. Examine the correctness or otherwise of the given statement.

Sol. 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 -

- (i) the non-resident has a residence or place of business or business connection in India; or
- (ii) 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.

Therefore, the given statement that income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fees for technical services is to be taxed irrespective of territorial nexus, is correct.

7. Mr Thomas, a non-resident and citizen of Japan entered into following transactions during the previous year ended 31.03.2024. Examine the tax implications in the hands of Mr. Thomas for the Assessment Year 2024-25 as per Income-tax Act, 1961. (Give brief reasoning)

- (1) Interest received from Mr. Marshal, a non-resident outside India (The borrowed fund is used by Mr. Marshal for investing in Indian company's debt fund for earning interest).
- (2) Received ₹ 10 lakhs in Japan from a business enterprise in India for granting license for computer software (not hardware specific).
- (3) He is also engaged in the business of running news agency and earned income of ₹ 10 lakhs from collection of news and views in India for transmission outside India.

He entered into an agreement with SKK & Co., a partnership firm for transfer of technical documents and design and for providing services relating thereto, to set up a Denim Jeans manufacturing plant, in Surat (India). He charged ₹ 10 lakhs for these services from SKK & Co.

- Sol.** (1) Not taxable, since interest payable by a non-resident to another non-resident would be deemed to accrue or arise in India only if the borrowed fund is used for the purposes of business or profession carried on by him in India. In this case, it is used for investing in Indian company's debt fund for earning interest and not for the purposes of business or profession. Hence, it is not taxable in India.
- (2) Royalty includes, inter alia, consideration for grant of license for computer software. Hence, the amount of ₹ 10 lakhs payable by a resident (business enterprise in India) for grant of license for computer software would be royalty which is deemed to accrue or arise in India in the hands of Mr. Thomas, a non-resident, since it is for the purpose of business in India. Hence, the royalty is taxable in India.
- (3) No income shall be deemed to accrue or arise to Mr. Thomas through or from activities which are confined to the collection of news and views in India for transmission outside India. Hence, ₹ 10 lakhs is not taxable in India in the hands of Mr. Thomas.
- (4) ₹ 10 lakhs is deemed to accrue or arise in India to Mr. Thomas, a non-resident, since it represents royalty/fees for technical services paid for services utilized in India, in this case, for setting up a Denim Jeans manufacturing plant in Surat. Hence, the same would be taxable in India in the hands of Mr. Thomas.

■ INCOME UNDER THE HEAD SALARIES

Important concepts relating to Salaries

- (1) **Employer-employee relationship:** Every payment made by an employer to his employee for service rendered would be chargeable to tax as salaries. Before an income can become chargeable under the head 'salaries', it is vital that there should exist between the payer and the payee, the relationship of an employer and an employee
- (2) **Full-time or part-time employment:** Once the relationship of employer and employee exists, the income is to be charged under the head "salaries". It does not matter whether the employee is a full-time employee or a part time one. If, for example, an employee works with more than one employer, salaries received from all the employers should be clubbed and brought to charge for the relevant previous year
- (3) **Foregoing 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.
- (4) **Surrender of salary:** However, if an employee surrenders his salary 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
- (5) **Salary paid tax-free:** This, in other words, 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.
- (6) **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.

■ BASIS OF CHARGE [SECTION 15]

- (i) Section 15 deals with the basis of charge. Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.
- (ii) However, where any salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.
- (iii) If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

Difference between Loan, 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.

Meaning of Salary

'Salary' under section 17(1), includes the following:

- (i) Wages or Basic Pay
 - (ii) Bonus
 - (iii) Commission
 - (iv) Allowances
 - (v) Perquisites
 - (vi) any annuity or pension,
 - (vii) any gratuity,
 - (viii) any fees, commission, perquisites or profits in lieu of or in addition to any salary or wages,
 - (ix) any advance of salary,
 - (x) any payment received in respect of any period of leave not availed by him i.e. leave salary or leave encashment,
 - (xi) **Provident Fund:** the portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund to the extent it is taxable and - transferred balance in recognized provident fund to the extent it is taxable,
 - (xii) 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.
- **Basic Pay:** Basic Pay is the essential component of salary. It is given by employer to employee for his basic qualities like qualification, experience and expertise in particular field. Basic pay is always fully taxable.
 - **Dearness Allowance:** Dearness Allowance is given to an employee to compensate him for increase in prices and it is generally allowed as certain percentage of basic pay and it is linked to consumer price index and it is revised on quarterly basis. Dearness allowance of an employee is always fully chargeable to tax.
 - **Bonus:** It is the part of the profits of the employer, which is given to an employee and it is fully taxable.
 - **Fees/Commission:** Extra payment for extra work is called commission or fees and it is always fully taxable.

■ ALLOWANCES

- It is a fixed Amount of money payable to employee for particular requirement in cash connected with the services rendered.
- For e.g. ₹200 p.m. for meal. It is meal allowance, ₹200 meal coupon. It is perquisites.
- Allowances may be given for personal purpose or for official purpose.
- Where the allowances are given for personal purpose it is generally fully taxable. But where allowances are given for official purpose it is generally exempt from tax. Treatment of taxability of allowance does not depend upon the name of the allowance but for the purpose for which it is provided.

- Allowances are divided into four categories
 - (i) Fully exempted allowances
 - (ii) Fully taxable allowances
 - (iii) Partially exempted allowances and
 - (iv) Special allowance.

■ FULLY EXEMPTED ALLOWANCES

Following allowances are fully exempted from tax:

1. Allowances paid to Supreme Court and High Court Judges.
2. Any salary or allowance or perquisites paid to the employees of United Nation Organisation.
3. Section 10(7). Any allowances or perquisites paid or allowed by Government of India to Indian citizen for rendering services outside India. (Such salary is deemed to accrue or arise in India).

■ FULLY TAXABLE ALLOWANCES

Following allowances, whether spend or not, is fully taxable.

1. Servant Allowance.
2. Fixed Medical Allowance.
3. City Compensatory Allowance.
4. Tiffin/breakfast/lunch/brunch/refreshment/meal/dinner allowance.
5. Overtime allowance.
6. Telephone Allowance.
7. Project allowance. (personal research)
8. High Cost of living Allowance.
9. Entertainment allowance. (for clients entertainment)
10. Marriage/Family Allowance
11. Dearness allowance. (inflation in the economy)
12. Holiday Home Allowance
13. Rural allowance.
14. Non-Practising Allowance
15. Absent Allowance.
16. Overseas allowance

■ SPECIAL ALLOWANCES [SECTION 10(14) & RULE 2BB]

Official Allowances: Following allowances are exempt to the extent they are utilized for Official Purpose

S. No	Allowance	Exemption
1.	Transfer Allowance.	Expenditure incurred on transfer. (Movers & Packers)
2.	Helper Allowance	Salary given to helper to perform official duty.
3.	Academic Allowance.	Fees given to the institutes.
4.	Research & Development Allowance (R & D).	Expenditure incurred on research.

5.	Daily Allowance.	Expenditure incurred in Hotels, Food and Tour.
6.	Uniform Allowance.	Expenditure incurred on uniform
7.	Conveyance Allowance.	Expenditure incurred on car, train, bus, metro for performing official duties.
8.	Travelling Allowance.	Expenditure incurred on car, train, bus, metro for performing official duties.

Note: Daily Allowance/Travelling Allowance/Conveyance allowance are eligible for exemption under default tax regime (S.115BAC)

■ ALLOWANCES FOR PERSONAL NEEDS (ALLOWED ONLY UNDER OLD REGIME)

Amount specified in Income Tax Rules. (*Actual Expenditure is ignored.*)

- (1) **Children Education Allowance:** Children education allowance is exempt upto ₹100 p.m. per child upto two child.
- (2) **Hostel Allowance:** Any allowance granted to an employee to meet the hostel expenditure on his child is exempt upto ₹ 300 p.m. per child upto two children.
- (3) **Transport Allowance:** Allowance given to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is called transport allowance. Transport allowance granted to an employee, who is blind or orthopaedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is exempt upto ₹ 3,200 p.m. This exemption is available both under default and normal provisions of income tax.
- (4) **Outstation Allowance:** Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place is called outstation allowance. Such allowance is given in lieu of daily allowance. It is exempt to the extent of least of the following:
 - (i) 70% of the allowance
 - (ii) ₹ 10,000 p.m.
- (5) **Underground Allowance:** Sometimes the employer may pay some allowance to the employees who are working in the mines and such allowance is called underground allowance and it is exempt upto ₹ 800 p.m.
- (6) **Tribal Area Allowance:** Sometimes an employee may be posted in the tribal area and employer may pay him some allowance, it is called tribal area allowance and it is exempt upto ₹ 200 p.m.
- (7) **Other notified allowances:**
 - (a) Compensatory modified field area allowance. upto ₹ 1,000 p.m. is exempt.
 - (b) Composite field area allowance. upto ₹ 2,600 p.m. is exempt.
 - (c) Compensatory field area allowance. upto ₹ 2,600 p.m. is exempt.
 - (d) Island Duty allowance. upto ₹ 3,250 p.m. is exempt.
 - (e) Counter insurgency allowance. upto ₹ 3,900 p.m. is exempt.
 - (f) Special Compensatory highly active field area allowance. upto ₹ 4,200 p.m. is exempt.

Illustration 1: Explain tax treatment following allowances

1. Mr. J is a Govt. employee and he receives entertainment allowance of ₹ 5,000 for the entertainment of clients of the Govt. He spend ₹ 3,000 p.m. for the entertainment of the clients of the Govt.

2. Entertainment Allowance 300 p.m. (30% is used for official purpose)
3. Transport Allowance 3,400 p.m. Expenditure incurred in commuting ₹ 1,200 p.m. He is blind
4. Transport Allowance 3,600 p.m. Expenditure incurred in travelling from residence to office & back ₹ 300 p.m. He is dumb and deaf.
5. Transport Allowance 3,000 p.m. No expenditure is incurred. He is orthopaedic handicapped with lower extremities
6. Children Education Allowance for 3 children 120p.m./each.
7. Children Education Allowance for 3 children 90p.m./child
8. Special allowance to meet the cost of education and staying ₹ 500 p.m. for a child.
9. Hostel allowance for 3 child ₹ 400 p.m. per child for 4 months.
10. Children Education Allowance for 3 children ₹ 6,000. Actual school fees 3,000.
11. Hostel Allowance for a child ₹ 8,000. Actual hostel fees ₹ 9,000.
12. Children education allowance for his grand child ₹ 4,000. Actual school fees 300.
13. Research and development allowance ₹ 4,000. ₹ 1,000 is spend wholly towards official purpose.
14. Meal Allowance ₹ 700. Expenditure on meal is ₹ 1,000.
15. Helper Allowance ₹ 1,500. ₹ 900 is spent wholly towards official purpose.
16. Conveyance Allowance 500 p.m. Whole of allowance is saved.
17. Mr. Abhay Jain, is a pilot in Jet Airways, He get a Flight Allowance of ₹ 10,000 p.m.
18. Mr. J is working in Delhi Transport Corporation. He gets a driver allowance of ₹ 6,000 p.m.
19. X is employed as a guard in railways. He is getting guard allowance of ₹ 24,000 p.a. He is not in receipt of daily allowance.
20. Hostel Allowance for 2 children 250 p.m./child. (actual expenditure incurred is ₹ 150 p.m./child).
21. Hostel Allowance for 4 children 320p.m./each.
22. High cost of living allowance @ 50,000.
23. Tribal area allowance in Madhya Pradesh ₹ 300 p.m.
24. Daily allowance ₹ 6,000.
25. Medical allowance ₹ 800 p.m.
26. X is employed as a caretaker in a transport company at Chennai. he gets transport duty allowance ₹ 3,600 p.m.
27. Bonus disputed in court.
28. Clothing Allowance.
29. He has received fixed allowance of ₹ 2,500 p.m. for medical treatment for the entire family; had incurred an expenditure of ₹ 12,500 actually.
30. Children education allowance • First child ₹ 70 p.m. • Second child ₹ 90 p.m. • Third child ₹ 4,800
31. Overseas allowance, Physically fit allowance.
32. Medical allowance 2,000 p.m. received by an employee, the entire Amount (₹) of which has been spent by him for medical treatment.
33. Hostel allowance for 3 children ₹ 3,500 each.

Ans: (1) Fully taxable ₹ 5,000. (2) Fully taxable ₹ 3,600 (3) 2,400 taxable (4) 4,800 taxable (5) ₹ 4,800 exempt (6) 1,920 taxable (7) 1,080 is taxable (8) 1,200 taxable (9) 2,400 is taxable (10) 3,600 is taxable (11) ₹ 4,400 is taxable (12) ₹ 4,000 is taxable (13) ₹ 3,000 is taxable (14) ₹ 700 is taxable

(15) ₹ 600 is taxable (16) ₹ 6,000 taxable (17) ₹ 36,000 taxable (18) ₹ 21,600 taxable (19) 7,200 is taxable (20) fully exempt (21) 8,160 is taxable (22) fully taxable (23) ₹ 1,200 taxable (24) fully exempt (25) fully taxable (26) 12,960 is taxable (27) not taxable (28) exempt assuming that to be uniform allowance (29) fully taxable (30) 4,440 (31) Fully taxable. (32) Fully taxable. 24,000. (33) 3,500

Illustration 2: Mr. J posted at Hyderabad draws the following emoluments from F Ltd. Basic Salary ₹ 6,000 p.m. Bonus ₹ 2,000 p.m. Commission ₹ 8,000 p.a. CCA ₹ 1,000 p.m. Telephone allowance ₹ 200 p.m. Medical Allowance ₹ 300 p.m. Entertainment allowance ₹ 4,800 (₹ 6,000 spend on entertainment of clients of companies). Academic allowance ₹ 16,000 (₹ 9,000 spend on his education). Conveyance allowance ₹ 6,000 (₹ 7,000 is spend on conveyance for official purpose). Travelling allowance ₹ 18,000 (₹ 17,000 is spend on conveyance for official purpose). Transport allowance ₹ 1,700 p.m. (Expenses incurred on commuting between residence to office and back ₹ 2,500 p.m.) Children education allowance for 4 child ₹ 160 p.m. per child. Hostel allowance for 3 child ₹ 280 per month per child (expenditure incurred on child education and their hostel ₹ 1,100 per month per child). Compute Gross Salaries.

Ans: 1,63,840

■ HOUSE RENT ALLOWANCE [SECTION 10(13A) & RULE 2A]

If Employer pays additional Amount to employee to meet rent expenses of residence, then it shall be termed as house rent allowance. Exemption of HRA is not available under default tax regime/u/s 115BAC, it shall be allowed under normal provisions of income tax i.e. under old regime.

House rent allowance is exempt to the extent of the least of the following:

- (i) Rent paid over 10% of retirement benefits salary due to the assessee for the relevant period.
i.e. (Rent Paid – 10% of salary)
- (ii) 50% of retirement benefit salary in case of Mumbai, Kolkata, Chennai or Delhi. 40% of retirement benefit salary in case of any other place.
- (iii) House rent allowance received.

If there is any change in house rent allowance, rent paid, retirement benefits salary or the place of posting during the year, there will be separate calculation for each of such change.

Meaning of Salary for HRA (also known as superannuation salary)

- Basic Salary
- Dearness allowance (if terms of employment so provide that dearness allowance should form part of basic salary for computation of retirement benefits)
- commission (if based on sales turnover).

Illustration 3: Mr. J is employed in F Ltd. getting basic pay ₹ 20,000 p.m., dearness allowance ₹ 7,000 p.m. and half of the dearness allowance forms the part of salary for the purpose of retirement benefits. The employer has paid bonus @ ₹ 500 p.m., commission @ 1% on the sales turnover of ₹ 20 lakhs. The employer paid him house rent allowance ₹ 6,000 p.m. Employee has paid rent ₹ 7,000 p.m. and was posted at Agra. Compute Taxable HRA.

Illustration 4: Compute Gross Salary : Basic Salary ₹ 5,000 p.m. Dearness allowance (70% forms part of salary) ₹ 500 p.m. Commission 1% p.a. based on sales. Sales achieved by the employee ₹ 24 lakhs p.a. House rent allowance ₹ 4,000 p.m. Rent paid at Gurgaon ₹ 5,000 p.m.

Illustration 5: Mr. J is employed with XY Ltd. on a basic salary of ₹ 10,000 p.m. He is also entitled to Dearness allowance @ 100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of ₹ 6,000 p.m. which was increased to

₹ 7,000 p.m. with effect from 01.01.2024. He also got an increment of ₹ 1,000 p.m. in his basic salary with effect from 01.02.2024. Rent paid by him during the previous year 2023-24 is as under:

- April and May, 2023 - Nil, as he stayed with his parents.
- June to October, 2023 - ₹ 6,000 p.m. for an accommodation in Ghaziabad.
- November, 2023 to March, 2024 - ₹ 8,000 p.m. for an accommodation in Delhi. Compute the gross salary for Assessment Year 2024-25.

Illustration 6: Mr. J is employed in Central Government getting basic pay ₹ 18,000 p.m., dearness allowance ₹ 6,000 p.m. Employer has paid children education allowance ₹ 700 p.m. per child w.e.f. 01.09.2023 and hostel allowance of ₹ 1,000 p.m. for one child w.e.f. 01.10.2023. Employer has paid transport allowance ₹ 1,700 p.m. w.e.f. 01.11.2023. Employer has paid house rent allowance ₹ 5,000 p.m. w.e.f. 01.01.2024. The employee has resigned from 01.02.2024 and has taken up a new job w.e.f. 01.03.2024. He is getting basic pay ₹ 27,000 p.m. and house rent allowance ₹ 4,000 p.m. Compute his Gross Salary

■ DEDUCTIONS FROM GROSS SALARY

A. Standard Deduction [Section 16(ia)]

As per Section 16 (ia) a deduction of ₹ 50,000 or the Amount (₹) of the salary, whichever is less.

B. Entertainment allowance [Section 16(ii)]

Sometimes the employer may pay some Amount (₹) to the employee to entertain the customers of the employer and it is called entertainment allowance and entire Amount (₹) shall be added to the gross salary of the employee however deduction shall be allowed in case of government employees under section 16(ii) to the extent of the least of the following:

- (i) 20% of basic salary
- (ii) ₹ 5,000

(iii) The actual allowance received by the employee.

Deduction is allowed only if the employee is State Government or Central Government employee i.e. in case of employees of Local Authority, Statutory Corporation, Public Sector Undertaking etc, deduction is not allowed. If the employee has saved any Amount (₹), it will not be taken into consideration.

Illustration 7: Mr. J is employed in central Government getting basic pay ₹ 30,000 p.m., dearness allowance ₹ 7,000 p.m., servant allowance ₹ 2,000 p.m., entertainment allowance ₹ 1,000 p.m., city compensatory allowance ₹ 600 p.m. In this case taxable salary of Mr. J shall be.

C. Professional Tax/Employment Tax [Section 16(iii)] – Allowed only under old regime.

- As per article 276 of Indian constitution, state government is empowered to levy a tax on profession, business or employment and such tax shall be called professional tax or employment tax. If the person has business or profession, such tax can be debited to profit and loss account on actual payment basis and if the assessee is the employee he will be allowed to claim deduction from gross salary under section 16(iii) to compute income under the head salary.
 - The total amount by way of professional tax payable in respect of any one person shall not exceed ₹ 2,500 per annum. However, the amount paid during the previous year can be more than ₹ 2,500 as the employee may have paid the professional tax of an earlier year during the previous year.
- If the Amount has been paid by the employer on behalf of the employee, it will be first included in gross salary under section 17(2)(iv) and subsequently deduction is allowed under section 16(iii).
- If the Amount is due but not paid, deduction is not allowed.

Illustration 8: Mr. J is employed in Central Government getting basic pay ₹ 14,000 p.m., dearness allowance ₹ 5,000 p.m., House rent allowance ₹ 4,000 p.m. w.e.f. 01.07.2023. However, employee is residing in the house of his parents. Employer has paid cash allowance ₹ 300 p.m., medical allowance ₹ 250 p.m. and entertainment allowance ₹ 400 p.m. Employer has paid professional tax ₹ 75 p.m. on behalf of the employee. Employee has saved ₹ 35 p.m. out of entertainment allowance. Compute employee's income under the head Salary.

What will be your answer if professional tax is paid by Employee.

■ TAXABILITY OF PERQUISITES

The term 'perquisite' indicates some extra benefit in addition to the Amount that may be legally due by way of contract for services rendered.

- 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.
- Perquisite will become taxable only if it has a legal origin. An unauthorised advantage taken by an employee without his employer's sanction cannot be considered as a perquisite under the Act.

Perquisites can be classified in following three ways

- Perquisites taxable in the case of all employees
- Perquisites taxable only in the hands of specified employees
- Tax free perquisites in case of all employees

■ PERQUISITES TAXABLE IN THE CASE OF ALL EMPLOYEES

1. Rent Free or Concessional accommodation Section 17(2)(i) Rule 3(1)

Accommodation would be deemed to have been provided at a concessional rate, if the value of accommodation computed in the prescribed manner exceeds the rent recoverable from, or payable by, the assessee [Explanation to section 17(2)(ii)].

A. Government Employees (Central or State Government)

Particulars	Amount (₹)
Licence Fee determined by the Government	xx
Add: 10% p.a of Cost Of Asset provided By ER (Asset is owned by ER)	xx
Add: Hire Charges paid by the ER (Asset taken on rent by ER)	xx
Less: Amount (₹) Recovered From EE	xx
Taxable Value Of Perquisite	xx

B. Non-Government Employee - Accommodation Is owned by Employer

Particulars	Amount (₹)
Specified % of Salary	xx
Add: 10% p.a of Cost Of Asset provided By ER (Asset is owned by ER)	xx
Add: Hire Charges paid by the ER (Asset taken on rent by ER)	xx
Less: Amount (₹) Recovered From EE	xx
Taxable Value Of Perquisite	xx

Population	Specified % of Salary
Upto 15 Lakhs	5%
More than 15 Lakhs but upto 40 Lakhs	7.50%
More than 40 Lakhs	10%

Meaning of Salary Rent free accommodation salary shall include:

- (i) Basic pay
 - (ii) Dearness Allowance/Dearness Pay. If it forms part of salary for retirement benefits as per service agreement.
 - (iii) Taxable portion of all allowances.
 - (iv) Bonus/Commission/Fees etc.
 - (v) Leave salary (when the employee is in employment)
- It will not include
- (i) Taxable portion of perquisites whether monetary or non-monetary
 - (ii) Taxable portion of provident fund
 - (iii) Any payment after retirement like gratuity/commuted pension or provident fund etc.
 - (iv) Arrear of salary or advance salary

Note: Salary only for the period for which rent free accommodation is provided shall be taken into consideration.

C. Non- Government Employee - Accommodation Is taken on Rent by Employer

Particulars	Amount (₹)
Rent Paid by the ER or 10% of Salary - whichever is lower:	xx
Add: 10% p.a of Cost of Asset provided By ER (Asset is owned by ER)	xx
Add: Hire Charges paid by the ER (Asset taken on rent by ER)	xx
Less: Amount Recovered From EE	xx
Taxable Value of Perquisite	xx

Illustration 9: Mr. J employed in F Ltd. and getting basic pay ₹ 20,000 p.m., dearness allowance ₹ 10,000 p.m. and 50% of DA forms part of salary. Employer has paid bonus ₹ 1,000 p.m. commission ₹ 2,000 p.m. children education allowance ₹ 150 p.m. per child for 3 children and hostel allowance ₹ 500 p.m. for one child and entertainment allowance ₹ 500 p.m., transport allowance ₹ 1,800 p.m.

Employer has paid professional tax ₹ 200 p.m. on behalf of the employee. Employer has provided him club facility and has paid membership fee ₹ 1,000 p.m. Employer has provided him rent free accommodation for which rent paid by employer is ₹ 11,000 p.m. Compute his income and tax liability

Illustration 10: Mr. J is employed in Central Government getting basic pay ₹ 73,000 p.m. Employer has provided him rent free accommodation and the rent determined as per Government rules is ₹ 6,000 p.m. The employer has provided him furniture with actual cost ₹ 1,00,000 and written down value ₹ 65,000. The employer has provided one air-conditioner also during April and May 2023. Rent paid by the employer for the air-conditioner is ₹ 1,000 p.m. Compute GTI

D. Accommodation provided at two places

If any employee has been transferred and employer has provided him accommodation at the new place also, in such cases only one of the accommodation shall be taxable having lower perquisite value but only for a period of 90 days (three months) and thereafter both of the accommodations shall be taxable.

E. Accommodation provided in a hotel

Where accommodation is provided by the employer in a hotel, in such a case perquisite value shall be 24% of salary or actual expenditure incurred whichever is less. However, perquisite shall not be taxable if following conditions are satisfied:

- (a) Where the employee is provided such accommodation for a period not exceeding in aggregate 15 days.
- (b) Employee has been transferred from one location to another.

Illustration 11: Mr. J is employed in F Ltd. getting basic pay ₹ 37,000 p.m., dearness allowance ₹ 32,000 p.m. The employer has provided him rent free accommodation at a place with population of 13 lakhs and the rent paid by the employer is ₹ 10,000 p.m. The employer has provided him furniture with original cost ₹ 1,50,000. However, the employer has discontinued the facility of rent free accommodation and furniture both w.e.f. 1st March, 2024. He has paid him house rent allowance ₹ 7,000 p.m. The employee has shifted in his own house w.e.f. 01.03.2024. Compute GTI (b) Presume in the above illustration the accommodation is owned by the employer.

■ FRINGE BENEFITS UNDER [SECTION 17(2)(VIII)]

1. Interest free or concessional loans Rule 3(7)(i)

If the employer has given any loan to the employee or to the members of his household, it will be taxable and perquisite value shall be computed on the basis of interest rate charged by State Bank and interest rate taken by employer. Further while computing perquisite value, balance outstanding at the end of each month shall be taken into consideration i.e. there is no calculation for part of the month.

Exemption:

- (a) If employer has given a petty loan, there is no perquisite value. Petty loan means one or more loan given by the employer where aggregate Amount of all such loan during a particular year is upto ₹ 20,000.
- (b) If employer has given loan for treatment of specified disease given under rule 3A, there is no perquisite value Mr. J is employed in F Ltd. and he has taken a loan of ₹ 5 Lakh on 01.07.2023 interest free from employer SBI rate 10% p.a. for treatment of specified disease. in this case, perquisite value shall be nil If any employee has taken advance salary, it will not be considered to be loan or advance and no perquisite value shall be computed with regard to such advance salary.

Illustration 12: Mr. J is employed in F Ltd. and he has taken a loan of ₹ 10 lakh from employer on 20.04.2023 at a rate of 4% p.a. but SBI rate is 10% p.a. and loan was repaid in monthly installment of ₹ 2 lakh each starting from 10.07.2023, in this case, taxable Amount shall be?

Illustration 13: Mr. J is employed in F Ltd. and he has taken interest free loan of ₹ 3,00,000 on 10.07.2023 for purchasing a new motor car in Delhi and the loan is to be repaid in monthly instalments of ₹ 10,000 and repayment shall start with effect from 21.09.2023, in this case perquisite value for the loan shall be computed in the manner given below (Presume SBI Rate 10%)

Illustration 14: Mr. J is employed in F Ltd. and he has taken interest free loan of ₹ 13,000 on 10.07.2023 for personal purpose and the loan is to be repaid in monthly instalments of ₹ 1,300 and repayment shall start with effect from 21.09.2023, in this case, taxable Amount shall be?

Answer: Nil

2. Facility of travelling, touring, accommodation (holiday home) etc. Rule 3(7)(ii)

- (a) If the employer has provided facilities of travelling, touring or accommodation, it is taxable but it will not include leave travel concession under section 10(5)Rule 2B.
- (b) Perquisite value shall be actual expenditure incurred by the employer less Amount recovered from the employee.
- (c) If the facility is maintained by the employer, perquisite value shall be the market value of the such facility.
- (d) If the employee is on official tour and any member of his household has accompanied him and the employer has incurred expenditure for such member, the Amount so incurred shall be taxable.
- (e) If the employee is on official tour and the tour was extended for personal purpose, expenditure for the extended part of the tour shall be taxable.

3. Free food or refreshment Rule 3(7) (iii)

- (a) If the employer has provided free refreshments to the employees at the place of work during office hours, it will be exempt.
- (b) If the employer has provided free meals to the employees at the place of work during office hours, it will be exempt if the value per meal is upto ₹ 50. Excess over ₹ 50 shall be taxable.
Note: Exemption is allowed only under old regime
- (c) E.g. Mr. J is employed in the office of Chartered Accountant and during the year he was given free lunch on many occasions and value per lunch is ₹ 125, in this case ₹ 75 per lunch is taxable.

4. Gifts to the employees Rule 3(7)(iv)

Gift given by the employer in kind upto ₹5,000 in aggregate during a particular year is exempt and excess over it is taxable. If the employer has given any voucher or token in lieu of which such gift may be received, it will also be exempt in the similar manner.

Gifts in cash or gifts convertible into cash i.e. gift cheques etc. shall be fully chargeable to tax.

E.g. Mr. J is employed in F Ltd. and employer has gifted him one mobile phone of value ₹ 26,000, in this case, taxable Amount shall be ₹ 21,000 but if employer has given gift of ₹ 26,000 in cash, entire Amount shall be taxable under the head salary.

5. Credit card facility Rule 3(7)(v)

If the employer has provided facilities of credit card for personal purpose, it is taxable. If the credit card is exclusively for official purpose, it is exempt provided employer has maintained complete records of the expenditure.

6. Club facilities Rule 3(7)(vi)

If the employer has provided club facilities to the employee or to the members of his household. It will be taxable e.g. Mr. J is employed in F Ltd. and employer has paid membership fee of ₹ 3,000 on behalf of Mr. J, in this case it is taxable.

7. Use of employer's assets by the employees Rule 3(7)(vii)

If the employer has given any movable asset to the employee or to the members of his household for personal use, in such cases it will be taxable and perquisite value shall be 10% p.a. of actual cost of such asset (or hire charges paid by ER) less any Amount (₹) recovered from the employee. If the employer has given any laptop or computer to the employee for personal use, it will not be taxable.

8. Sale of assets by employer to the employee Rule 3(7)(viii)

If employer has sold any movable asset to the employee, taxable Amount shall be:

Particulars	Motor Car	Computer and Peripherals	Other Asset
Cost of Asset	XX	XX	XX
Less: Depreciation Amount (₹) Recovered From EE	XXXX	XXXX	XXXX
Taxable Value	XX	XX	XX
Depreciation Rate & Method	20% WDV For Each Completed Year	50% WDV For Each Completed Year	10% SLM For Each Completed Year

9. Contribution made to the account of the assessee by employer in a recognized provident fund; in NPS ; in an approved superannuation fund:

The Amount or aggregate of Amounts of any contribution made

(a) in a recognised provident fund

(b) in NPS referred to in section 80CCD(1)

(c) in an approved superannuation fund by the employer to the account of the assessee, to the extent it exceeds ₹ 7,50,000 [Section 17(2)(vii)]

10. Annual accretion by way of interest, dividend or any other Amount of similar nature 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 (i.e. on account of the same having exceeded ₹ 7,50,000)

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)(vii)].

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.

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-

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

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 ₹ 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 ₹ 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	1/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, 2022 + 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, 2023)/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, 2021, 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.

Illustration 15: Mr. X is appointed as a CFO of ABC Ltd. in Mumbai from 1.9.2021. His basic salary is ₹ 6,00,000 p.m. He is paid 8% as D.A. He contributes 10% 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 1.4.2022, 31.3.2023 and 31.3.2024 is ₹ 9,81,137, ₹ 27,43,048 and ₹ 46,48,555, respectively. Compute the perquisite value chargeable to tax in the hands of Mr. X u/s 17(2)(vii) and 17(2)(viiia) for the A.Y. 2023-24 and A.Y. 2024-25. Prior to 1.9.2021, he was a consultant, whose professional fees was taxable under the head "Profits and gains of business or profession".

11. Any other benefit Rule 3(7)(ix)

- The value of any other benefit provided by the employer to the employee is chargeable to tax and its value shall be determined on the basis of cost to the employer.
- If the employer has provided telephone facility including the mobile phone, it will be exempt. If the facility has been taken by the employee himself and the employer has made payment or reimbursement, still it is exempt from tax.
- If the employer has given telephone allowance, it will be chargeable to tax.

Illustration 16: F Ltd. provided the following perquisites to its employee Mr. Y for the Relevant Previous Year

1. Accommodation taken on lease by F Ltd. for ₹ 15,000 p.m. ₹ 5,000 p.m. is recovered from the salary of Mr. Y
2. Furniture, for which the hire charges paid by F Ltd. is ₹ 3,000 p.m. No Amount is recovered from the employee in respect of the same.
3. A Santro Car which is owned by F Ltd. and given to Mr. Y to be used both for official and personal purposes. All running and maintenance expenses are fully met by the employer. He is also provided with a chauffeur.
4. A gift voucher of ₹ 10,000 on his birthday.

Compute the value of perquisites chargeable to tax, assuming his salary for perquisite valuation to be ₹ 10 lakh.

Illustration 17: Mr. J is employed with F Ltd. on a monthly salary of ₹ 25,000 per month and an entertainment allowance

and commission of ₹ 1,000 p.m. each. The company provides him with the following benefits:

- (a) A company owned accommodation is provided to him in Delhi. Furniture costing ₹ 2,40,000 was provided on 01.08.2023.
 - (b) A personal loan of ₹ 5,00,000 on 01.07.2023 on which it charges interest @ 6.75% p.a. The entire loan is still outstanding. (Assume SBI rate of interest to be 12.75% p.a.)
 - (c) His son is allowed to use a motor cycle belonging to the company. The company had purchased this motor cycle for ₹ 60,000 on 01.05.2020. The motor cycle was finally sold to him on 01.08.2023 for ₹30,000.
 - (d) Professional tax paid by Mr. J is ₹ 2,000.
12. 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.
- (a) 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.
 - (b) In pursuance of the Government's decision to implement the Agnipath Scheme, 2022, the Competent Authority has decided to create a non-lapsable dedicated Agniveer Corpus Fund in the interest-bearing section of the Public Account head.
 - (c) In this account, fixed percentage of monthly emoluments would be contributed by the Agniveer and matching amount would be contributed by the Central Government.
 - (d) The Agniveer Corpus Fund is defined as a Fund in which consolidated contributions of all the Agniveers and matching contributions of the Government along with interest on these contributions would be held in their respective accounts.
 - (e) Central Government's contribution to Agniveer Corpus Fund account would form part of salary of employees under section 17(1).
 - (f) 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.

■ PERQUISITES TAXABLE ONLY IN HANDS OF SPECIFIED EMPLOYEES

Meaning of Specified Employees

1. An employee of a company who is also a director is a specified employee.
2. An employee of a company who has substantial interest in that company is a specified employee. A person has a substantial interest in a company if he is a beneficial owner of equity shares carrying 20% or more of the voting power in the company.

3. An employee other than an employee described in 1 & 2 above, whose income chargeable under the head 'salaries' exceeds ₹ 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.

A. Valuation of Motor Car Facility

Car is Owned or Hired by	Car Running and Maintenance Expenses Met by	Used Exclusively for Personal Purpose		Car is Used Partly for Official and Partly for Personal Purpose	
Employer	Employer	R&M Expenses incurred by ER	Xx	Capacity	Taxable Amount (₹)
		Add: Driver Salary	Xx		
		Add: 10% p.a. of cost of car	Xx	Upto 1600 cc	₹ 1,800p.m
		Add: Hire charges of car	Xx	Exceed 1600 cc	₹ 2,400p.m
		Less: Amount (₹) Recovered from EE	Xx	Chauffer	₹ 900p.m
		Taxable Value	Xx	Amount (₹) Recovered From EE shall be ignored	
Employer	Employee	Driver Salary	Xx	Capacity	Taxable Amount (₹)
		Add: 10% p.a. of cost of car	Xx		
		Add: Hire charges of car	Xx	Upto 1600 cc	₹ 600p.m
		Less: Amount (₹) Recovered from EE	Xx	Exceed 1600 cc	₹ 900p.m
				Chauffer	₹ 900p.m
		Taxable Value	Xx	Amount (₹) Recovered From EE shall be ignored	
Employee	Employer	R&M Expenses incurred by ER	xx	Amount (₹) incurred by employer as reduced by Amount (₹) exempt.	
		Add: Driver Salary	xx	Capacity	Taxable Amount (₹)
		Less: Amount (₹) Recovered from EE	xx		
				Upto 1600 cc	₹ 1,800p.m
				Exceed 1600 cc	₹ 2,400p.m
		Taxable Value	xx	Chauffer	₹ 900p.m
		Amount (₹) Recovered From EE shall also be deducted			

In following cases value of use of motor car facility is fully exempt from tax.

1. Where the car is used wholly for official purposes. Conditions to be fulfilled to claim that expenses have been incurred for official purpose.

- (a) the employer has maintained complete details of journey undertaken for official purpose which may include date of journey, destination, mileage, and the Amount (₹) of expenditure incurred thereon;
 - (b) the employer gives a certificate to the effect that the expenditure was incurred wholly and exclusively for the performance of official duties.
2. Where car provided by the employer is used to commute between residence to office or other place of work and back.

Illustration 18: Determine the value of perquisite in the following cases.

- (a) Motor car (cubic capacity of engine below 1.60 litres) owned by employer and provided to employee. It is partly used for official and personal purposes by the employee. Expenditure fully met by the employer ₹ 25,600 (car is self-driven by the employee).
- (b) The company has given a motor car of 1.8 litre both for personal and official use. The actual expenditure for running and maintenance of car is ₹ 25,000 plus ₹ 3,000 for salary of the driver.
- (c) Mr. A was provided with company's car (self-driven) also for personal use and it is not possible to determine expenditure on personal use and all expenses were borne by the employer.
- (d) Motor car running and maintenance charges fully paid by employer (motor car is owned and driven by employee. The engine cubic capacity is below 1.60 litres. The motor car is used for both official and personal purpose by the employee. Expenditure incurred by the Company 36,000. How much value of car is taxable.

More than one motor car is provided to the employee for official/personal use

If the employer has provided more than one motor car for official/personal use, in that case only one of the motor cars shall be considered to be for official/personal use and all other motor cars shall be considered to be for personal use and perquisite value shall be computed accordingly.

Illustration 19: Mr. J is employed in F Ltd. getting basic pay ₹22,000 p.m. Employer has paid professional tax of ₹75 p.m. on behalf of the employee and employee himself has paid professional tax of ₹25 p.m. The employer has provided him rent free accommodation which is owned by the employer himself and it is provided at a place with population of 5,00,000. The employer has provided him three motor cars for official as well as personal use with particulars as given below:

Particulars	I	II	III
Actual cost	4,00,000	3,00,000	2,50,000
Engine capacity	1.8 litres	1.6 litres	1.4 litres
Petrol expenses	3,000	10,000	15,000
Repairs	5,000	4,000	3,000
Driver	4,000 p.m	3,000 p.m.	No Driver

All the expenses met by the employer. Compute his Income under the head Salary

B. Taxability of gardener/watchman/sweeper or any other servant [Section 17(2)(iii) Rule 3(3)]

If servants are engaged by the employee and employer paid or reimbursed the employee for the wages of such servants, it will be perquisite in the hands of all employees. But if the domestic servants are engaged by the employer and facility of such servants is provided to the employee, it will be perquisite in the hands of specified employees only.

Perquisite Value = Actual cost to employer as reduced by any amount paid by the employee

C. Taxability of Gas/Electricity or Water Facility [Section 17(2)(iii) Rule 3(4)]

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.

Perquisite Value Shall be

Circumstances	Value of benefit
If payment is made to agency supplying of gas, electricity etc.	Sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water
If supply is made from resources owned by the employer	Manufacturing cost per unit incurred by the employer

Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value so arrived at.

D. Taxability of Educational Facility [Section 17(2)(iii) Rule 3(5)]

- (i) 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.
- (ii) 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.

Perquisite Value Shall Be

Circumstances	Value of benefit
If the educational institution is maintained and owned by the employer or If free educational facilities are allowed in any other educational institution by reason of his being in employment of that employer	cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education or the value of such benefit per child does not exceed ₹ 1,000 p.m.
Others	amount of expenditure incurred by the employer in that behalf

Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered.

Note:

1. The exemption of ₹ 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.
2. Amount incurred by the employer for providing free education facility or training to an employee is not taxable.

Illustration 20: Mr. J is employed in F Ltd. and is a specified employee. Compute perquisite value of educational facilities in the following situations:

- (i) The employer has deputed him on one day seminar on Industrial Finance and Corporate Taxation and has paid participation fees of ₹3,000.

- (ii) The employer has made arrangements for the education of his three children in his own school and has incurred ₹1,500 per month per child and has recovered ₹300 per month per child from the employee.
- (iii) If the employee himself has made arrangements of the education of his three children in a public school and the employer has reimbursed ₹1,500 per month per child.

E. Transport Facilities Section 17(2)(iii), Rule 3(6)

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 prerequisite to the employees of an airline or the railways.

F. Payments of Insurance Premium by the Employer on Behalf of the Employee Section 17(2)(V)

If any employee has taken any policy in his name but premium has been paid by employer, the premium so paid shall be taxable however premium paid for personal accident policy, staff group insurance scheme shall be exempt.

G. Medical Facility Proviso to Section 17(2)

1. If the employer has provided medical facility to the employee or to his family members it will be exempt provided facility is given
 - (a) in any hospital owned by the Government/local authority/employer himself or it is any other private hospital approved by the Income Tax Department.
 - (b) in respect of any illness relating to COVID-19 subject to conditions notified by the Central Government

Accordingly, the Central Government has, vide Notification No. 90/2022 dated 5.8.2022, specified that for claiming benefit of such exemption, the employee has to submit the following documents to the employer, –

- (a) the COVID-19 positive report of the employee or family member, or medical report if clinically determined to be COVID-19 positive through investigations, in a hospital or an in-patient facility by a treating physician of a person so admitted;
- (b) all necessary documents of medical diagnosis or treatment of the employee or his family member for COVID-19 or illness related to COVID-19 suffered within 6 months from the date of being determined as COVID-19 positive; and
- (c) a certification in respect of all expenditure incurred on the treatment of COVID-19 or illness related to COVID-19 of the employee or of any member of his family

E.g. Mr. J is employed in F Ltd. and employer has incurred ₹3,00,000 on his treatment in a private hospital approved by Income Tax Department, in this case it will be exempt from income tax.

2. If treatment was taken by the employee himself and employer has given reimbursement, in that case also it will be exempt from income tax.
3. If the employer has paid premium for medi-claim policy taken in the name of employee or his family, it will also be exempt from income tax. If employer has paid medical allowance, it is taxable.

"Family", shall include

- (a) The spouse and children of the individual and
- (b) The parents, brothers and sisters of the individual provided they are dependent on the individual.
If expenditure has been incurred by the employer on the treatment of any other person like mother in law, father in law, independent father etc., facility is taxable.

4. If an employer takes personal accident insurance policies on the life of employees and pays the insurance premium, no immediate benefit would become payable and benefit will accrue at a future date only if certain events take place. Hence It is not taxable in hands of Employee

Medical Facilities Outside India

- (i) If the employer has incurred expenditure on the treatment of the employee or any member of his family outside India, it is exempt to the extent permitted by Reserve Bank of India.
- (ii) If the employer has incurred expenditure on the stay abroad of the patient including one attendant, it is exempt to the extent permitted by Reserve Bank of India.
- (iii) If the employer has incurred expenditure on the travelling of the patient including one attendant, it is exempt provided gross total income of the employee do not exceed ₹ 2,00,000 before taking into consideration the expenditure incurred on travelling.

Illustration 21: Compute the taxable value of the perquisite in respect of medical facilities received by Mr. G from his employer during the P.Y. 2023-24:

- (a) Medical premium paid for insuring health of Mr. G ₹ 7,000
- (b) Treatment of Mr. G by his family doctor ₹ 5,000
- (c) Treatment of Mrs. G in a Government hospital ₹ 25,000
- (d) Treatment of Mr. G's grandfather in a private clinic ₹ 12,000
- (e) Treatment of Mr. G's mother (68 years and dependant) by family doctor ₹ 8,000
- (f) Treatment of Mr. G's sister (dependant) in a nursing home ₹ 3,000
- (g) Treatment of Mr. G's brother (independent) ₹ 6,000
- (h) Treatment of Mr. G's father (75 years and dependent) abroad ₹ 50,000
- (i) Expenses of staying abroad of the patient and ₹ 30,000
- (j) Limit specified by RBI ₹ 75,000

■ LEAVE TRAVEL CONCESSION SECTION 10(5) RULE 2B

- (i) This clause exempts the leave travel concession (LTC) received by employees from their employers for proceeding to any place in India,
 - (a) either on leave or
 - (b) after retirement from service or
 - (c) after termination of his service.

Exemption under this section would be available only to employees exercising the option of shifting out of the default tax regime provided under section 115BAC(1A). It is not available under the default tax regime under section 115BAC.

- (ii) Exemption will be available in respect of 2 journeys performed in a block of 4 calendar years commencing from the calendar year 1986. Where such travel concession or assistance is not availed by the individual during any block of 4 calendar years, one such unavailed LTC will be carried forward to the immediately succeeding block of 4 calendar years and will be eligible for exemption.

(iii) Monetary limits

Where the journey is performed on or after the 1.10.1997, the amount exempted under section 10(5) in respect of the value of LTC shall be the amount actually incurred on such travel subject to the following conditions:

Journey performed by	Limit
Air	Amount not exceeding the air economy fare of the National Carrier by the shortest route to the place of destination
Any other mode:	
(a) Where rail service is available	Amount not exceeding the airconditioned first class rail fare by the shortest route to the place of destination
(b) Where rail service is not available	
(i) a recognised public transport system exists	amount not exceeding the 1 st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination
(ii) no recognised public transport system exists	amount equivalent to the airconditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail

"Family", shall include—

1. the spouse and children of the individual. However, The exemption referred to shall not be available to more than two surviving children of an individual after 1.10.1998. This restrictive sub-rule shall not apply in respect of children born before 1.10.1998 and also in case of multiple births after one child.
2. the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.
3. The exemption is allowed only in respect of fare i.e. expenses incurred on conveyance from residence to the railway station/airport/bus stand etc. and back shall be taxable.

Illustration 22: Mr. J went on a holiday on 15.11.2023 to Delhi with his wife and three children (one son - age 5 years;

twin daughters - age 2 years). They went by flight (economy class) and the total cost of tickets reimbursed by his employer was ₹ 60,000 (₹ 45,000 for adults and ₹ 15,000 for the three minor children). Compute the Amount (₹) of LTC exempt.

Illustration 23: In the above illustration, will there be any difference if among his three children the twins were 5 years old and the son 3 years old? Discuss.

Answer: LTC exempt is only ₹ 55,000

Illustration 24: Mr. X, an employee of XYZ Ltd., submits the following information

Salary: ₹2,56,000; City compensatory allowance: ₹8,000; Bonus: ₹10,200; Education allowance: ₹4,000 (for her grand children); Income tax penalty paid by the employer: ₹2,000; Leave travel concession: ₹1,000 (expenditure incurred by the employee nil); Free residential telephone: ₹4,000; Free refreshment during office hours ₹4,000; reimbursement of electricity bill by the employer: ₹ 1,060; reimbursement of gas bills: ₹1,000; Professional tax paid by the employer: ₹300 on behalf of MR.X; Professional tax paid by MR.X: ₹150. Determine the Total Income

Income Under the Head Salaries

Payment of Income Tax in Connection with non-monetary Perquisites Section 10(10CC)

- If employer has paid income tax on behalf of the employee in connection with non-monetary perquisites, employer shall not be allowed to debit the Amount (₹) so paid to the profit and loss account and also it will not be considered to be income of the employee as per section 10(10CC).
- If income tax so paid is not in connection with non-monetary perquisites, employer shall be allowed to debit the Amount (₹) to the profit and loss account and as per section 17(2)(iv), it will be considered to be income of the employee under the head salary.

Illustration 25: During the previous year 2023-24, F Ltd. pays ₹60,000 p.m. as salary to Mr. J and provides a rent free unfurnished house (lease rent being ₹15,000 p.m.). F Ltd. has also paid income tax of ₹9,000 on behalf of Mr. J in connection with rent free accommodation provided to Mr. J. Compute Tax Liability of Mr. J for the Assessment Year 2024-25. Also discuss whether income tax paid by the company shall be considered to be income of Mr. J.

Presume in the above question F Ltd. has paid income tax of ₹20,000 instead of ₹9,000, Compute Tax Liability of Mr. J for the Assessment Year 2024-25.

Illustration 26: Mr. J, finance manager of KLM Ltd. Mumbai, furnishes the following particulars for the financial year 2023-24:

- (i) Salary ₹46,000 per month
- (ii) Rent free accommodation owned by the company
- (iii) Housing loan of ₹6,00,000 at the interest rate of 5% p.a. (No repayment made during the year, but the loan is repayable in tenth year) (Presume SBI Rate 10.5% p.a.)
- (iv) Gifts made by the company in kind on the occasion of wedding anniversary of Mr. J ₹4,750
- (v) A wooden table and 4 chairs were provided to Mr. J at his residence. These were purchased on 01.05.2020 for ₹60,000 and put to use on 01.06.2020 and sold to Mr. J on 01.08.2023 for ₹30,000
- (vi) Personal purchases through credit card provided by the company amounting to ₹10,000 was paid by the company. No part of the Amount was recovered from Mr. J.
- (vii) An ambassador car which was purchased by the company on 16.07.2020 for ₹2,50,000 and put to use on the same date. It was sold to the assessee on 14.07.2023 for ₹80,000. Compute the Total Income of Mr. J.

■ VALUE OF ANY SPECIFIED SECURITY OR SWEAT EQUITY SHARES

The value of any specified security or sweat equity shares allotted to transferred directly or indirectly, by the employer or former employer, free of cost or at concessional rate to the assessee shall be a taxable perquisite in the hands of the assessee.

Further, the value of such specified security or sweat equity shares shall be the FMV of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount recovered from assessee.

■ PROFITS IN LIEU OF SALARY [SECTION 17(3)]

It includes the following:

- (i) The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment.
- (ii) The amount of any compensation on account of modification of the terms and conditions of employment

(iii) Payment from provident fund or other fund

Any payment due to or received by an assessee from his employer or former employer from a provident or other fund other than

- Gratuity [Section 10(10)]
- Pension [Section 10(10A)]
- Compensation received by a workman under Industrial Disputes Act, 1947 [Section 10(10B)]
- from provident fund or public provident fund [Section 10(11)]
- from recognized provident fund [Section 10(12)]
- from approved superannuation fund [Section 10(13)]
- any House Rent Allowance [Section 10(13A)],

to the extent to which it does not consist of employee's contributions or interest on such contributions.

(iv) Any sum received by an assessee under a Keyman Insurance policy including the sum allocated by way of bonus on such policy.

(v) Any amount, whether in lumpsum or otherwise, due to the assessee or received by him, from any person -

- (a) before joining employment with that person, or
- (b) after cessation of his employment with that person.

■ TAXABILITY OF GRATUITY

Gratuity means a gratuitous payment made by the employer to the employee at the time of his leaving the job in recognition of the meritorious services and the association of the employee with the institution. With the enactment of Payment of Gratuity Act 1972, gratuity has become a statutory obligation on the part of the employer.

Note: Gratuity is fully chargeable to tax if it is given during continuity of the job.

Death cum Retirement Gratuity Section 10(10)

Tax treatment of gratuity is as under:

- (i) Employees of State Government/Central Government/Local Authority
Any death cum retirement gratuity received by Central or State Government employees including employees of a local authority is fully exempt from tax.
- (ii) Employees covered under payment of Gratuity Act 1972
Any gratuity received by the employees covered under payment of Gratuity Act 1972, shall be exempt to the extent of the least of the following:
 - (a) Gratuity received
 - (b) ₹ 20,00,000
 - (c) 15 days Last drawn salary for each completed year of service or part thereof in excess of six month.

Note:

1. In case of employees of a seasonal establishment, in place of 15 days, only 7 days salary will be taken. 15 days or 7 days wages shall be calculated by considering number of days in a month to be 26.
2. However, in case of piece rated employees, salary shall be computed on the basis of average of the total wages received by them for a period of three months immediately preceding the termination of their employment.

Example Mr. J is the piece rated employee who is retired on 10.03.2020 and wages received by him from 11.12.2021 to 10.03.2022 are ₹33,000. In this case, one month salary shall be $\text{₹}33,000/3 = \text{₹}11,000$ and 15 days salary shall be $= 11,000/26 \times 15 = \text{₹}6,346.15$

3. Meaning of Salary : Basic Salary + Dearness Allowance

(iii) Any other employee i.e. (Not covered under payment of Gratuity Act 1972)

The least of the following will be exempt

- (a) Gratuity received
- (b) ₹ 20,00,000
- (c) Half month's Average salary for each completed year of service.

- (i) Salary includes Basis pay + Dearness allowance (if provided by terms of Employment) +
- (ii) Commission on sales turnover achieved by the employee and paid at fixed rate. Average Salary means average salary for ten months immediately preceding the month of retirement.
- (iii) If an employee was retired earlier and has received gratuity and some exemption was allowed and same employee has taken up some other employment and is retired from the other employer also, in this case exemption shall be allowed again but maximum exemption allowed from all the employers cannot exceed ₹ 20 lakh.
- (iv) If any employee is expired and gratuity has been received by the family members, exemption shall be allowed in the normal manner and balance Amount (₹) shall be taxable as income of such member under the head other sources.
- (v) No exemption from gratuity is allowed if the relationship of employer and employee does not exist. e.g. Gratuity paid by LIC to its insurance agents is chargeable to tax.

Illustration 27: Mr. J retired on 1.06.2023 after completion of 26 years 8 months of service and received gratuity of ₹ 6,00,000. At the time of retirement his salary was: Basic Salary : ₹ 5,000 p.m. Dearness Allowance : ₹ 3,000 p.m. (60% of which is for retirement benefits) Commission : 1% of turnover (turnover in the last 12 months was ₹ 12,00,000) Bonus : ₹ 12,000 p.a. Compute his taxable gratuity assuming:

- (a) He is non-government employee and covered by the Payment of Gratuity Act 1972.
- (b) He is non-government employee and not covered by Payment of Gratuity Act 1972.
- (c) He is a Government employee.

Illustration 28: Mr. J was employed in F Ltd. getting basic pay ₹18,000 p.m. but it was increased to ₹ 24,000 p.m. w.e.f. 01-07-2023, dearness allowance ₹6,000 p.m. but it was increased to ₹9,000 p.m. w.e.f. 01-07-2023 (50% of DA forms part of salary). The employee was retired on 1.01.2024 after serving the employer for 20 years and 10 months. The employer has paid him gratuity of ₹9,10,000 and the employee was covered under Payment of Gratuity Act, 1972. Compute GTI (b) Presume Mr. J is not covered in Payment of Gratuity Act 1972

■ TAXABILITY OF PENSION [SECTION 17(1)(II)]

Uncommuted Pension

Pension is a periodical payment received by an employee after his retirement and is taxable as salary in case of all categories of employees.

Commuted Pension

Exemption of commuted pension [Section 10(10A)]

1. Commuted Pension received by employees of Central Government, State Government, Local Authority or Statutory Corporation.
It is wholly exempt from tax under section 10(10A).
2. Commuted pension received by any other employee
 - (a) In case where any other employee receives gratuity, the commuted value of 1/3rd of the pension is exempt from tax.
 - (b) If the employee has not received gratuity, the commuted value of ½ of such pension is exempt from tax.

Illustration 29: Mr. J is employed in F Ltd. getting basic pay ₹ 22,000 p.m., dearness allowance ₹ 5,000 p.m. He was retired on 1.12.2023. The employer has allowed him pension of ₹ 9,000 p.m. and the employee has requested for commutation of 52% of his pension. The employer has allowed him such commutation on 01.02.2024 and has paid ₹ 5,61,600. The employer has paid him gratuity of ₹ 6,95,000 and employee has completed service of 20 years and 11 months. Compute GTI.

Illustration 30: Mr. J retired w.e.f 01.10.20223 receiving ₹ 5,000 p.m. as pension. On 01.02.2023, he commuted 60% of his pension and received ₹ 3,00,000 as commuted pension. You are required to compute his taxable pension assuming:

- (a) He is a government employee.
- (b) He is a non-government employee, receiving gratuity of ₹ 5,00,000 at the time of retirement.
- (c) He is a non-government employee and is in receipt of no gratuity at the time of retirement.

■ TAXABILITY OF LEAVE SALARY/ENCASHMENT OF LEAVE

Sometimes an employee may surrender his leave and may get equivalent payment in cash, it is called leave salary.

Exemption in respect of encashment of leave salary Section 10(10AA)

1. Any leave salary received by an employee while he is in service is fully taxable under section 17(1).
2. If he gets encashment at the time of leaving the service (including resignation) he can avail the exemption under section 10(10AA).

The provisions of the exemption are as follows:

- (i) In the case of Government employees (State Government/Central Government): Any Amount received as leave salary at the time of retirement whether on superannuation or otherwise, is exempt from tax.
- (ii) In case of other employees including the employees of local authority and public sector undertakings: Leave salary is exempt from tax to the extent of the least of the following:
 - (a) Leave salary received
 - (b) ₹ 25,00,000
 - (c) 10 months × average salary
 - (d) average salary × Leave at the credit

Leave at the credit means leaves remain unavailed

Leaves available per year (maximum 30 days per year) × Completed years of Service	xx
Less: Leaves availed during the Year	xx
Leaves unavailed	xx

Meaning of 'Salary' includes basic salary plus dearness allowance to the extent the terms of employment so provide plus fixed percentage of commission on the turnover achieved by the assessee.

Average salary is to be calculated on the basis of the average salary drawn by the employee during the period of 10 months immediately preceding day of his retirement.

Note:

1. If any employee has received leave salary from two or more employers, exemption for each of the employers shall be computed separately, however, total exemption allowed can not exceed ₹ 3,00,000.
2. Salary paid to legal heirs of the deceased employee in respect of privilege leave standing to the credit of such employee at the time of his/her death is not taxable.

Illustration 31: Mr. J is retired from F Ltd. on 1.11.2023 after serving the employer for 20 years and 10 months. The employer has paid him leave salary of ₹ 5,00,000. The employee was entitled for 2 month leave per year of service. During entire service, he has availed 6 month leave and has encashed 7 month leave. The employee was getting basic pay ₹ 27,000 p.m. but it was increased to ₹ 33,000 p.m. w.e.f. 01-07-2023. He was getting DA ₹ 9,000 per month but it was increased to 12,000 per month w.e.f. 01-07-2023. 50% of DA forms part of salary. Compute his GTI

Illustration 32: Mr. J is retired from F Ltd. w.e.f. 01.12.2023 after serving the employer for 20 years and 10 months. The employer has paid him leave salary of ₹ 3,75,000. The employee was entitled for 20 days leave per year of service. During entire service, he has availed 35 days of leave and has encashed 10 days of leave. The employee was getting basic pay ₹ 27,000 p.m. but it was increased to ₹ 30,000 p.m. w.e.f. 01-07-2023. The employer has allowed him pension of ₹ 6,000 p.m. and employee was allowed commutation of 1/3rd of his pension on 01.03.2024 Amounting to ₹ 2,40,000. Compute his GTI.

Illustration 33: Mr. J retired w.e.f 01.12.2023 after 20 years 10 months of service, receiving leave salary of ₹ 5,00,000. Other details of his salary income are: Basic Salary : ₹ 5,000 p.m. (₹ 1,000 was increased w.e.f. 01.04.2023) Dearness Allowance : ₹ 3,000 p.m. (60% of which is for retirement benefits) Commission : ₹ 500 p.m. Bonus : ₹ 1,000 p.m. Leave availed during service : 480 days He was entitled to 30 days leave every year. You are required to compute his taxable leave salary assuming: (a) He is a government employee. (b) He is a non government employee.

■ RETRENCHMENT COMPENSATION SECTION 10(10B)

Retrenchment in general means termination of employees because the employer is closing down his business or profession or there is substantial decline in business of employer and in such cases the employer has to pay compensation to the employees and it is called retrenchment compensation and it will be exempt to the extent of the least of the following:

- (a) Retrenchment compensation received
- (b) An Amount calculated in accordance with the provisions of section 25F(b) of the Industrial Disputes Act, 1947 or
- (c) The Amount as specified by the Government (i.e. ₹5,00,000).

Section 25F(b) of the Industrial Disputes Act provides for payment of retrenchment compensation equivalent to 15 days' average pay for every year of continuous service or any part thereof in excess of six months. Average shall be taken for 3 months and salary shall include only basic pay and dearness allowance

Illustration 34: Mr. J received retrenchment compensation of ₹10,00,000 after 30 years 4 months of service. At the time of retrenchment, he was receiving basic salary of ₹20,000 p.m.; dearness allowance of ₹ 5,000 p.m. Compute his taxable retrenchment compensation.

■ VOLUNTARY RETIREMENT SCHEME [SECTION 10(10C) RULE 2BA]

Sometimes the employer may offer some Amount to the employee so that the employee himself submits his resignation and it is called voluntary retirement and in such cases Amount paid by employer shall be exempt from income tax to the extent of the least of the following

- (i) The Amount receivable on voluntary retirement
- (ii) ₹5,00,000
- (iii) three months' retirement benefit salary for each completed year of service. (part of the year shall be ignored)
- (iv) retirement benefit salary at the time of retirement × the balance months of service left before the date of his retirement on superannuation.

Illustration 35: Mr. J has taken voluntary retirement after completion of 18 years of service and at that time remaining service was 7 years and employer paid ₹6,00,000 on voluntary retirement and his retirement benefit salary at the time of voluntary retirement was ₹5,000 p.m., in this case taxable Amount shall be?

Answer: Taxable = ₹3,30,000

Illustration 36: Mr. J received voluntary retirement compensation of ₹ 7,00,000 after 30 years 4 months of service. He still has 6 years of service left. At the time of voluntary retirement, he was drawing basic salary ₹ 20,000 p.m.; Dearness allowance (which forms part of pay) ₹ 5,000 p.m. Compute his taxable voluntary retirement compensation.

Answer: Taxable voluntary retirement compensation ₹ 2,00,000.

■ PROVIDENT FUND

1. Provident fund means making provision for the future. It is an instrument of saving in the hands of employee where both the employer and employee contributes. The total contributed Amount is invested in Bank, Post office or Govt. securities to earn interest.
2. The Govt. passed a law Provident Fund Act, 1925. Under this Act two funds were set up. Statutory provident fund : It is applicable to Central Govt. employees or State Govt. employees or employees working in Universities.

Public Provident Fund: This fund is for general public. It is applicable to all individuals whether employee or not. In this provident fund employer does not play any role. PPF A/c can be opened at post office or at any branch of State Bank of India and designated branches of private banks.

3. For private employees Govt. passed another law Provident Fund Act, 1952. Under this employer opens a provident fund account in the name of employee with the provident fund commissioner. This account is known as unrecognised provident fund (URPF).

Where such unrecognised provident fund (RPF) is recognised by Commissioner of Income Tax it becomes recognised provident fund. Recognition is given as per fourth schedule of the Income Tax Act.

Tax treatment of Provident Fund

Particulars	SPF	RPF	URPF	PPF
Employer's contribution towards PF	Not Taxable	Excess of 12% of Salary is taxable	Not Taxable	Not Applicable
Employee's contribution towards PF	Deduction u/s 80C available	Deduction u/s 80C available	No Deduction u/s 80C available	Deduction u/s 80C available
Interest on PF	Not Taxable	Not Taxable upto 9.5%	Not Taxable	Not Taxable
Lump sum withdrawal from PF	Exempted u/s 10(11) (See NOTE 3)	Exempted u/s 10(12) (See NOTE 2 & 3)	Taxable (See NOTE 1)	Exempted u/s 10(11) (See NOTE 3)

Note:

- Tax treatment of lump sum withdrawal from URPF at the time of retirement or cessation of service.
 - Withdrawal of employer's contribution chargeable under the head "Salary"
 - Interest on employer's contribution chargeable under the head "Salary"
 - Withdrawal of employee's contribution not taxable since not an income
 - Interest on employee's contribution chargeable under the head "Other Sources".
- Lump sum withdrawal from RPF at the time of retirement or cessation of service is not taxable provided 5 years of continuous service with same employer or different employer.
- However, the exemption under section 10(11) or 10(12) would not be available in respect of income by way of interest accrued during the previous year to the extent it relates to the amount or the aggregate of amounts of contribution made by that person/employee exceeding ₹ 2,50,000 in any previous year in that fund, on or after 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 ₹ 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.

It may be noted that interest accrued on contribution to such funds upto 31st March, 2021 would be exempt without any limit, even if the accrual of income is after that date.

Exemption under section 10(11) and 10(12) would be available to an assessee irrespective of the regime under which he pays tax.

For this purpose, separate accounts within the provident fund account shall be maintained during the previous year 2021-22 and all subsequent previous years for taxable contribution and non-taxable contribution made by a person.

- (a) Non-taxable contribution account – Aggregate of
- (i) closing balance in the account as on 31.03.2021;
 - (ii) any contribution made by the person in the account during the previous year 2021-22 and subsequent previous years, which is not included in the taxable contribution account; and
 - (iii) interest accrued on (i) and (ii), as reduced by the withdrawal, if any, from such account.
- (b) Taxable contribution account – Aggregate of
- (i) contribution made by the person in the account during the previous year 2021-22 and subsequent previous years, which is in excess of the yearly threshold limit; and
 - (ii) interest accrued on (i) as reduced by the withdrawal, if any, from such account. Yearly threshold limit is ₹ 5,00,000, if the contribution by such person/employee is in a fund in which there is no employer's contribution and ₹ 2,50,000 in other cases.

Illustration 37: Explain tax treatment of provident fund in the following cases.

1. Basic Salary 25,000. DA (100%) 5,000. Employer's contribution towards RPF 13% of salary.
2. Basic Salary 1,00,000. DA (20%) ₹ 20,000. Employer's contribution towards RPF ₹ 20,000.
3. Basic Salary 1,00,000. DA (20%) ₹ 20,000. Employer's contribution towards RPF 15% of basic salary.
4. Interest on RPF contribution @ 10.5% is ₹ 10,500.
5. Interest on RPF contribution @ 11.5% is ₹ 3,000.
6. Interest on RPF contribution @ 11% is ₹ 6,000.
7. Interest credited to recognised provident fund ₹ 13,500 on 1-1-2021 on outstanding balance of ₹ 1,00,000.
8. On retirement from service, A received ₹ 60,000 being his dues from unrecognised provident fund. The Amount (₹) comprised ₹ 25,000 as own contribution, ₹ 5,000 as interest thereon and the balance of ₹ 30,000 being employer's contribution and interest thereon. Discuss A's liability for taxation, if any.
9. Date of joining 1-1-2019. Pay scale 10,000-2,000-16,000. Employer's contribution towards RPF 15% of salary. (a) salary falls due on the last day of each month. (b) salary falls due on first day of next month.

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 year. 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.

■ RELIEF UNDER SECTION 89

If any person has received arrears of salary or advance of salary and because of this reason his tax liability has increased, he may claim relief under section 89 in the manner given below:

1. Compute tax liability for the previous year in which the arrear or advance of salary has been received including the Amount of such arrear or advance.
2. Compute tax liability for the previous year in which the arrear or advance has been received excluding such arrear or advance.
3. Tax at step no. 1 minus tax at step no. 2 shall be the tax on such arrear or advance.
4. Compute tax liability of the previous year to which the arrear or advance relates including such arrear or advance.
5. Compute tax liability of the previous year to which arrear or advance relates excluding such arrear or advance.
6. Tax at step no. 4 minus tax at step no. 5 shall be tax on the arrears or advance in the year to which such arrear or advance relates.
7. Tax at step no. 3 minus tax at step no. 6 shall be the relief under section 89.
8. If there is no excess, no relief is admissible.

PRACTICE QUESTIONS

1. Mr. Neeraj, a salaried employee, furnishes the following details for the financial year 2023-24:

Particulars	₹
Basic salary	5,40,000
Dearness allowance	3,60,000
Commission	50,000
Entertainment allowance	7,500
Medical expenses reimbursed by the employer	21,000
Profession tax (of this, 50% paid by employer)	4,000
Health insurance premium paid by employer	9,000
Gift voucher given by employer on his birthday	12,000
Life insurance premium of Neeraj paid by employer	34,000
Laptop provided for use at home. Actual cost of Laptop to employer [Children of the assessee are also using the Laptop at home]	30,000
Employer company owns a Maruti Suzuki Swift car (Engine cubic capacity more than 1.6 litres), which was provided to the assessee, both for official and personal use. No driver was provided. All expenses are met by the employer	
Annual credit card fees paid by employer [Credit card is not exclusively used for official purposes; details of usage are not available]	5,000

You are required to compute the income chargeable under the head Salaries for the assessment year 2023-24

- Sol.** Computation of income chargeable under the head "Salaries" of Mr. Neeraj

Particulars	Amount
Basic Salary	5,40,000
Dearness allowance	3,60,000

Particulars	Amount
Commission	50,000
Entertainment allowance	7,500
Medical expenses reimbursed by the employer is fully taxable	21,000
Professional tax paid by the employer is a taxable perquisite as per section 17(2) (iv), since it is an obligation of the employee which is paid by the employer	2,000
Health insurance premium of ₹ 9,000 paid by the employer is an exempt perquisite [Clause (iii) of proviso to section 17(2)]	Nil
Gift voucher given by employer on Mr. Neeraj birthday [entire amount is taxable since the perquisite value exceeds ₹ 5,000, as per Rule 3(7)(iv)]	12,000
Life insurance premium of Mr. Neeraj paid by employer is a taxable perquisite as per section 17(2)(v)	34,000
Laptop provided for use at home is an exempt perquisite as per Rule 3(7)(vii)	Nil
Provision of motor car (engine cubic capacity more than 1.6 litres) owned by employer provided to employee, the perquisite value would be ₹ 28,800 [₹ 2,400 × 12] as per R 3(2)	28,800
Annual credit card fees paid by employer is a taxable perquisite as per Rule 3(7) (v) since the credit card is not exclusively used for official purposes and details of usage are not available	5,000
Gross Salary	10,60,300
Less: Deductions under section 16	
<input type="checkbox"/> Standard Deduction as per section 16(ia), lower of gross salary and ₹ 50,000	50,000
<input type="checkbox"/> Entertainment allowance (deduction not allowable since Mr. Neeraj is not a Government employee)	Nil
<input type="checkbox"/> Professional tax paid allowable as deduction as per section 16(iii)	4,000
Income chargeable under the head "Salaries"	10,06,300

Note: As per Rule 3(7)(iv), the value of any gift or voucher received by the employee or by member of his household on ceremonial occasions or otherwise from the employer shall be determined as the sum equal to the amount of such gift. However, the value of any gift or voucher received by the employee or by member of his household below ₹ 5,000 in aggregate during the previous year would be exempt as per the proviso to Rule 3(7)(iv). In this case, the gift voucher of ₹ 12,000 was received by Mr. Neeraj from his employer on the occasion of his birthday. Since the value of the gift voucher exceeds the limit of ₹ 5,000, the entire amount of ₹ 12,000 is liable to tax as perquisite. The above solution has been worked out accordingly.

An alternate view possible is that only the sum in excess of ₹ 5,000 is taxable in view of the language of Circular No.15/2001 dated 12.12.2001, which states that such gifts upto ₹ 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. As per this view, the value of perquisite would be ₹ 7,000. Accordingly, the gross salary and net salary would be 10,55,300 and 10,01,300, respectively.

- Mr. Janakaraj, employed as General Manager in Rajus Refractories Pvt. Ltd., furnishes you the under- mentioned information for the year ended 31-03-2024:

1. Basic salary upto 30-11-2023 ₹70,000 p.m.
2. Basic salary from 01-12-2023 ₹80,000 p.m.

Note: Salary is due and paid on the last day of every month.

3. Dearness allowance @ 50% of basic salary (not forming part of salary for retirement benefits).
4. Bonus equal to one month salary. This was paid in November, 2023 on basic salary plus dearness allowance applicable for that month.
5. Contribution of employer to recognized provident fund account of the employee @ 18% of basic salary, employee also contributing an equivalent amount.
6. Profession tax paid ₹6,000 of which ₹3,000 was paid by the employer.
7. Facility of laptop was provided to Janakaraj for both official and personal use. Cost of laptop ₹65,000 and was purchased by the company on 11-10-2022.
8. Leave travel concession given to Janakaraj, his wife and three children (one daughter aged 6 and twin sons aged 4. Cost of air tickets (economy class) reimbursed by the employer ₹20,000 for adults and lumpsum of ₹25,000 for three children. Janakaraj is eligible for availing exemption this year to the extent it is permissible under the Income-tax Act, 1961.

Compute the taxable salary of Mr. Janakaraj.

Sol. Computation of Taxable salary of Mr. Janakaraj

Basic Salary $(70,000 \times 8) + (80,000 \times 4)$	8,80,000
Dearness Allowance $(50\% \times 8,80,000)$	4,40,000
Bonus $(70,000 + 35,000)$	1,05,000
Contribution to recognized provident fund $(8,80,000 \times 6\%)$ (in excess of 12% shall be taxable) (Salary includes only basic salary, since dearness allowance, in this case, does not form part of salary for retirement benefits)	52,800
Professional Tax paid by the employer Section 17 (2)(iv) (Perquisite includes any sum paid by the employer in respect of any obligation which would have been payable by the employee)	3,000
Facility of Laptop/computer (Section 17 (2)(viii)/Rule 3(7)(vii)) (Facility of laptop is an exempt perquisite, whether used for official or personal purpose or both)	Nil
Leave Travel concession (section 10(5)/Rule 2B)	Nil
Gross Salary	14,80,800
Less: Standard Deduction u/s 16(ia)	(50,000)
Less: Deduction of professional tax u/s 16(iii)	(6,000)
Income under the head Salary	14,24,800

Note: Mr. Janakaraj can avail exemption on the entire amount of 45,000 reimbursed by the employer towards leave travel concession since the leave travel concession was availed for himself, wife and three children and the journey was undertaken by economy class airfare. The restriction imposed for two children is not applicable in case of multiple birth which take place after the first child.

3. Ms. Nandini, a resident individual, aged 48 years, is an assistant manager of Dye Hard Ltd. She was appointed on 1st June, 2012 at a salary of ₹ 32,000 per month. During the previous year 2023-24, she received the following amounts from her employer.
- Dearness allowance (10% of basic pay which forms part of salary for retirement benefits).
 - Bonus for the previous year 2023-24 amounting to ₹32,000 was received on 01st October, 2023.
 - Fixed Medical allowance of ₹ 20,000 for meeting medical expenditure.
 - She was also reimbursed the medical bill of her father-in-law dependent on her amounting to ₹ 3,000.
 - Ms. Nandini was provided;
 - A laptop both for official and personal use. Laptop was acquired by the company on 1st June, 2022 at ₹ 15,000.
 - A domestic servant at monthly salary of ₹ 1,000 which was reimbursed by her employer.
 - Dye Hard Ltd. allotted 500 equity shares in the month of December 2022 @ ₹ 150 per share against the fair market value of ₹ 250 per share on the date of exercise of option by Ms. Nandini. The fair market value was computed in accordance with the method prescribed under the Act.
 - Professional tax ₹ 2,500 (out of which ₹ 1,800 was paid by the employer).
- Compute the total Income of Ms. Nandini assume she has opted out from default tax regime.

Sol.

Particulars	₹
Basic Pay (32,000 × 12)	3,84,000
Bonus	32,000
Dearness Allowance (3,200 × 12)	38,400
Medical Allowance (section 17(1))	20,000
Medical Facility taxable	3,000
Laptop facility (section 17(2)(viii)/Rule 3(7)(vii))	Nil
Servant reimbursement (1,000 × 12) (section 17(2)(iii)/Rule 3(3))	12,000
Equity Shares (500 × (₹ 250-₹ 150)) (section 17(2)(vi))	50,000
Professional Tax	1,800
Gross Salary	5,41,200
Less: Deduction u/s 16(ia)	(50,000)
Less: Deduction u/s 16(iii)	(2,500)
Income under the head Salary	4,88,700
Gross Total Income	4,88,700
Less: Deduction u/s 80C to 80U	Nil
Total Income	4,56,700

Notes:

- Reimbursement of medical bill of father in law is fully taxable.
- Domestic servant was employed by the employee and the salary of such domestic servant was paid/reimbursed by the employer. It is taxable as perquisite for all categories of employees.
- As per section 17(2)(vi), equity shares received at less than market price then difference of market price and amount recovered shall be taxable.

4. (Important)

Mr. Honey is working with a domestic company having a production unit in the U.S.A. for last 15 years. He has been regularly visiting India for export promotion of company's product. He has been staying in India for at least 184 days every year.

He submits the following information:

Salary received outside India (for 6 months)	₹ 50,000 P.M.
Salary received in India (for 6 months)	₹ 50,000 P.M.

He has been given rent free accommodation in U.S.A. for which company pays ₹ 15,000 per month as rent, but when he comes in India, he stays in the guest house of the company. During this period he is given free lunch facility. During the previous year company incurred an expenditure of ₹ 48,000 on this facility.

He has been provided a car of 2000 cc capacity in U.S.A. which is used by him for both office and private purposes. The actual cost of the car is ₹ 8,00,000. But when he is in India, the car is used by him and the members of his family only for personal purpose. The monthly expenditure of car is ₹ 5,000. His elder son is studying in India for which his employer spends ₹ 12,000 per year where as his younger son is studying in

U.S.A. and stays in a hostel for which Mr. Honey gets ₹ 3,000 per month as combined allowance. The company has taken an accident insurance policy and a life insurance policy. During the previous year the company paid premium of ₹ 5,000 and ₹ 10,000 respectively.

Compute Mr. Honey's taxable income from salary assume he has opted out from default tax regime.

Sol. Determination of Residential Status

As per section 6(1), Stay in India is 182 or more during the previous year, hence he is resident and his stay during the 7 years is more than 729 days and he is resident in India for more than a year in 10 years preceding the relevant previous year and not able to comply even a single condition of section 6(6)(a), hence he is ROR.

Computation of Income under the head salary

Basic Salary(50,000 × 12)		6,00,000
Rent free Accommodation (Sec 17(2)(i), Rule 3(1))		94,680
Guest House facility (official purpose)		Exempt
Free lunch Facility Rule 3(7) (iii)		
Total Incurred	₹48,000	
Total Stay 184 days		
Value of each lunch	₹260.87	38,800.08
Less exemption	₹50.00	
Taxable Per Lunch	₹210.87	
Total Taxable (₹210.87 × 184)		
Motor car facility (used for personal and official) (2,400 × 6) Section 17(2) (iii)/Rule 3(2)		14,400
Motor car facility (used for personal purpose only) Section 17(2) (iii)/Rule 3(2)		
Taxable value (8,00,000 × 10% × 6/12)		40,000.00

Expenditure on car (5,000 × 6)	30,000.00
Education Facility Section 17(2) (iii)/Rule 3(5)	
Elder son (12,000-12,000)	Nil
Younger Son Children Education allowance and Hostel allowance combined 36,000	
Less: Exempt Children Education allowance (100 × 12) (1,200)	
Less: Exempt Hostel allowance (300 × 12) (3,600)	31,200.00
Accident Insurance Policy section 17(2)(v)	Nil
Life Insurance Policy section 17(2)(v)	10,000.00
Gross Salary	8,59,080.08
Less: Standard deduction u/s 16(ia)	(50,000)
Income under the head salary	8,09,080.08

Working Note:

15% of rent free accommodation salary or rent paid whichever is less

Rent free accommodation Salary

= Basic Pay + Children Education allowance + Hostel Allowance

= 6,00,000 + 31,200

= ₹ 6,31,200

15% of rent free accommodation Salary = ₹ 94,680

Rent Paid = ₹ 15,000 × 12 = ₹ 1,80,000

Perquisite value of unfurnished house = ₹ 94,680

5. Mrs. Jaya is the marketing manager in XYZ limited. She gives you the following particulars:

Basic Salary ₹ 65,000 p.m.

Dearness Allowance ₹ 22,000 p.m. (30% is for retirement benefits)

Bonus ₹ 17,000 p.m.

Her employer has provided her with an accommodation on 1st April, 2023 at a concessional rent. The house was taken on lease by XYZ Ltd. for ₹12,000 p.m. Mrs. Jaya occupied the house from 1st November, 2023. ₹ 4,800 p.m. is recovered from the salary of Mrs. Jaya.

The employer gave her a gift voucher of ₹ 8,000 on her birthday. She contributes 18% of her salary (Basic Pay + 30% of DA) towards recognized provident fund and the company contributes the same amount.

The company pays medical insurance premium to effect insurance on the health of Mrs. Jaya ₹ 18,000. Motor car owned by the employer (cubic capacity of engine 1.4 litres) provided to Mrs. Jaya from 1st November, 2023 which is used for both official and personal purposes. Repair and running expenses of ₹ 50,000 were fully met by the company. The motor car was self- driven by the employee.

Compute the income chargeable to tax under the head "Salaries" in the hands of Mrs. Jaya for the PY 2023-24. Also compute her tax liability for A.Y. 2023-24 under normal provisions of income tax.

Sol. Computation of Salary chargeable to tax of Mrs. Jaya

	₹
Basic Salary (65,000 × 12)	7,80,000
Dearness Allowance (22,000 × 12)	2,64,000
Bonus (17,000 × 12)	2,04,000
Health Insurance by Employer proviso to Section 17(2)	Nil
Gift Voucher (Rule 3(7)(iv)) (8,000-5,000)	3,000
Accommodation at concessional rent (Sec17(2)(ii)Rule 3(1)) (WN 1)	36,000
Employer's contribution to provident fund (Part A of schedule IV) (WN 2)	51,552
Perquisite value of use of motor car (section 17 (2) (iii)/Rule 3(2)) (1,800 × 5)	9,000
Gross Salary	13,47,552
Less: Standard Deduction u/s 16(ia)	(50,000)
Gross Total Income	12,97,552
Less: Deduction u/s 80C (8,59,200 × 18%) but maximum ₹ 1,50,000	(1,50,000)
Total Income	11,47,552
Rounded off u/s 288A	11,47,550
Computation of Tax Liability	
Tax on ₹11,47,550 at slab rate	1,56,765
Add: HEC @ 4%	6,270.60
Tax Liability	1,63,035.60
Rounded off u/s 288B	1,63,040

Working Note 1:

In the given question accommodation is given on 01-04-23 but occupied on 01-11-2023, in such cases it will be taxable from 01-11-23 and taxable value shall be as given below:

Rent paid or 15% of rent free accommodation salary whichever is less

Rent free accommodation Salary (65,000 + 6,600 + 17,000) × 5	4,43,000
15% of rent free accommodation salary	66,450
Rent paid (12,000 × 5)	60,000
Value of unfurnished house	60,000
Less: Amount recovered from the employee (4,800 × 5)	(24,000)
Perquisite value of accommodation at concessional rent	36,000

Working Note 2:

Retirement benefit salary = ₹ 65,000 + (30% of 22,000) × 12	₹ 8,59,200
Taxable Amount of Employer contribution (8,59,200 × 6%)	₹ 51,552

6. Mr. Nambi, a salaried employee, furnishes the following details for the financial year 2023-24:

Particulars	₹
Basic salary	6,00,000
Dearness allowance	3,20,000
Commission	50,000
Entertainment allowance	7,500
Profession Tax (of this, 50% paid by employer)	7,000
Health insurance premium paid by employer	9,000
Gift voucher given by employer on his birthday	12,000
Life insurance premium of Nambi Paid by employer	34,000
Laptop provided for use at home. Actual cost of Laptop to employer	30,000
[Children of the assessee are also using the Laptop at home]	
Employer -Company owns a Tata Nano car, which was provided to the assessee, Both for official and personal use. No driver was provided. (Engine cubic capacity less than 1.6 litres)	
Annual credit card fees paid by employer [Credit card is not exclusively used for Official purposes; details of usage are not available]	2,000

You are required to compute the income chargeable under the head "Salaries"

Sol. Computation of Salary chargeable to tax of Mr. Nambi

	₹
Basic Salary	6,00,000.00
Dearness Allowance	3,20,000.00
Commission	50,000.00
Entertainment allowance	7,500.00
Professional Tax paid by the employer Section 17 (2)(iv)	3,500.00
Facility of Laptop/computer (Rule 3(7)(vii))	Nil
Health Insurance by Employer proviso to Section 17(2)	Nil
Gift Voucher (Rule 3(7)(iv)) (12,000-5,000)	7,000.00
Life Insurance paid by Employer (section 17 (2) (v))	34,000.00
Perquisite value of use of motor car (section 17 (2) (iii)/Rule 3(2)) (1,800 × 12)	21,600.00
Annual Credit card fees (Rule 3 (7)(v))	2,000.00
Gross Salary	10,45,600.00
Less: Standard Deduction u/s 16(ia)	(50,000.00)
Less: Deduction of professional tax u/s 16(iii)	(7,000.00)
Income under the head Salary	9,88,600.00

Notes:

- (i) As per section 16(ii) Deduction of entertainment allowance is allowed to Government employees and not to other employees.
- (ii) Professional tax paid by employer shall be added to the gross salary of the employee then deduction u/s 16 (iii) shall be allowed for professional tax.
- (iii) Health insurance premium paid by the employer to effect an insurance on the health of the employee is fully exempt.
- (iv) As per Rule 3 (7)(iv), The value of any gift or voucher or token in lieu of which gift is received by the employee or by member of his household upto ₹ 5,000 in aggregate during the previous year is exempt. In the given case Gift voucher received on birthday exceeds ₹ 5000. Hence, excess amount is taxable.
- (v) As per section 17 (2) (v), Life Insurance premium of employee paid by employer shall be included in his income as it is a perquisite for an employee.
- (vi) Credit card facility is exempt only if it is exclusively for official purpose and employer has maintained complete records.
7. Mr X an employee of XYZ Co. Ltd. at Mumbai and covered by Payment of Gratuity Act, retires at the age of 64 years on 31.12.2022 after completing 33 years and 7 months of service. At the time of retirement, his employer pays ₹ 20,51,640 as Gratuity and ₹ 6,00,000 as accumulated balance of Recognised Provident fund. He is also entitled for monthly pension of ₹ 8,000. He gets 75% of pension Commuted for ₹ 4,50,000 on 1st February, 2023. Determine the salary chargeable to tax for Mr. X for the Assessment Year 2024-25 with the help of following information:

	₹
Basic Pay	7,20,000
Basic Salary (₹ 80,000 × 9)	
Bonus	36,000
House Rent Allowance (₹ 15,000 × 9)	1,35,000
Rent paid by Mr. X (₹ 10,000 × 12)	1,20,000
Employer contribution towards Recognized Provident Fund	1,10,000
Professional Tax paid by Mr. X	2,000

Note: Salary and Pension falls due on the last day of each month

Sol. Computation of income under the head Salary

Basic Pay (80,000 × 9)	7,20,000
Bonus	36,000
House rent allowance (Sec 10(13A), Rule 2A) (WN 1)	1,17,000
Employer's contribution to provident fund (Part A of schedule IV) (WN 2)	23,600
Gratuity (Sec 10(10)) (WN 3)	4,82,409.23
Uncommuted Pension (Sec 17(1))	12,000
Commuted Pension (Sec 10(10A))	2,50,000

Gross Salary	16,41,009.23
Less: Standard Deduction u/s 16(ia)	(50,000)
Less: Deduction u/s 16(iii) - Professional Tax	(2,000)
Income under the head Salary	15,89,009.23

Note: ₹ 6,00,000 as accumulated balance of Recognised Provident fund received from employer is exempt as Mr. X has rendered continuous service of more than 5 Years with the employer.

Working Note 1: Taxable HRA

1. Rent Paid in excess of 10% of salary i.e ₹ 90,000 – ₹ 72,000 = ₹ 18,000
2. 50% of retirement benefit salary = ₹ 3,60,000 (Retirement Benefit Salary = 80,000 × 9 = ₹ 7,20,000)
3. Actual HRA Received ₹ 1,35,000
Exempt = (₹ 18,000)
Taxable = ₹ 1,17,000

Working Note 2: ER Contribution to RPF

Retirement benefit salary = ₹ 7,20,000
Employer contribution = ₹ 1,10,000
Exempt = 12% of retirement benefit salary = ₹ 86,400
Taxable = ₹ 23,600

Working Note 3 : Taxable Gratuity

Least of the following is exempt:

1. Gratuity Received ₹ 20,51,640
2. Ceiling Limit ₹ 20,00,000
3. $15/26 \times 80,000 \times 34 = ₹ 15,69,230.7$
Exempt = (₹ 15,69,230.77)
Taxable = ₹ 4,82,409.23
Total = 12,000.00

8. From the following details, find out the salary chargeable to tax of Mr. X

Mr. X is a regular employee of ABC Ltd. in Mumbai. He was appointed on 01.03.2023 in the scale of 25,000-2,500-35,000. He is paid dearness allowance (which forms part of salary for retirement benefits) @ 15% of basic pay and bonus equivalent to one and a half month's basic pay as at the end of the year. He contributes 18% of his salary (basic pay plus dearness allowance) towards recognized provident fund and the Company contributes the same amount.

He is provided free housing facility which has been taken on rent by the Company at ₹15,000 per month. He is also provided with following facilities:

- (i) The monthly salary of ₹ 2,000 of a house keeper is reimbursed by the Company.
- (ii) He is getting telephone allowance @ ₹ 1,000 per month.
- (iii) A gift voucher of ₹ 4,700 was given on the occasion of his marriage anniversary.
- (iv) The Company pays medical insurance premium to effect an insurance on the health of Mr. X ₹ 12,000.

- (v) Motor car running and maintenance charges fully paid by employer of ₹ 36,600. (The motor car is owned and driven by Mr. X. The engine cubic capacity is below 1.60 litres. The motor car is used for both official and personal purpose by the employee.)
- (vi) Value of free lunch provided during office hours is ₹ 2,200.

Sol. Computation of taxable salary

Particulars	₹
Basic pay [(₹ 25,000 × 11) + (₹ 27,500 × 1)] = ₹ 2,75,000 + ₹ 27,500	3,02,500
Dearness allowance [15% of basic pay]	45,375
Bonus [₹ 27,500 × 1.5]	41,250
Employer's contribution to Recognized Provident Fund in excess of 12%	
(18% - 12% = 6% of ₹ 3,47,875)	20,873
Telephone allowance	12,000
Rent-free accommodation Sec 17(2)(i)/Rule 3(1)	
15% of salary (3,02,500 + 45,375 + 41,250 + 12,000) or ₹ 1,80,000 whichever is less.	60,169
Reimbursement of salary of housekeeper [₹ 2,000 × 12] Sec 17(2)(iv)	24,000
Gift voucher Sec 17(2)(viii) Rule 3(7)(iv)	Exempt
Motor car owned and driven by employee, Sec 17(2)(iii) Rule 3(2)	15,000
[₹ 36,600 - ₹ 21,600 (i.e., ₹ 1,800 × 12)]	
Value of free lunch facility Sec 17(2)(viii) Rule 3(7)(iii)	Exempt
(Presuming that value per lunch was upto ₹ 50)	
Gross Salary	5,21,167
Less: Standard Deduction u/s 16(ia)	(50,000)
Income under the head Salary	4,71,167

Note: Medical insurance premium paid by the employer to effect an insurance on the health of the employee is fully exempt.

9. Mrs. X (aged 40 years) is working with ABC Company Ltd., a manufacturer of tyres based at Mumbai, has received the following payments during the financial year 2023-24 from her employer:

Basic salary : ₹ 60,000 per month.

Dearness allowance : 40% of basic salary.

Her employer has taken on rent her own house on a monthly rent of ₹ 15,000 and the same has been provided for residence of Mrs. X. Company is recovering ₹ 2,000 per month as rent of house.

Mrs. X has further furnished the following details:

(i) She has paid professional tax of ₹ 6,000 during financial year 2023-24.

(ii) She is owning only one house and payment of interest of ₹ 1,75,000 and principal of ₹ 1,00,000 was made for housing loan taken from SBI for purchase of house.

(iii) She has also taken a loan of ₹ 2,00,000 from her employer for study of her son. SBI rate for such loan is 10%. Her employer has recovered ₹ 10,000 as interest from her salary for such loan during the year.

Compute Total Income and Tax Liability

Sol. Computation of Taxable Income of Mrs. X

Particulars	₹
Computation of income under the head Salary	
Basic salary (60,000 × 12)	7,20,000
Dearness Allowance (7,20,000 × 40%)	2,88,000
Accommodation at concessional rent (Sec 17(2)(ii) Rule 3(1))	84,000
Perquisite of Interest on loan (Sec 17(2)(viii) Rule 3(7)(f)) [(2,00,000 × 10%) - 10,000]	10,000
Gross Salary	11,02,000
Less: Standard Deduction u/s 16(ia)	(50,000)
Less: Professional Tax u/s 16(iii)	(6,000)
Income under the head Salary	10,46,000
Computation of income under the head House Property	
Gross Annual Value (15,000 × 12)	1,80,000
Less: Municipal Tax	Nil
Net Annual Value	1,80,000
Less: 30% of NAV u/s 24(a)	(54,000)
Less: Interest on capital borrowed u/s 24(b)	(1,75,000)
Loss under the head House Property	(49,000)
Gross Total Income	9,97,000
Less: Deduction u/s	
80C-Repayment of principal	(1,00,000)
Total Income	8,97,000
Computation of Tax Liability	
Tax on ₹ 8,97,000 at Slab rate	91,900
Add: HEC @ 4%	3,676
Tax Liability	95,576
Rounded off u/s 288B	95,580

Working Note:

15% of rent free accommodation salary or rent paid whichever is less	
Rent free accommodation salary	
15% of ₹ 7,20,000	₹ 1,08,000
(assuming that dearness allowance does not form part of pay for retirement benefits)	₹ 1,80,000
Rent Paid = ₹ 15,000 × 12 =	1,08,000
Value of unfurnished house	(24,000)
Less: Amount recovered from the employee (2,000 × 12)	84,000
Perquisite value of accommodation at concessional rent	

10. Mr. X a senior citizen retired from the services of M/s Y Ltd. on 31.01.2024 after completing service of 30 years and one month. He received the following on his retirement:
- Gratuity ₹ 6,00,000. He was covered under the Payment of Gratuity Act, 1972.
 - Leave encashment of ₹ 3,30,000 for 330 days leave balance in his account. He was credited 30 days leave for each completed year of service.
 - He purchased one motor car from the company on 31.03.2024. This car was purchased on 01.07.2020 by the company for ₹ 5,00,000. It was put use by the company on the same date. The car was sold by the company to Mr. X for ₹ 2,00,000. Company depreciates the vehicles at the rate of 15% on Straight Line Method.
 - An amount of ₹ 3,00,000 as commutation of 2/3 of his pension.
 - Company presented him a gift voucher worth ₹ 6,000 on his retirement.
 - His colleagues also gifted him a Television (LCD) worth ₹ 1,50,000 from their own contribution. Following are the other particulars:
 - He has drawn a Basic Salary of ₹ 20,000 and 50% Dearness allowance per month for the period from 01.04.2022 to 31.01.2023,
 - Received pension of ₹ 5,000 per month for the period 01.02.2023 to 31.03.2023 after commutation of pension.

Compute his total income and tax liability

Sol. Computation of Total Income

Basic Salary (20,000 × 10)	2,00,000
Dearness Allowance (2,00,000 × 50%)	1,00,000
Gift voucher (6,000-5,000)	1,000
Motor Car (Sec 17(2)(viii) Rule 3(7)(viii))	56,000
Uncommuted Pension (Sec 17(1))(5,000 × 2)	10,000
Commutated pension (Sec 10(10A))	1,50,000
Gratuity (Sec 10(10))	80,769
Leave Salary (Sec 10(10A))	1,30,000
Gross Salary	7,27,769
Less: Standard Deduction u/s 16(ia)	(50,000)
Income under the head Salary	6,77,769
Income under the head Other Sources	Nil
(Since LCD is not covered under the definition of kind as given under section 56)	
Gross Total Income	6,77,769
Less: Deduction u/s 80C to 80U	Nil
Total Income	6,77,769
Rounded off u/s 288A	6,77,770
Computation of Tax Liability	
Tax on ₹ 6,77,770 at slab rate	45,554.00
Add: HEC @ 4%	1,822.16
Tax Liability	47,376.16
Rounded off u/s 288B	47,380.00

Working Note: Taxable Pension

Amount received 3,00,000

Less: exempted $(3,00,000 \times 3/2 \times 1/3)$ (1,50,000)

Taxable 1,50,000

Working Note: Taxable Gratuity

Least of the following is exempt

1. Gratuity received ₹ 6,00,000
2. Ceiling Limit ₹ 20,00,000
3. $15/26 \times 30,000 \times 30 = 5,19,231$

Received ₹ 6,00,000

Exempt (₹ 5,19,231)

Taxable ₹ 80,769

Working Note: Leave Encashment

Least of the following is exempt

1. Leave Encashment Received ₹ 3,30,000
2. 10 Month Average Salary i.e. $₹ 10 \times 20,000 = ₹ 2,00,000$
3. Ceiling Limit ₹ 3,00,000
4. $330/30 \times 20,000 = 2,20,000$

Received ₹ 3,30,000

Exempt (₹ 2,00,000)

Taxable ₹ 1,30,000

Working Note: Sale of Car

Cost of Car	5,00,000
Less: Depreciation @ 20%	
01.07.2010-30.06.2021	(1,00,000)
01.07.2021-30.06.2022	(80,000)
01.07.2022-30.06.2023	(64,000)
WDV	2,56,000
Less: Amount Recovered	(2,00,000)
Perquisite value of car	56,000

11. From the following details find out the salary chargeable to tax.

Mr. X is a regular employee of ABC & Co. in Gurgaon. He was appointed on 01.01.2023 in the scale of 20000-1000-30000. He is paid 10% D.A. (forms part for retirement benefits salary) & Bonus equivalent to one month pay. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount.

He is provided free housing facility which has been taken on rent by the company at ₹ 10,000 per month. He is also provided with following facilities.

- (i) Facility of laptop costing ₹ 50,000.
- (ii) The monthly salary of ₹ 1,000 of a house keeper is reimbursed by the company.
- (iii) A gift voucher of ₹ 10,000 on the occasion of his marriage anniversary.

- (iv) Conveyance allowance of ₹ 1,000 per month is given by the company towards actual reimbursement.
- (v) He is provided personal accident policy for which premium of ₹ 5,000 is paid by the company.
- (vi) He is getting telephone allowance @ ₹ 500 per month.
- (vii) Company pays medical insurance premium of his family of ₹ 10,000.

Sol. Computation of taxable salary of Mr. X

Particulars	₹
Basic pay [(20,000 × 9) + (21,000 × 3)] = 1,80,000 + 63,000	2,43,000
Dearness allowance [10% of basic pay]	24,300
Bonus [See Note (1) below]	21,000
Employer's contribution to RPF in excess of 12% (15% - 12% = 3% of ₹ 2,67,300)	8,019
Telephone allowance	6,000
Rent-free accommodation [See Note (2) below]	44,145
Reimbursement of salary of housekeeper	12,000
Gift voucher (10,000 - 5,000)	5,000
Salary income chargeable to tax	3,63,464
Less: Standard deduction u/s 16 (ia)	(50,000)
Income under the head Salary	3,13,464

Notes:

- (i) Bonus has been taken as one month's basic pay as at the end of the year i.e. ₹ 21,000. In the alternative, the problem can also be worked out by taking bonus as ₹ 20,000, being one month's basic pay upto 31.12.2022.
- (ii) Where the accommodation is taken on lease or rent by the employer, the value of rent-free accommodation provided to employee would be actual amount of lease rental paid or payable by the employer or 15% of salary, whichever is lower.
For the purposes of valuation of rent free house, salary includes:
- (a) Basic salary i.e., ₹ 2,43,000
- (b) Dearness allowance i.e. ₹ 24,300
- (c) Bonus i.e., ₹ 21,000
- (d) Telephone allowance i.e., ₹ 6,000
- Therefore, salary works out to 2,43,000 + 24,300 + 21,000 + 6,000 = 2,94,300.
15% of salary = 2,94,300 × 15/100 = 44,145
Value of rent-free house = Lower of rent paid by the employer (i.e. ₹ 1,20,000) or 15% of salary (i.e., ₹ 44,145).
Therefore, the perquisite value is ₹ 44,145.
- (iii) Facility of laptop is not a taxable perquisite.
- (iv) Conveyance allowance is exempt since it is based on actual reimbursement for official purposes.
- (v) Premium of ₹ 5,000 paid by the company for personal accident policy is not liable to tax.

(vi) As per Circular No.15/2001, dated: 12.12.2001, Gift, voucher or token in lieu of gift - It is customary in India, as it is in other parts of the world, to provide presents directly or indirectly in the form of vouchers or tokens to employees on social and religious occasions like Diwali, Christmas, New Year, the anniversary of the organization etc. Such gifts upto ₹ 5,000 in the aggregate per annum would be exempt, beyond which it would be taxed as a perquisite. However, gifts made in cash or convertible into cash, like gift cheques etc. do not fall in the purview of this sub-rule.

12. Mr X, Marketing Manager of KL Ltd. based at Mumbai furnishes you the following information for the year ended 31.03.2024:

	₹
Basic salary	1,00,000 pm
Dearness allowance (forming part for retirement benefit salary)	50,000 pm
Bonus	2 Months basic salary
Contribution of employer to Recognized Provident Fund @ 15% of basic salary plus Dearness allowance	
Rent free unfurnished accommodation was provided by the company at Mumbai (accommodation owned by the company).	
Recognized Provident Fund contribution made by Mr. X.	1,50,000
Health insurance premium for his family paid by cheque.	20,000
Health insurance premium in respect of parents (senior citizens) paid by cheque.	28,000
Medical expenses of dependent brother with 'severe disability' (covered by Section 2(o) of National Trust of Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999).	60,000
Interest on loan taken for education of a student for whom Mr. X is the legal guardian for pursuing B.Sc. (Physics) (full-time) in a recognized university.	20,000

Compute the Total Income of Mr. X.

Sol. Computation of Total Income of Mr. X

Particulars	₹	₹
Basic salary		12,00,000
Dearness allowance		6,00,000
Bonus		2,00,000
Employer contribution to RPF in excess of 12% is taxable		54,000
(3% of 18,00,000) [See Note below]		
Rent free accommodation @ 15% of ₹ 20 lakh (basic salary + dearness allowance + bonus)		3,00,000
Gross Salary		23,54,000

Particulars	₹	₹
Less: Standard deduction u/s 16 (ia)		(50,000)
Income Under Head Salaries		23,04,000
Less: Deductions under Chapter VI-A		
Section 80C		
Contribution to RPF		1,50,000
Section 80D - Health insurance premium		
Family 20,000		
Parents (Senior Citizens) 28,000	48,000	
Section 80DD		
Medical treatment of dependent brother with severe disability (flat deduction irrespective of expenditure incurred)	1,25,000	
Section 80E - Interest on loan taken for full-time education of		
□ his son studying B.Com. 24,000		
□ a student studying B.Sc. for whom he is the legal guardian 20,000	44,000	(3,67,000)
Total income		19,37,000

Under section 10(14), any allowance granted to an employee working in a transport system to meet his personal expenditure during his duty is exempt provided he is not in receipt of daily allowance. The exemption is 70% of such allowance (i.e., ₹ 7,000 per month, being 70% of ₹ 10,000) or ₹ 10,000 per month, whichever is less. Hence, ₹ 84,000 (i.e., 7,000 × 12) is allowable as deduction under section 10(14).

13. Mr. X is an area manager of M/s N. Steels Co. Ltd. During the financial year 2022-23, he gets the following emoluments from his employer:

	₹
Basic Salary	
Up to 31.08.2022	20,000 p.m.
From 01.09.2022	25,000 p.m.
Transport allowance	2,000 p.m.
Contribution to RPF by employer and employee 15% of basic salary (each)	
Children education allowance (for two children)	500 p.m.
City compensatory allowance	300 p.m.
Hostel expenses allowance (for two children)	380 p.m.
Tiffin allowance (actual expenses ₹ 3,700)	5,000 p.a.
Tax paid on employment	2,500

Compute Tax Liability of Mr. X

Sol. Computation of Taxable Salary of Mr. X

Particulars	Amount (₹)	Amount (₹)
Basic Salary (₹ 20,000 × 5) + (₹ 25,000 × 7)		2,75,000
Transport allowance (₹ 2,000 × 12)		24,000
Children education allowance (₹ 500 × 12)	6,000	
Less: Exempt under section 10(14) (₹ 100 × 2 × 12)	(2,400)	3,600
City Compensatory Allowance (₹ 300 × 12)		3,600
Hostel Expenses Allowance (₹ 380 × 12)	4,560	
Less: Exempt under section 10(14) (₹ 300 × 2 × 12 i.e. ₹ 7,200 but restricted to the actual allowance of ₹ 4,560)	(4,560)	Nil
Tiffin allowance (fully taxable)		5,000
Tax paid on employment		2,500
Employer's contribution to Recognised Provident Fund in excess of 12% of salary (i.e. 3% of ₹ 2,75,000)		8,250
Gross Salary		3,21,950
Less: Standard deduction u/s 16 (ia)		(50,000)
Less : Tax on employment under section 16(iif)		(2,500)
Taxable salary		2,69,450
Computation of Total Income		
Gross Total Income		2,69,450
Less: Deduction u/s 80C		
Employee's contribution in Recognised Provident Fund		(41,250)
Total Income		2,28,200
Computation of Tax Liability		
Tax on ₹ 2,28,200 at slab rate		Nil
Tax Liability		Nil

Notes: Professional tax paid by employer should be included in the salary of Mr. X as a perquisite since it is discharge of monetary obligation of the employee by the employer. Thereafter, deduction of professional tax paid is allowed to the employee from his gross salary.

■ INCOME UNDER THE HEAD HOUSE PROPERTY

Chargeability of income under the head house property [Section 22]

CONDITIONS FOR CHARGEABILITY

- (a) Property should consist of any building or land appurtenant thereto.
- (b) Assessee must be the owner of the property (including Deemed Owner)
- (c) The property may be used for any purpose, but it should not be used by the owner for the purpose of any business or profession carried on by him, the profit of which is chargeable to tax.

Note:

1. The income earned by an assessee engaged in the business of letting out of properties on rent would be taxable as business income.
2. 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 property being held as stock in trade would be treated as NIL for a period of two year 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. [Section 23(5)]

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.
 - for different services provided in the building, for eg. - (a) Lifts; (b) Security; (c) Power backup;
- The Amount so received is known as "composite rent".

Tax Treatment

Case	Treatment
Letting out of building and other assets are inseparable i.e. the other party does not accept letting out of building without other assets	Rent is taxable either as business income or income from other sources, the case may be.
Letting out of building and other assets are separable i.e. the other party accept letting out of building without other assets	(a) income from letting out of building is taxable under "Income from house property"; (b) Income from letting out of other assets is taxable under "Profits and gains of business or profession" or "Income from other sources", as the case may be.

■ INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA

- (i) In case of a resident in India (resident and ordinarily resident in case of individuals and HUF), income from house property situated outside India is taxable, whether such income is brought into India or not.
- (ii) In case of a non-resident or resident but not ordinarily resident in India, income from a property situated outside India is taxable only if it is received in India.

■ COMPUTATION OF INCOME UNDER THE HEAD HOUSE PROPERTY

Particulars	Amount (₹)
Gross Annual Value (GAV)	xxx
Less: Municipal Taxes Paid By Owner	xxx
Net Annual Value (NAV)	xxx
Less: Statutory deduction/standard deduction @ 30% of NAV [Section 24(a)]	xxx
Less: Interest on borrowed capital for construction etc. [Section 24(b)]	xxx
Income under the head "House Property"	xxx

■ DETERMINATION OF ANNUAL VALUE (NAV) [SECTION 23]

CASE A: Computation of income of a house property which is let out throughout the year:

As per section 23(1)(a)/(b), gross annual value i.e. reasonable rental value shall be computed in the manner given below:

1. Compare Fair Rent and Municipal Valuation and select the higher.
2. Compare the rent so selected with Standard Rent and the lower of the two shall be considered to be Expected Rent. (It is also called Annual Letting Value)
3. Compare Expected Rent with Rent Received or Receivable and the higher shall be considered to be Gross Annual Value.
 - ❑ Fair rent i.e. the rent of similar types of buildings in the same locality.
 - ❑ Municipal valuation i.e. rental value determined by the municipality for the purpose of charging municipal tax.
 - ❑ It is also called rateable value.
 - ❑ Standard rent i.e. the highest possible rent as per Rent Control Act. Rent received or receivable.

Illustration 1: Mr. X owns five houses in Chennai, all of which are let-out. Compute the GAV of each house from the information given below -

Particulars	House I	House II	House III	House IV	House V
Municipal Value	80,000	55,000	65,000	24,000	75,000
Fair Rent	90,000	60,000	65,000	25,000	80,000
Standard Rent	N.A.	75,000	58,000	N.A.	78,000
Actual rent received/receivable	72,000	72,000	60,000	30,000	72,000

Income Under the Head House Property

Illustration 2: Mr. X has one house property which is let out @ ₹ 80,000 p.m. Fair rent ₹ 90,000 p.m., Municipal Valuation ₹ 70,000 p.m., Standard Rent ₹ 81,000 p.m. Municipal tax paid ₹ 60,000 and interest paid on loan for construction of house property is ₹ 50,000. Compute his Income.

Illustration 3: Mr. X has let out one House property @ ₹ 62,000 p.m., Municipal Valuation ₹ 72,000 p.m., Fair Rent ₹ 90,000 p.m., Standard Rent ₹ 1,00,000 p.m., Municipal Tax paid ₹ 40,000 and Interest on loan taken for construction ₹ 60,000 She has completed the age of 60 years on 01.04.2022. Compute Income.

Case B: Computation of Income of House Lying Vacant for Some Period [Section 23(1)(c)]

If the house is partly let out and partly vacant, in such cases:

- Expected rent shall be computed for 12 months but while computing rent received/receivable, rent for the period for which the house was vacant shall be excluded.
- GAV shall be higher of expected rent and rent received/receivable
- But if the rent received/receivable is less than the expected rent owing to vacancy, in that case rent received/receivable shall be gross annual value.

Illustration 4: Compute gross annual value in the following cases:

Particulars	Situation 1	Situation 2	Situation 3	Situation 4
Fair Rent (p.m.)	9,000	13,000	16,000	12,000
Municipal Valuation (p.m.)	10,000	9,000	18,000	19,000
Standard Rent (p.m.)	12,000	11,000	16,000	7,000
Rent received/receivable (p.m.)	7,000	11,500	16,000	20,000
Vacancy (Months)	1	1	2	2

Case C: House Property Which is let-out for Part of the Year and Self-Occupied for Part of the Year [Section 23(3)]

If any house property is let out as well as self-occupied, in such cases expected rent (also called annual letting value) shall be computed for full year but Rent received/receivable shall be only for the period the house was let out and GAV shall be the higher. There will not be any such adjustment as in case of vacancy.

Illustration 5: Mr. X constructed one house in 2019 and it is let out for 4 months and self occupied for 6 months and vacant for 2 months during previous year 2023-24.

- Municipal valuation of the house is ₹ 40,000 p.m. and fair rent ₹ 30,000 p.m. Standard rent of the house is ₹ 38,000 p.m. It was let out @ ₹ 32,000 p.m.
- Municipal tax levied is ₹ 6,000 out of which ₹ 2,000 was paid by the tenant and ₹ 2,000 by the assessee and balance ₹ 2,000 yet to be paid.
- Interest on the capital borrowed for construction of the house is ₹ 30,000. Compute his Income Under The Head House Property.

■ TREATMENT OF UNREALISED RENT [EXPLANATION BELOW SECTION 23(1)]

- (1) The Actual rent received/receivable should not include any Amount of rent which is not capable of being realised.
- (2) However the conditions prescribed in Rule 4 should be satisfied. They are-
 - (a) the tenancy is bona fide;

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

Illustration 6: Mr. X owns a house property at Adyar in Chennai. The municipal value of the property is ₹ 5,00,000, fair rent is ₹ 4,20,000 and standard rent is ₹ 4,80,000. The property was let-out for ₹ 50,000 p.m. up to December 2023. Thereafter, the tenant vacated the property and Mr. X used the house for self-occupation. Rent for the months of November and December 2023 could not be realised in spite of the owner's efforts. All the conditions prescribed under Rule 4 are satisfied. She paid municipal taxes @ 12% during the year. She had paid interest of ₹ 25,000 during the year for Amount borrowed for repairs for the house property. Compute his Income Under The Head House Property.

■ STATUTORY DEDUCTION OR STANDARD DEDUCTION [SECTION 24(A)]

- Under section 24(a), every assessee shall be allowed a notional expenditure equal to thirty per cent of the net annual value of the house for the various expenditures incurred by him.
- Actual expenditure incurred by the assessee shall not be taken into consideration.
- Example Net annual value of one house is ₹ 3,00,000 and actual expenditure incurred on repairs are ₹ 75,000, deduction allowed under section 24(a) shall be ₹ 90,000.

■ INTEREST ON BORROWED CAPITAL IS ALLOWED AS DEDUCTION UNDER [SECTION 24(B)]

- If any assessee has taken a loan or advance for purchase/construction/renovation/addition/alteration/substitution or repair etc. of the house property, interest on such loan shall be allowed as deduction
- Interest is allowed on due basis (it is immaterial whether interest has been actually paid or not paid during the year)
- Interest for the year for which income is being computed shall be allowed in the same year and shall be called current period interest.
- Interest paid or payable for the period prior to the previous year in which property is acquired or constructed will be aggregated and allowed in 5 equal installments commencing from the year in which property is acquired or constructed.

(Interest is aggregated from the date of borrowing till the end of PY prior to PY in which property is acquired/constructed and not till the date of completion of construction.)

- (a) Where fresh loan has been raised to repay the original loan if the second borrowing has really been used merely to repay the original loan and this fact is proved to AO, the interest paid on second loan would also be allowed as deduction
- (b) Interest on Interest is not allowed as deduction i.e. interest charged on late payment of installment is not allowed.
- (c) Any amount paid for brokerage or commission for arrangement of loan is not allowed as deduction.
- (d) Interest on borrowed money which is payable outside India shall be allowed only if TDS has been deducted or tax has been paid on such interest.

Illustration 7: Mr. X took a loan of ₹ 5,00,000 on 01.10.2020 @ 10% p.a. for construction of house which was completed on 31.03.2023. Compute interest on capital borrowed for the previous year 2023-24.

Income Under the Head House Property

Illustration 8: Mr. X has taken a loan of ₹ 15,00,000 on 01.07.2019 from State Bank of India @ 12% p.a. for construction of one house which was completed on 01.05.2023 and was let out @ ₹ 90,000 p.m. w.e.f 01.07.2023 and Fair rent is ₹ 1,25,000 p.m. and the assessee has paid municipal tax of ₹ 30,000 in P.Y. 2023-24 and the assessee has repaid the loan Amount in annual instalment of ₹ 1,00,000 starting from 01.01.2022. Compute his income for the assessment year 2024 25.

Illustration 9: Mr. X has taken a loan of ₹ 15,00,000 on 01.07.2019 from State Bank of India @ 12% p.a. for construction of one house which was completed on 01.04.2023 and was let out @ ₹ 90,000 p.m. w.e.f 01.05.2023 and Fair rent is ₹ 1,00,000 p.m. and the assessee has paid municipal tax of ₹ 30,000 in P.Y. 2023-24 and the assessee has repaid the loan Amount in annual instalment of ₹ 1,00,000 starting from 01.01.2022. Compute his income.

Illustration 10: Mr. X has constructed one house on 01.09.2022 and it was let out @ ₹ 1,25,000 p.m. and municipal taxes paid are ₹ 35,000. The house was constructed after taking a loan from outside India and interest allowed under section 24(b) is ₹ 2,10,000, but the assessee has not deducted tax at source. Compute assessee's GTI for the year ended 31st March 2024.

■ SELF OCCUPIED HOUSE PROPERTY

- If any person has house which is self-occupied (maximum two house), its GAV shall be NIL
- Municipal tax are not allowed to be deducted. Hence, NAV shall also be NIL
- Deduction under section 24(a) is not allowed.
- Deduction under section 24(b) – Not allowed under default tax regime. But as per normal provisions, it is allowed but maximum ₹ 30,000, however it will be maximum ₹ 2,00,000 if following conditions are satisfied:
 - (a) loan has been taken on or after 1st April 1999 for purchase or construction
 - (b) House has been purchased or constructed within 5 years from the end of the year in which the assessee has taken loan
 - (c) Assessee should submit a certificate from the lender certifying the Amount of interest.
- If loan is taken for repairs/renovations or condition mentioned above are not satisfied then, maximum interest allowed shall be ₹ 30,000.
- If the house is self occupied as well as vacant, its income shall be computed as if it is self occupied house. E.g. Mr. X has one house which is vacant for 3 months and self occupied for 9 months, its income shall be computed considering it to be self occupied house. The ceiling prescribed for two self-occupied property as above in respect of interest on loan borrowed does not apply to a deemed let-out property.

Illustration 11: MR. X 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 ₹ 25,000 p.m. The municipal valuation is ₹ 23,000 p.m. Municipal taxes paid is ₹ 8,000. The loan of ₹ 20,00,000 was taken on 01.01.2017 from SBI Housing Finance Ltd. The construction was completed on 30.11.2019. The accumulated interest up to 31.03.2019 is ₹ 3,00,000. During the previous year 2023-24, Mr. X paid ₹ 1,88,000 which included ₹ 1,44,000 as interest. Compute Mr X's income from house property for A.Y. 2024-25. All the conditions for higher deduction of interest in case of self-occupied property is satisfied.

Illustration 12: Mr. X has taken a loan of ₹ 5,00,000 on 01.10.2019 @ 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. The assessee has income under the head salary ₹ 4,00,000. Compute tax liability for assessment year 2024-25

Answer: Loss under the head House Property (75,000); Tax Liability Nil

■ MORE THAN TWO HOUSE WHICH ARE SELF-OCCUPIED (DEEMED TO BE LET OUT PROPERTY) [SECTION 23(4)]

If any assessee has more than two house which are self-occupied, in such cases only two of these houses shall be considered to be self-occupied and income shall be computed under section 23(2) and all other houses shall be deemed to be let out and income shall be computed in the similar manner as in case of let out house. Expected rent shall be considered to be GAV of the house.

Illustration 13: Mr. X has 3 houses which are self occupied and the details of these houses is as under.

Particulars	House 1	House 2	House 3
Fair Rent	11,00,000	12,00,000	11,50,000
Municipal Valuation	11,24,000	11,78,000	11,25,000
Standard Rent	13,00,000	12,50,000	11,40,000
Municipal Taxes Paid	1,00,000	80,000	90,000
Interest on Capital Borrowed (all the necessary conditions are complied with to avail higher Amount of interest.)	3,20,000	2,90,000	1,90,000
Repair charges	10,000	3,000	8,000

Compute income under the head house property.

■ INCOME OF UNOCCUPIED HOUSE SECTION 23(2)(B)

As per section 23(2)(b), if any house cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, in such cases assessee shall have the option to compute income of such house as if it is self-occupied i.e. it will not be considered to be deemed to be let out.

■ HOUSE PROPERTY WHICH IS PARTLY LET OUT AND PARTLY SELF-OCCUPIED

- If any house property is divided into different portions, every portion shall be considered to be a separate house and income shall be computed accordingly.
- 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.
- Income of let out portion shall be calculated as per let out provisions and of self occupied portion shall be calculated separately as per self occupied provisions
- Municipal Taxes and Interest on borrowed capital can be apportioned on the basis of built up or floor area basis.

Illustration 14: Mr. X owns a house in Madras. During the previous year 2023-24, 2/3rd portion of the house was self-occupied and 1/3rd portion was let out for residential purposes at a rent of ₹ 8,000 p.m. Municipal value of the property is ₹ 3,00,000 p.a., fair rent is ₹ 2,70,000 p.a. and standard rent is ₹ 3,30,000 p.a. He paid municipal taxes @ 10% of municipal value during the year. A loan of ₹ 25,00,000 was taken by him during the year 2018 for acquiring the property. Interest on loan paid during the previous year 2022-23 was ₹ 1,20,000. Compute Mr. X's income from house property for the A.Y. 2024-25. All the conditions for higher deduction of interest in case of self-occupied property is satisfied.

■ HOUSE PROPERTY OWNED BY THE ASSESSEE AND USED FOR OWN BUSINESS [SECTION 22/SECTION 30]

- If any person owns any house property and it is being used by him in his own business/profession, income of such building shall not be computed under the head house property rather income shall be computed under the head business/profession
- As per section 30, for this purpose, while computing the income under the head business/profession, no rent shall be allowed to be debited to the profit & loss account in connection with such building.
- All the expenses of the house property shall be debited to the profit and loss account (on actual basis). Such expenditure may be municipal tax, repairs, depreciation, land revenue, ground rent etc.

■ LETTING OUT OF BUILDING WHICH IS SUPPLEMENTARY TO THE BUSINESS

If any person has let out any house property for any purpose which is supplementary to the business of the assessee, in such cases rental income shall be taxable under the head business/profession and all expenses of such house property shall be debited to the profit and loss account.

E.g. If a Public school has let out a part of its building to a Bank, in this case rent received shall be considered to be income under the head Business/Profession and all expenses of such house property shall be debited to profit and loss account. Similarly, if any company has constructed houses for the employees in their premises and it is let out to the employees, rental income is taxable under the head Business/Profession.

■ TAX LIABILITY IN RESPECT OF ARREARS OF RENT AND RECOVERY OF UNREALIZED RENT [SECTION 25A]

1. The amount of:
 - (a) Arrears if rent received from tenant
 - (b) Recovery of unrealized rent from Tenant by an assessee shall be deemed to be income from HP in respect of FY in which such rent is received or realized, whether the assessee is owner of the property or not.
2. However deduction shall be allowed @ 30% of such rent received or realized.

Illustration 15: Mr. X has let out his house to State Bank @ ₹ 20,000 p.m. The bank has increased the rent on 1st July, 2022 to ₹ 27,000 p.m. retrospectively w.e.f. 01.11.2022. The assessee has paid municipal taxes of ₹ 7,000 during the previous year 2023-24. Compute income under the head House Property.

Illustration 16: Mr. X, a British national, is a resident and ordinarily resident in India during the P.Y.2023-24. He owns a house in London, which he has let out at £ 10,000 p.m. The municipal taxes paid to the Municipal Corporation of London is £ 8,000 during the P.Y.2023-24. The value of one £ in Indian rupee to be taken at ₹ 82.50. Compute Mr. X's taxable income for the A.Y. 2024-25.

■ TREATMENT OF INCOME FROM CO-OWNED PROPERTY SECTION 26

- (i) Where property is owned by two or more persons, whose shares are definite and ascertainable, then the income from such property cannot be taxed as income of an AOP.
- (ii) Where the house property owned by co-owners is let out, 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.
- (iii) The share income of each such co-owner should be determined in accordance with sections 22 to 25 and included in his individual assessment.

- (iv) Where the house property owned by co-owners is self occupied by each of the co-owners, the annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of ₹ 30,000/₹ 2,00,000, as the case may be, under section 24(b) on account of interest on borrowed capital. However, the aggregate deduction of interest to each co-owner in respect of interest payable on loan taken for co-owned house property and interest, if any, payable on loan taken for another self-occupied property owned by him cannot exceed ₹ 30,000/₹ 2,00,000, as the case may be.

Analysis

Self-occupied property	Let-out property
The annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to a deduction of ₹ 30,000/₹ 2,00,000, as the case may be, on account of interest on borrowed capital. However, if the co-owner owns another self-occupied/unoccupied property, the aggregate interest from the co-owned property and the	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.

Illustration 17: Mr X is a co-owner of a house property alongwith his brother. 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 ₹ 25,000 out of which ₹ 21,000 have been paid. Interest on the unpaid interest is ₹ 450. To repay this loan, X and his brother have taken a fresh loan and interest charged on this loan is ₹ 5,000. The Municipal taxes of ₹ 5,100 have been paid by the tenant. Mr. X has 50% share in the house property. Mr. X has income from Other Sources ₹ 2,60,000. Compute the income from this property chargeable in the hands of Mr. X

■ OWNER/DEEMED OWNER [SECTION 22/27]

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

- (i) **Transfer to a spouse [Section 27(i)]** – 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 the transferred property.

Exception – 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.

- (ii) **Transfer to a minor child [Section 27(i)]** – 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.

Exception – 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 property. However, clubbing provisions will be attracted.

(iii) **Holder of an impartible estate [Section 27(ii)]** – 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.

After enactment of the Hindu Succession Act, 1956, all the properties comprised in an impartible estate by custom is to be assessed in the status of a HUF. However, section 27(ii) will continue to be applicable in relation to impartible estates by grant or covenant.

(iv) **Member of a co-operative society etc. [Section 27(iii)]** – A member of a 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.

(v) **Person in possession of a property [Section 27(iiiia)]** – 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

(1) possession of property has been handed over to the buyer

(2) sale consideration has been paid or promised to be paid to the seller by the buyer

(3) 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 all the above cases, the buyer would be deemed to be the owner of the property although it is not registered in his name.

(vi) **Person having right in a property for a period not less than 12 years [Section 27(iiib)]** – A person who acquires any rights in or with respect to any building or part thereof, by virtue of any transaction as is referred to in section 269UA(f) i.e. transfer by way of lease for not less than 12 years, shall be deemed to be the owner of that building or part thereof. Exception – In case the person acquiring any rights by way of lease from month to month or for a period not exceeding one year, such person will not be deemed to be the owner.

PRACTICE QUESTIONS

1. Mr. Roxx, a citizen of the Country Y, is a resident but not ordinarily resident in India during the financial year 2023-24. He owns two house properties in Country Y, one is used as his residence. Another house property is rented for a monthly rent of \$ 18,000. Fair rent of the house property is \$ 20,000. The value of one CYD (\$) may be taken as ₹ 78.

He took ownership and possession of a flat in Delhi on 1.10.2023, which is used for self-occupation, while he is in India. The flat was used by him for 3 months at the time when he visited India during the previous year 2023-24. The municipal valuation is ₹ 4,58,000 p.a. and the fair rent is ₹ 3,60,000 p.a. He paid property tax of ₹ 13,800 and ₹ 2,800 as Sewerage tax to Municipal Corporation of Delhi.

He had taken a loan of ₹ 18,00,000 @9.5% from HDFC Bank on 1st August, 2020 for purchasing this flat. No amount is repaid by him till 31.03.2024.

He also had a house property in Bangalore which is let out on a monthly rent of ₹ 40,000. The fair rent of which is ₹ 4,58,000 p.a. and Municipal value of ₹ 3,58,000 p.a. and Standard Rent of ₹ 4,20,000 p.a. He had taken a loan of ₹ 25,00,000 @ 10% from one of his friends, residing in Country Y for this house. Municipal tax of ₹ 5,400 is paid by him in respect of this house during the previous year 2023-24.

Compute the income chargeable from house property of Mr. Roxx for the assessment year 2024-25, assuming he has opted for normal provisions of income tax.

- Sol.** Since Mr. Roxx, is a resident but not ordinarily resident in India, only the income in respect of properties situated in India would be taxable in his hands.

Thus, the rental income which accrues or arises in Country Y from the let-out property and annual value of self-occupied property would not be taxable in his hands. However, income arising from properties in India are taxable in the hands of Mr. Roxx.

Accordingly, the income from house property of Mr. Roxx will be calculated as under:

Particulars	Amount	Amount
Self-occupied house at Delhi		
Annual value		NIL
Less: Deduction under section 24	NIL	
Interest on borrowed capital (See Note below)		2,00,000
Chargeable income from this house property		2,00,000
Let out house property at Bangalore		
Expected rent, being higher of ₹ 3,58,000 municipal value and fair rent of ₹ 4,58,000 but restricted to Standard rent of ₹ 4,20,000	4,20,000	
Actual rent [40,000 × 12]	4,80,000	
Gross Annual Value, being higher of expected rent and actual rent		4,80,000
Less: Municipal taxes		5,400
Net Annual Value		4,74,600
Less: Deduction under section 24		

Particulars	Amount	Amount
□ 30% of net annual value [30% × 4,74,600]	1,42,380	
□ Interest on borrowed capital (actual allowable as deduction without any ceiling limit)	2,50,000	3,92,380
		82,220
Loss under the head "Income from house property" (₹ 2,00,000 – ₹ 82,220)		1,17,780

Note: Interest on borrowed capital

Particulars	Amount
Interest for the current year [18,00,000 × 9.5%]	1,71,000
Add: 1/5th of pre-construction interest (₹ 2,85,000 × 1/5)	57,000
1.8.2020 to 31.03.2021 – (₹ 18,00,000 × 9.5% × 8/12)	1,14,000
1.4.2022 to 31.03.2023 – (₹ 18,00,000 × 9.5%)	1,71,000
Interest deduction allowable under section 24, restricted to	2,00,000

2. Ms. Pihu has three houses, all of which are self-occupied. The particulars of these houses are given below:

Particulars	(Value in ₹)		
	House – I	House – II	House-III
Municipal Valuation per annum	1,30,000	1,20,000	1,20,000
Fair Rent per annum	1,10,000	1,85,000	1,45,000
Standard rent per annum	1,00,000	1,90,000	1,30,000
Date of completion	30-01-2006	31-07-2009	31.5.2013
Municipal taxes payable during the year (paid for House II & III only)	12%	9%	10%
Interest on money borrowed for repair of property during current year	–	75,000	–

You are required to compute Pihu's income from house property for current Assessment year and suggest which houses should be opted by Pihu to be assessed as self-occupied so that her tax liability is minimum.

- Sol.** In this case, Pihu has more than two house properties for self-occupation. As per section 23(4), Pihu can avail the benefit of self-occupation (i.e., benefit of "Nil" Annual Value) only in respect of any two of the house properties, at her option. The other house property would be treated as "deemed let-out" property, in respect of which the Expected rent would be the gross annual value. Pihu should, therefore, consider the most beneficial option while deciding which house properties should be treated by her as self-occupied.

OPTION 1 [House I and II – Self-occupied and House III- Deemed to be let out]

If House I and II are opted to be self-occupied, Pihu's income from house property would be

Particulars	Amount in ₹
House I (Self-occupied) [Annual value is Nil]	Nil
House II (Self-occupied) [Annual value is Nil, but interest deduction would be available, subject to a maximum of ₹ 30,000. In case of money borrowed for repair of self-occupied property, the interest deduction would be restricted to ₹ 30,000, irrespective of the date of borrowal].	(30,000)
House III (Deemed to be let-out) [See Working Note below]	82,600
Income from house property	52,600

OPTION 2 [House I and III – Self-occupied and House II- Deemed to be let out]

If House I and III are opted to be self-occupied, Pihu's income from house property would be

Particulars	Amount in ₹
House I (Self-occupied) [Annual value is Nil]	Nil
House II (Deemed to be let-out) [See Working Note below]	46,940
House III (Self-occupied) [Annual value is Nil]	Nil
Income from house property	46,940

OPTION 3 [House I – Deemed to be let out and House II and III – Self-occupied]

If House II and III are opted to be self-occupied, Pihu's income from house property for A.Y. 2021-22 would be

Particulars	Amount in ₹
House I (Deemed to be let-out) [See Working Note below]	70,000
House II (Self-occupied) [Annual value is Nil, but interest deduction would be available, subject to a maximum of ₹ 30,000. In case of money borrowed for repair of self-occupied property, the interest deduction would be restricted to ₹ 30,000, irrespective of the date of borrowal].	(30,000)
House III (Self-occupied) [Annual value is Nil]	Nil
Income from house property	40,000

Since Option 3 is more beneficial, Pihu should opt to treat House - II and III as Self- occupied and House I as Deemed to be let out, in which case, her income from house property would be ₹ 40,000 for the A.Y

Working Note:

Computation of income from House I, II and House III assuming that all are deemed to be let out

Particulars	Amount in Rupees		
	House I	House II	House III
Gross Annual Value (GAV) Expected rent is the GAV of house property Expected rent = Higher of Municipal Value and Fair Rent but restricted to Standard Rent	1,00,000	1,85,000	1,30,000
Less: Municipal taxes (paid by the owner during the previous year)	Nil	10,800	12,000
Net Annual Value (NAV)	1,00,000	1,74,200	1,18,000
Less: Deductions under section 24			
30% of NAV	30,000	52,260	35,400
Interest on borrowed capital (allowed in full in case of deemed let out property)	-	75,000	-
Income from deemed to be let-out house property	70,000	46,940	82,600

3. Mrs. Daya, a resident of India, owns a house property at Panipat in Haryana. The Municipal value of the property is ₹ 8,50,000, Fair Rent of the property is ₹ 7,30,000 and Standard Rent is ₹ 8,20,000 per annum.

The property was let out for ₹ 85,000 per month for the period April 2023 to December 2023.

Thereafter, the tenant vacated the property and Mrs. Daya used the house for self-occupation. Rent for the months of November and December 2023 could not be realized from the tenant. Mrs. Daya has not instituted any legal proceedings for recovery of the unpaid rent.

She paid municipal taxes @ 12% during the year and paid interest of ₹ 50,000 during the year for amount borrowed towards repairs of the house property.

You are required to compute her income from house property for the Current A.Y.

- Sol.** Computation of income from house property of Mrs. Daya

Particulars	Amount in ₹	
Computation of Gross Annual Value		
Expected Rent for the whole year = Higher of Municipal Value of ₹ 8,50,000 and Fair Rent of ₹ 7,30,000, but restricted to Standard Rent of ₹ 8,20,000	8,20,000	
Actual rent receivable for the let-out period = ₹ 85,000 × 9	7,65,000	
[Unrealised rent is not deductible from actual rent in this case since Mrs. Daya has not instituted any legal proceedings for recovery of unpaid rent. Hence, one of the conditions laid out in Rule 4 has not been fulfilled]		
GAV is the higher of Expected Rent for the whole year and Actual rent received/receivable for the let-out period	8,20,000	
Gross Annual Value (GAV)		8,20,000

Particulars	Amount in ₹	
Less: Municipal taxes (paid by the owner during the previous year) = 12% of ₹ 8,50,000		1,02,000
Net Annual Value (NAV)		7,18,000
Less: Deductions under section 24		
(a) 30% of NAV = 30% of ₹ 7,18,000	2,15,400	
(b) Interest on amount borrowed for repairs (Fully allowable as deduction, since it pertains to let- out property)	50,000	2,65,400
Income from house property		4,52,600

4. Mr. Ramesh constructed a big house (construction completed in Previous Year 2009-10) with 3 independent units. Unit - 1 (50% of floor area) is let out for residential purpose at monthly rent of ₹ 15,000. A sum of ₹ 3,000 could not be collected from the tenant and a notice to vacate the unit was given to the tenant. No other property of Mr. Ramesh is occupied by the tenant. Unit - 1 remains vacant for 2 months when it is not put to any use. Unit - 2 (25% of the floor area) is used by Mr. Ramesh for the purpose of his business, while Unit - 3 (the remaining 25%) is utilized for the purpose of his residence. Other particulars of the house are as follows:

Municipal valuation	-	₹ 1,88,000
Fair rent	-	₹ 2,48,000
Standard rent under the Rent Control Act	-	₹ 2,28,000
Municipal taxes	-	₹ 20,000
Repairs	-	₹ 5,000

Interest on capital borrowed for the construction of the property - ₹ 60,000, ground rent ₹ 6,000 and fire insurance premium paid - ₹ 60,000.

Income of Ramesh from the business is ₹ 1,40,000 (without debiting house rent and other incidental expenditure).

Determine the taxable income of Mr. Ramesh for the assessment year 2022-23 if he does not opt to be taxed under section 115BAC.

- Sol.** Computation of Taxable Income of Mr. Ramesh for under the regular provisions of the Act

Particulars	Amount (₹)	Amount (₹)
Income from house property		
Unit - 1 [50% of floor area - Let out]		
Gross Annual Value, higher of		
Expected rent ₹ 1,14,000 [Higher of Municipal Value of ₹ 94,000 p.a. and Fair Rent of ₹ 1,24,000 p.a., but restricted to Standard Rent of ₹ 1,14,000 p.a.]		
Actual rent ₹ 1,47,000 [₹ 15,000 × 10] less unrealized rent of ₹ 3,000		
Gross Annual Value	1,47,000	
(Alternatively, ₹ 1,50,000 can be shown as actual rent and gross annual value, and there after, deduct ₹ 3,000 unrealized rent there from)		
Less: Municipal taxes [50% of ₹ 20,000]	10,000	
Net annual value	1,37,000	

Particulars	Amount (₹)	Amount (₹)
Less: Deductions from Net Annual Value		
(a) 30% of Net Annual Value	41,100	
(b) Interest on loan [50% of ₹ 60,000]	30,000	65,900
Unit - 3 [25% of floor area - Self occupied]		
Net Annual Value	-	
Less: Interest on loan [25% of ₹ 60,000]	15,000	(15,000)
Income from house property		50,900
Profits and gains from business or profession		
Business Income [without deducting expenditure on Unit - 2 25% floor area used for business purposes]	1,40,000	
Less: Expenditure in respect of Unit -2		
□ Municipal taxes [25% of ₹ 20,000]	5,000	
□ Repairs [25% of ₹ 5,000]	1,250	
□ Interest on loan [25% of ₹ 60,000]	15,000	
□ Ground rent [25% of ₹ 6,000]	1,500	
□ Fire Insurance premium [25% of ₹ 60,000]	15,000	
	37,750	1,02,250
Taxable Income		1,53,150

5. Mr. Chakrobarty, a resident, aged 35 years, works as a deputy manager in Dews Limited, located in Noida since April 2014. He own two houses and uses it for self-purpose. The following information relates to the houses for the previous year 2023-24:

Location	House-I	House-II
	Noida	Gurgaon
	(He and his family reside)	(His parents reside)
Municipal value per annum (₹)	8,00,000	9,00,000
Fair rent (₹)	9,20,000	8,80,000
Standard rent per annum (₹)	8,40,000	9,20,000
Actual rent (per month) (₹)	-	-
Municipal taxes paid during the year	8%	10%
Date of completion of construction of properties	31 st March, 2015	25 th May, 2022

He had taken a loan of ₹ 18,00,000 for the construction of the House-II on 1st April, 2020. Interest was payable @ 10% per annum. Certificate confirming interest has been submitted. Till date, no payment was made towards the principal amount.

Compute his income under the head House Property

Sol. As per the amendments now two house shall be treated as self-occupied and after two house all house shall be treated as deemed to be let out.

House I is Self-Occupied Loss	NIL
House II is Self-Occupied Loss	(2,00,000)
Loss under the head house property	(2,00,000)

Working Note:

Prior period interest

From 01.04.2017 to 31.03.2021

$$= 18,00,000 \times 10\% \times 2 = 3,60,000$$

3,60,000 allowed in 5 equal instalments

$$= 3,60,000/5 = ₹ 72,000 \text{ per annum}$$

Current period interest

From 01.04.2022 to 31.03.2023

$$= 18,00,000 \times 10\% \times 1 = ₹ 1,80,000$$

Total Interest = ₹ 72,000 + ₹ 1,80,000 = ₹ 2,52,000 but restricted to 2,00,000

6. Mr. Ganesh owns a commercial building whose construction got completed in June 2021. He took a loan of ₹ 15 lakhs from his friend on 1-8-2020 and had been paying interest calculated at 15% per annum. He is eligible for pre-construction interest as deduction as per the provisions of the Income Tax Act.

Mr. Ganesh has let out the commercial building at a monthly rent of ₹ 40,000 during the financial year 2023-24 He paid municipal tax of ₹ 18,000 each for the financial year 2022-23 and 2023-24 on 1-5-2023 and 5-4- 2024 respectively. Compute income under the head. 'House Property' of Mr. Ganesh.

Sol. Computation of Income under the head House Property

	₹
Gross Annual Value (40,000 × 12)	4,80,000
Less: Municipal Taxes	(18,000)
Net Annual Value	4,62,000
Less: 30% of NAV u/s 24(a)	(1,38,600)
Less: Interest on capital borrowed u/s 24(b)	(2,55,000)
Income under the head House Property	68,400

Note: As per proviso to section 23(1), Municipal Taxes actually paid by the owner during the previous year is allowed to be deducted from GAV.

Working Note:

Prior period interest

From 01.08.2020 to 31.03.2021

$$= 15,00,000 \times 15\% \times 8/12 = 1,50,000$$

1,50,000 allowed in 5 equal instalments

$$= 1,50,000/5 = 30,000 \text{ per annum}$$

Current period interest

From 01.04.2021 to 31.03.2022

$$= 15,00,000 \times 15\% \times 1 = 2,25,000$$

Total Interest = 30,000 + 2,25,000 = 2,55,000

7. Mr. Madhvan is a finance manager in Star Private Limited. He gets a salary of ₹ 30,000 per month. He owns two houses, one of which has been let out to his employer and which is in-turn provided to him as rent free accommodation. Following details (annual) are furnished in respect of two house properties for the Financial Year 2023-24.

	House 1	House 2
Fair rent	75,000	1,95,000
Actual rent	65,000	2,85,000
Municipal Valuation	74,000	1,90,000
Municipal taxes paid	18,000	70,000
Repairs	15,000	35,000
Insurance premium on building	12,000	17,000
Ground rent	7,000	9,000
Nature of occupation	Let-out to Star Private Limited	Let-out to Ms. Puja

₹ 17,000 were paid as Interest on loan taken by mortgaging House 1 for construction of House 2. During the Previous year 2023-24, Mr. Madhvan purchased a rural agricultural land for ₹ 2,50,000. Stamp valuation of such property is ₹ 3,00,000.

Determine the taxable income of Mr. Madhvan for the assessment year 2024-25. All workings should form part of your answer.

Sol. Computation of Taxable Income of Mr. Madhvan

Computation of income under the head Salary	₹
Basic salary (30,000 × 12)	3,60,000
Rent free accommodation {Sec 17(2)(i) Rule 3(1)}	54,000
Gross Salary	4,14,000
Less: Standard Deduction u/s 16(ia) [Actual salary or 50,000, whichever is less]	(50,000)
Income under the head Salary	3,64,000
Calculation of income under head house property	
House 1	
Gross Annual Value	75,000
Less: Municipal Tax	(18,000)
Net Annual Value	57,000
Less: 30% of NAV u/s 24(a)	(17,100)
Less: Interest on capital borrowed u/s 24(b)	Nil

Computation of income under the head Salary		₹
Income under the head House Property		39,900
House 2		
Gross Annual Value		2,85,000
Less: Municipal Tax		(70,000)
Net Annual Value		2,15,000
Less: 30% of NAV u/s 24(a)		(64,500)
Less: Interest on capital borrowed u/s 24(b)		(17,000)
Income under the head House Property		1,33,500
Income under the house property (1,33,500 + 39,900)		1,73,400
Gross Total Income		5,37,400
Less: Deduction u/s Total Income		Nil
Total Income		5,37,400

Note:

1. Purchase of rural agricultural land for a consideration less than stamp duty value [Not taxable under section 56(2)(x), since rural agricultural land is not a capital asset.
2. Expenditure on repairs, insurance premium on building and ground rent are not allowable under the head house property.

Working Note: Rent Free Accommodation

15% of rent free accommodation salary or rent paid whichever is less

- ♦ Rent free accommodation salary = 3,60,000
- ♦ 15% of ₹ 3,60,000 = ₹ 54,000
- ♦ Rent Paid = ₹ 65,000
- ♦ Value of unfurnished house 54,000

Working Note: Calculation of GAV of House 1		₹
(a) Fair Rent		75,000
(b) Municipal Value		74,000
(c) Expected Rent (higher of (a) or (b))		75,000
(d) Rent Received/Receivable		65,000
GAV = Higher of (c) or (d)		75,000

Working Note: Calculation of GAV of House 2		₹
(a) Fair Rent		1,95,000
(b) Municipal Value		1,90,000
(c) Expected Rent (higher of (a) or (b))		1,95,000
(d) Rent Received/Receivable		2,85,000
GAV = Higher of (c) or (d)		2,85,000

8. From the following details furnished by Mr. Dinesh, a marketing manager of XL Corporation Ltd., Delhi. Compute the gross total income for the Assessment Year 2024-25.

Particulars	Amount
Salary including Dearness Allowance	6,50,000
Conveyance allowance of 900 p.m.	10,800
Bonus	50,000
Salary of servant provided by the employer	48,000

Bills paid by the employer for gas, electricity and water provided free of cost at the residence of Mr. Dinesh ₹ 82,000

Dinesh purchased a flat in a co-operative housing society in Dwarka, Delhi for self occupation for ₹ 35,00,000 in April 2019, which was finance by a loan from Bank of India of ₹ 20,00,000 @ 11% interest and his own savings of ₹ 5,00,000 and a deposit of ₹ 10,00,000 from Bank of Baroda, to whom he let out his another house in Rohini, Delhi on lease for ten years. The rent payable by Bank of Baroda is ₹ 35,000 per month. Assessee has submitted certificate of interest.

Other relevant particulars are given below:

- (i) Municipal taxes paid by Dinesh for his flat in Dwarka are ₹ 18,000 per annum and for his house in Rohini are ₹ 12,000 per annum.
- (ii) Principal loan amount outstanding as on 01.04.2023 was ₹ 18,50,000.
- (iii) He also paid ₹ 8,000 towards insurance of both the houses.
- (iv) In the financial year 2022-23, he had gifted ₹ 40,000 each to his wife and minor son. The gifted amounts were advanced to Mr. Sandeep, who is paying interest @ 18% per annum.
- (v) Mr. Dinesh's son is studying in a school run by the employer company throughout the financial year 2023-24 The education facility was provided free of cost. The cost of such education in similar school is ₹ 2,500 per month.
- (vi) Dinesh also received gifts of ₹ 45,000 each from his two friends during the previous year 2023-24.

Sol. Computation of Gross Total Income of Mr. Dinesh

	₹
Income under the head Salary	
Salary including dearness allowance	6,50,000
Conveyance allowance (see Note 1 below)	Nil
Bonus	50,000
Value of perquisites:	
(i) Salary of servant	48,000
(ii) Free gas, electricity and water	82,000
(iii) Education facility $(2,500 - 1,000) \times 12$ (see Note 2 below)	18,000
Gross Salary	8,48,000
Less: Standard Deduction u/s 16(ia)	(50,000)
Income under the head Salary	7,98,000

	₹
Income from house property	
Let-out house	
Gross Annual Value (GAV) (Rent receivable is taken as GAV in the Absence of other information) (35,000 × 12)	4,20,000
Less: Municipal taxes paid	(12,000)
Net Annual Value (NAV)	4,08,000
Less: Deductions under section 24	
(i) 30% of NAV	(1,22,400)
(ii) Interest on loan	Nil
Income from House 1	2,85,600
Self occupied house	
Gross Annual Value (GAV)	Nil
Less: Municipal taxes paid	Nil
Net Annual Value (NAV)	Nil
Less: Deductions under section 24	
(i) 30% of NAV	Nil
(ii) Interest on loan (18,50,000 × 11 % but restricted to ₹ 2,00,000)	(2,00,000)
Loss from House 2	(2,00,000)
Income under the head house property	85,600
Income from Other Sources	
Income on account of interest earned from advancing money gifted to his minor son is includible in the hands of Mr. Dinesh as per section 64(1A)	7,200
Less: Exempt under section 10(32)	(1,500)
	5,700
Interest income earned from advancing money gifted to wife has to be clubbed with the income of the assessee as per section 64(1)	7,200
Gift received from two friends (taxable under section 56(2) as the aggregate amount received during the year exceeds ₹ 50,000)	90,000
Income under the head other sources	1,02,900
Gross Total Income	9,86,500

■ INCOME CHARGEABLE UNDER THIS HEAD [SECTION 28]

1. The profit of any business or profession which was carried on by the assessee at any time during the relevant previous year shall be chargeable to income tax under the head “Profits & Gains of Business or Profession”
2. Export incentives.
 - A. **Profit on sale of import licence:** Profits on sale of a licence granted under the Imports (Control) Order, 1955 made under the Imports and Exports (Control) Act, 1947; [not charged under the head Capital Gain]
 - B. **Subsidy:** Cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India;
 - C. **Duty Drawback:** Any duty of customs or excise repaid or repayable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971.
 - D. **Profit on transfer of Duty Entitlement Pass Book Scheme or Duty Free Replenishment Certificate:** Any profit on the transfer of the Duty Entitlement Pass Book Scheme or Duty Free Replenishment Certificate, being Duty Remission Scheme, under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992.
3. The value of any benefit or perquisite, whether convertible into money or not, or in cash or in kind or partly in cash or partly in kind, arising from business or the exercise of a profession.
4. Any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm.
5. **Non-competing fees:** Any sum, whether received or receivable in cash or in kind,
 - (i) under an agreement for not carrying out any activity in relation to any Business/Profession; or
 - (ii) not sharing any know-how, patent, copyright, trademark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.
6. Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
7. Income from speculative transaction
“Speculative transaction” means a transaction in which a contract for the purchase or sales of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips [Section 43(5)]

8. If any person has received any Amount in connection with termination or modification of terms and conditions of any contracts relating to his business, Amount so received shall be considered to be income under the head business/profession.
9. Fair market value of inventory on its conversion/treatment as capital asset: Fair market value of inventory on the date of its conversion or treatment as capital asset, determined in the prescribed manner, would be chargeable to tax as business income. eg. ABC limited is engaged in business of sale/purchase of generators but company has used one generator in its business premises which was purchased for ₹ 10,00,000 but market value is ₹ 11,00,000, in this case there will be business income of ₹ 1,00,000 and for the purpose of charging depreciation, value shall be taken to be ₹ 11,00,000

■ COMPUTATION OF PROFITS AND GAINS FROM BUSINESS OR PROFESSION [SECTION 29]

The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43D.



■ METHOD OF ACCOUNTING [SECTION 145]

Under section 145(1), income chargeable under the heads “Profits and gains of business or profession” or “Income from other sources” shall be computed in accordance with either the cash or mercantile system of accounting regularly employed by the assessee.

■ DEDUCTIONS EXPRESSLY ALLOWED [SECTION 30-37]

Rent, Rates, Taxes, Repairs and Insurance for Buildings [Section 30]

If any assessee has any building in the use of business/profession, all expenses relating to the building shall be allowed to be debited to the profit and loss account and such expenses may be:

- (i) Repairs expenses (Revenue Nature)
- (ii) Municipal tax or local tax or land revenue (but on payment basis as per section 43B) [Cesses, rates and taxes levied by a foreign Government are also allowed]
- (iii) Premium for insurance of house.

Note: Where the assessee himself is owner of the premises and occupies them for his business purposes, no notional rent would be allowed under this section. However, where a firm runs its business in the premises owned by one of its partners, the rent payable to the partner will be an allowable deduction to the extent it is reasonable and is not excessive.

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

Section 31 allows deduction in respect of the expenses on current repairs (revenue nature) and insurance of machinery, plant and furniture in computing the income from business or profession.

In order to claim this deduction the assets must have been used for purposes of the assessee's own business

Notes:

1. However capital repairs incurred by the assessee are never allowed as deduction whether plant is leased or is purchased. But depreciation can be claimed u/s 32.
2. Rent of P & M & furniture is covered u/s 37 and not in section 31

■ DEPRECIATION [SECTION 32]

Depreciation is loss in value of asset due to normal wear and tear. System of claiming depreciation under income tax is different from financial accounting.

Types of Depreciation Under Income Tax Act

- (a) Normal Depreciation For Block Of Assets on WDV basis [Sec 32(1)(i)]
- (b) Additional Depreciation For Eligible Asset [Sec 32(1)(ia)]
- (c) Asset Wise Depreciation For An Undertaking Engaged In Generation or Generation & Distribution Of Power [Sec 32(1) (f)]

Conditions to be satisfied for claiming depreciation

- (a) Asset must be owned by the assessee, wholly or partly.
- (b) Asset must be used for the purpose of business or profession.
- (c) Asset must be used during the previous year.

If any of the above condition is not satisfied, depreciation shall not be allowed.

Block of Assets [Section 2(11)]

It means a group of assets falling within a class of assets comprising:

- (a) Tangible assets, being building, plant and machinery or furniture
- (b) Intangible assets, being know how, patents, copyrights, trademarks etc. in respect of which same rate of depreciation is charged.

(a) Building	
○ Residential Purpose Building other than Hotel	5%
○ Non Residential Purpose Building including Hotel	10%
○ Temporary erections and ○ Buildings for installing P&M for water supply project and used in business of providing infrastructure facilities	40%
(b) Furniture and Fittings	
○ Furniture and Fittings including electrical fittings	10%

(c) Machinery and Plant	
Motor cars other than used in a business of running them on hire	
○ Generally	15%
○ Acquired and Put To Use between 23/8/2019 to 31/3/2020	30%
○ Machinery and Plant (General)	15%
○ Ships	20%
Motor Vehicles used in business of running them on hire	
○ Generally	30%
○ Acquired and Put To Use between 23/8/2019 to 31/3/2020	45%
○ Aeroplanes	40%
○ Computers including computer software	40%
○ Books	40%
(d) Intangible Assets	
○ Know how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature <i>other than Goodwill of business or profession</i>	25%

WDV For Charging Depreciation [Section 43(6)]

Opening WDV	xxx
Add: Assets Acquired During the previous year, falling within the block	xxx
Less: Consideration received from Selling or discarding or demolishing or destroying any asset during the previous year	(xxx)
Closing WDV Before Depreciation	xxx

On closing WDV, compute the depreciation at the rates prescribed for each block.

Actual cost [Section 43(1)]

It means,

- Actual cost of the asset to assessee, and
- It should not include any portion of cost which has been incurred directly or indirectly by any other person or authority.

Important points to remember:

- If assessee makes a payment or aggregate of payment to a person in a day, in respect of asset acquired, by mode other than an A/c payee cheque, A/c payee bank draft or electronic clearing system through bank account, exceeds ₹ 10000, such payment shall be ignored for the purpose of determination of actual cost.
- Interest paid before commencement of production on Amounts borrowed for acquisition and installation of machinery forms the part of actual cost.

Actual cost in certain special situations [Explanations to section 43(1)]

1. Asset used for business after it ceases to be used for scientific research

Where an asset is used for the purposes of business after it ceases to be used for scientific research related to that business, the actual cost to the assessee for depreciation purposes shall be the actual cost to the assessee as reduced by any deduction allowed under section 35(1)(iv) [Explanation 1].

2. Inventory converted into capital asset and used for business or profession

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 [Explanation 1A].

3. Asset is acquired by way of gift or inheritance

Where an asset is acquired by way of gift or inheritance, its actual cost shall be the actual cost to the previous owner minus depreciation allowable to the assessee as if asset was the only asset in the relevant block of assets [Explanation 2]. Further, any expenditure incurred by the assessee such as expenditure on freight, installation etc. of such asset would also be includible in the actual cost.

4. Second hand asset

Where, before the date of its acquisition by the assessee, the asset was at any time used by any other person for the purposes of his business or profession, and the Assessing Officer is satisfied that the main purpose of the transfer of the asset directly or indirectly to the assessee was the reduction of liability of income-tax directly or indirectly to the assessee (by claiming depreciation with reference to an enhanced cost) the actual cost to the assessee shall be taken to be such an amount which the Assessing Officer may, with the previous approval of the Joint Commissioner, determine, having regard to all the circumstances of the case [Explanation 3].

5. Re-acquisition of asset

Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be-

- (a) the actual cost when he first acquired the asset minus depreciation allowable to the assessee as if asset was the only asset in the relevant block of assets; or
- (b) the actual price for which the asset is re-acquired by him whichever is less [Explanation 4].

6. Acquisition of asset previously owned by any person to whom such asset is given on lease, hire or otherwise

Where before the date of acquisition by the assessee say, Mr. A, the assets were at any time used by any other person, say Mr. B, for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of Mr. B and such person acquires on lease, hire or otherwise, assets from Mr. A, then, the actual cost of the transferred assets, in the case of Mr. A, shall be the same as the written down value of the said assets at the time of transfer thereof by Mr. B [Explanation 4A].

7. Building previously the property of the assessee

Where a building which was previously the property of the assessee is brought into use for the purposes of the business or profession, its actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rates in force on that date that would have been allowable had the building been used for the purposes of the business or profession since the date of its acquisition by the assessee [Explanation 5].

Example: A car purchased by Dr. Soman on 10.08.2018 for ₹ 5,25,000 for personal use is brought into professional use on 1.07.2021 by him, when its market value was ₹ 2,50,000. Compute the actual cost of the car and the amount of depreciation for the assessment year 2024-25 assuming the rate of depreciation to be 15%.

Solution: As per section 43(1), the expression “actual cost” would mean the actual cost of asset to the assessee.

The purchase price of ₹ 5,25,000 is, therefore, the actual cost of the car to Dr. Soman. Market value (i.e. ₹ 2,50,000) on the date when the asset is brought into professional use is not relevant.

Therefore, amount of depreciation on car as per section 32 for the A.Y.2024-25 would be ₹ 78,750, being ₹ 5,25,000 × 15%.

Note: Explanation 5 to section 43(1) providing for reduction of notional depreciation from the date of acquisition of asset for personal use to determine actual cost of the asset is applicable only in case of building which is initially acquired for personal use and later brought into professional use. It is not applicable in respect of other assets.

8. Amount of duty of excise or additional duty leviable shall be reduced if credit is claimed

Where an asset is or has been acquired by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 19445 [Explanation 9].

9. Subsidy or grant or reimbursement

Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee.

However, where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee [Explanation 10].

10. Asset is acquired outside India by an assessee, being a non-resident and such asset is brought by him to India

Where an asset is acquired outside India by an assessee, being a non-resident and such asset is brought by him to India and used for the purposes of his business or profession, the actual cost of asset to the assessee shall be the actual cost the asset 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 for the said purposes since the date of its acquisition by the assessee [Explanation 11].

Illustration 1: Written down value of 4 machines at the beginning of the previous year 2022-23, forming part of a block of assets carrying 15% rate of depreciation was ₹ 5,00,000. The following 4 machines of the same block were bought:

Machines	Date of purchase	Date when put to use	Cost (₹)
P	5.1.2023	14.4.2023	50,000
Q	5.4.2023	15.5.2023	1,00,000
R	15.5.2023	31.7.2023	2,00,000
S	15.7.2023	27.8.2023	1,50,000

Calculate the depreciation for the assessment year 2024-25

Depreciation at Half Rate

Depreciation will be restricted to 50% of the normal depreciation, if the following conditions are satisfied:

- (a) The asset is acquired and put to use during the previous year; and
- (b) It has been used for a period < 180 days during the previous year.

Illustration 2: written down value of 4 machines at the beginning of the previous year 2023-24, forming part of a block of assets carrying 15% rate of depreciation was ₹ 5,00,000. The following 4 machines of the same block were bought:

Machines	Date of purchase	Date when put to use	Cost (₹)
P	5.1.2023	14.1.2024	50,000
Q	5.4.2023	15.5.2024	1,00,000
R	15.5.2023	31.1.2024	2,00,000
S	15.11.2023	27.3.2024	1,50,000

Four machines of this block (other than those which were acquired and put to use for less than 180 days) were sold for ₹ 4,00,00.

- (a) Calculate the depreciation for the assessment year 2024-25.
- (b) What will be the answer if four machines were sold for ₹ 7,00,000 instead of ₹ 4,00,000?

Illustration 3: W.D.V of the block having two machines namely X & Y as on 1.4.2023 is ₹ 6,00,000. Machine Z was acquired on 5.11.2023 for ₹ 3,00,000 and put to use on the same date . machine Z is sold on 28.3.2024 for ₹ 4,00,000.

- (a) Compute the depreciation allowable for the assessment year 2024-25.
- (b) What will be the Amount of depreciation allowed, if machine 'X' is sold instead of machine 'Z'
- (c) What will be the Amount of depreciation allowed if both 'X' and Y machines are sold instead of machine Z.

When No Depreciation Shall Be Allowed

- (a) All the assets of the block are transferred:

In case all the assets in any block are transferred during the previous year then the block shall cease to exist and no depreciation will be allowed. It can happen in the following two cases:

- (i) Sale price > (Op. WDV + Assets purchased during the year),
- (ii) Sale price < (Op. WDV+ Assets purchased during the year then)

Such excess or deficit shall be treated as short-term capital gain or short -term capital loss as the case may be u/s 50.

Illustration 4: The written down value of a block of asset as on 1.4.2023 was ₹ 8,00,000. An asset of the same block was acquired during the year for ₹ 3,00,000. Thereafter, all the assets of the block are sold for ₹ 12,00,000. Compute the depreciation for the assessment year 2024-25 and also indicate if there is any short-term capital gain/loss.

Eg: For above example, would your answer change if the sale consideration is ₹ 9,00,000.

- (b) Part of block is sold and the sale consideration of assets exceed value of the block
 - o Sale price > (Op. WDV + Assets purchased during the year)

- Although certain assets exist in block, but the WDV of the block shall be reduced to NIL and no Depreciation shall be allowed.
- Excess shall be treated as short-term capital gain.

Illustration 5: X owns the following machinery as on 1.4.2023:

Machinery	WDV as on 1.4.2023 (₹)	Rate of depreciation (%)
Machinery A	70,000	15
Machinery B	1,64,000	15
Machinery C	84,000	15

He acquired a new machinery i.e. machinery D For ₹ 60,000 on 2.11.2023. Machine B & C are sold on 31st January 2024 for ₹ 5,00,000. Compute the depreciation for the assessment year 2024-25 and also indicate if there is any short-term capital gain/loss.

Eg What Will Be your answer if Machinery B and machinery C are sold on 15.3.2024 for consideration of ₹ 80,000 and ₹ 40,000 respectively.

Concept: Depreciation is Allowed When

1. Where a part of a block is sold and the sale consideration of the assets sold is less than the value of the block (opening written down value and cost of assets acquired during the year). In this case, depreciation will be allowed on the written down value of the block at the end of the year. There will be no short-term capital gain/loss in the case.
2. Where no asset is sold during the year and there is written down value at the end of the year.

Additional depreciation on new machinery or plant

1. Additional depreciation would be allowed to an assessee only if he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A). It is not allowable when the assessee pays concessional rates of tax under the default tax regime u/s 115BAC.
2. **Assesses eligible for additional depreciation:**
 - (i) An assessee which is an industrial undertaking engaged in the business of manufacture or production of any article or thing.
 - (ii) An assessee who is in the business of generation transmission or distribution of power.
3. **Assets for which additional depreciation is allowed:**

Any new machinery or plant which has been acquired and installed by the above assessee. however, additional depreciation shall not allowed in case of following assets:

 - (i) Ships and aircraft;
 - (ii) Any machinery or plant which, before its installation by the assessee, was used either within or outside india by any other person; or
 - (iii) Any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house; or
 - (iv) Any office appliances or road transport vehicles; or
 - (v) Any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "profits and gain of business or profession " of any one previous year.
4. **Rate of additional depreciation:**

Besides the normal depreciation, additional depreciation shall be allowed @20% of the actual cost of the eligible assets in the previous year in which such asset is acquired and installed.

Further, if such asset is acquired and put to use for less than 180 days in the previous year, then the rate of depreciation shall be 50% of 20% i.e. 10%, and the balance 50% i.e. 10%, shall be allowed in the immediately succeeding previous year.

Illustration 6: R Ltd. Has started a new business of manufacturing paints on 1-4-2020. The company has purchased the following assets during the financial year 2023-24:

Asset	Actual cost of acquisition	Date of purchase	Rate of depreciation	Date on which the asset is put to use
Furniture	2,00,000	10-4-2023	10%	10-4-2023
Air -conditioner installed in office	1,00,000	16-6-2023	15%	18-6-2023
Car	8,00,000	12-4-2023	15%	12-7-2023
Plant A	50,00,000	11-4-2023	15%	28-4-2023
Plant B	20,00,000	15-9-2023	15%	16-11-2023
Plant C	80,000	1-8-2023	40%	15-9-2023
Computer for office	1,00,000	1-7-2023	40%	1-7-2023
Computer for factory	1,50,000	2-7-2023	40%	4-7-2023

Compute the Amount of normal and additional depreciation for the assessment year 2024-25.

Is it mandatory to claim depreciation [Explanation to section 32]

Depreciation provisions shall apply, whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income.

Carry forward and set off of unabsorbed depreciation [Section 32(2)]

Where in the assessment of the assessee full effect cannot be given to any depreciation allowance in any previous year owing to

- (a) There being no profit or gains chargeable for that previous year .or
- (b) The profits of gains chargeable being less than the depreciation allowance,

Then, subject to the provisions of section 72 (2)(relating to carry forward of business loss)and 73(3) relating to carry forward of speculation loss),the depreciation allowance or part of the depreciation allowance to which effect has not been given, as the case may be, shall

- (i) Be added to the Amount of allowance for depreciation for the following previous year and deemed to be part of that allowance, or
- (ii) If there is no such depreciation allowance for that previous year, be deemed to be the allowance for that previous year,

And so on for the succeeding previous year.

In other word, the depreciation allowance shall be allowed as under:

- (1) Current depreciation is first deductible from the income of business.
- (2) If any balance is left due to income from business being insufficient, it can be set off from any source under any other head of income (except salary) in the same previous year.

(3) In case there is still a balance left over, it is to be treated as unabsorbed depreciation and is to be taken to the next succeeding year and added to the current depreciation of that year. If, however, there is no current depreciation for such succeeding year, the unabsorbed depreciation becomes the depreciation allowance for such succeeding year.

However, if there is any carry forward of business loss or speculation loss also, the set off to the succeeding previous year shall be done in the following order:

- (a) Set off current year depreciation.
- (b) Set off brought forward business loss/speculation loss.
- (c) Set off brought forward unabsorbed depreciation.

Illustration 7: R furnishes the following particulars of his income for the previous year 2023-24:

Particulars	Amount
Business income (before providing for depreciation)	72,000
Depreciation	94,000
Income from house property	60,000
Income from other source	6,000
Income from salary	3,00,000

Compute the taxable income of R for the assessment year 2024-25.

Special provisions for depreciation in case of assets of an undertaking engaged in generation or generation and distribution of power [Section 32 (1) (i) and rule 5 (1A)]

In the case of such assessee, allowance in respect of depreciation of assets acquired shall be calculated at the percentage specified in appendix 1A of the income tax rules on the actual cost thereof to the assessee. However, the aggregate depreciation allowed in respect of any asset for different assessment years shall not exceed the actual cost of the said asset.

Further, the assessee, instead of claiming depreciation on actual cost (i.e. straight line method) may at its option claim depreciation on basis of written down value method at the rate prescribed for each block of assets. However such option should be exercised before the due date of furnishing the return of income for the assessment year relevant to the previous year in which it begins to generate power. Such option, once exercised shall be final and shall apply to all the subsequent assessment year. If the option is not exercised, the depreciation shall be allowed only on the basis of straight line method on the actual cost of each asset.

1. In the case of straight line method of depreciation also if the asset is acquired during the previous year and put to use for the purpose of business for a period less than 180 days in that previous year, the depreciation in respect of such asset shall be restricted to 50% of the normal rate .

2. Additional depreciation

Besides the normal depreciation, the assessee who is engaged in the business of generation, transmission or distribution of power, an additional depreciation @ 20% is allowed to the assessee.

Illustration 8: An electricity company which was charging depreciation on straight line method and whose actual cost of the asset was ₹ 5,00,000 and written down value ₹ 4,50,000 sold the said asset during 2023-24 after 2 years. What will be the tax treatment if the asset is sold for:

- (i) ₹ 3,50,000 (ii) ₹ 4,80,000 (iii) ₹ 6,00,000

Expenditure on Scientific Research [Section 35]

Deduction u/s 35 would be available to an assessee only if he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)

Inhouse Research (Research Must Related To Business)

If any person has incurred expenditure whether revenue or capital in connection with scientific research relating to business, such expenditure is allowed to be debited without any restriction except expenditure incurred on land. If the assessee has incurred expenditure on purchase/construction of building, expenditure is allowed excluding the value of land.

Expenditure before commencement of business

Expenditure incurred within 3 years immediately preceding the commencement of the business on payment of salary to research personnel engaged in scientific research related to his business carried on by the taxpayer or on purchase of material inputs for such scientific research will be allowed as deduction in the year in which the business is commenced. The deduction will be limited to the amount certified by the prescribed authority [Section 35(1)(i)].

Note: Perquisites provided to employees engaged in scientific research shall not be allowed.

Sale of assets used for scientific research [Section 41(3)]

Asset Sold Without Being Put to use for business purpose;

(a) Sale value is not more than Actual Cost → Sale value will be the income under head PGBP.

(b) Sale value is more than Actual Cost → Actual value will be the income under head PGBP, and following income is chargeable to tax under head capital gains.

Particulars	Amount (₹)
Sales Consideration	xx
Less: Cost of acquisition or indexed cost of acquisition	xx
	STCG/LTCG
	xx

Asset Sold After Being Put to use for business purpose

Asset will be added to the respective block with NIL value and deducted from the block with sale value.

Illustration 9: X Ltd. purchased one plant and machinery for ₹ 30 lakhs on 01.10.2022 for scientific research and entire Amount was debited to the Profit and loss account, subsequently the asset was sold for ₹ 33 lakhs in the year 2023-24.

WDV of machine as on 1st april 2023 is 60 lakhs.

Profit before depreciation is 40 lakhs.

Show tax implications if:

(a) Asset is sold after being put to use in business.

(b) Asset is sold without being put to use in business.

Carried forward of unadjusted capital expenditure of scientific research

Unabsorbed capital expenditure of scientific research shall be allowed to be carried forward just like unabsorbed depreciation i.e. carry forward shall be allowed for unlimited period and brought forward expenditure can be adjusted from any income under any head except salary and windfall gains

Contribution made to Outside Agency (Research may or may not be related to business)

Donation	Deduction
Donation given to an approved scientific research association like National Laboratory, Indian Institute of Technology or approved university, college etc.	100%
Donation is given to an Indian company approved by prescribed authority for the purpose of scientific research	100%
Donation is given to any approved institution for the purpose of research in social science or statistical research.	100%

Illustration 10: Mr X has furnished the following particulars relating to payments made towards scientific research for the year ended 31.03.2024:

Particulars	Amount (₹)
Payments made to K Research Ltd	20
Payment made to LMN College	15
Payment made to OPQ College	10
Payment made to National Laboratory	8
Machinery purchased for in-house scientific research	25
Salaries to research staff engaged in in-house scientific research	12

Note: K Research Ltd. and LMN College are approved research institutions and these payments are to be used for the purposes of scientific research.

Compute the Amount of deduction available under section 35 of the Income-tax Act, 1961 while arriving at the business income of the assessee.

Illustration 11: XY Bio-medicals Ltd. is engaged in the business of manufacture of bio-medical items. The following expenses were incurred in respect of activities connected with scientific research:

Year ended	Item	Amount (₹)
31.03.2021 (Incurred after 01.09.2020)	Land	10,00,000
31.03.2022	Plant and machinery	5,00,000
31.03.2023	Raw materials	2,20,000

The business was commenced on 01.09.2023 and expenditure incurred on raw materials and salaries is ₹ 1,80,000.

In view of availability of better model of plant and machinery, the existing plant and machinery were sold for ₹ 8,00,000 on 01.03.2024.

Discuss the implications of the above for the Assessment Year 2024-25 along with brief computation of deduction permissible under section 35 assuming that necessary conditions have been fulfilled.

Illustration 12: A Ltd. which is engaged in manufacturing, furnishes the following particulars for the P.Y.2023-24. Compute the deduction allowable under section 35 for A.Y. 2024-25, while computing its income under the head "Profits and gains of business or profession".

1. Amount paid to Indian Institute of Science, Bangalore, a notified research organisation for scientific research is ₹ 1,00,000
2. Amount paid to IIT, Delhi for an approved scientific research programme is ₹ 2,50,000

3. 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 is ₹ 4,00,000
4. Expenditure incurred on in-house research and development facility as approved by the prescribed authority
 - (a) Revenue expenditure on scientific research is ₹ 3,00,000
 - (b) Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research is ₹ 7,50,000.

"Investment-linked tax incentives" For Specified Business [Section 35AD]

Deduction u/s 35AD would be available to an assessee only if he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

In case of specified business, the assessee shall be allowed 100% deduction of capital expenditure along with revenue expenditure in the year in which such expenditure has been incurred. Businesses specified for this purpose are:

1. Cold chain facility for storing agricultural produce, meat and meat products, poultry and dairy products etc.
2. Warehousing facility for storage of agricultural produce.
3. Hospitals with at least one hundred beds for patients.
4. Housing project under a scheme for affordable housing.
5. Production of fertilizer including increase in installed capacity of an existing plant.
6. Pipeline network for distribution of natural gas or petroleum products.
7. Pipeline network for the transportation of iron ore.
8. Hotel of two star or above category.
9. Housing project for slum development.
10. Inland container depot or a container freight station.
11. Bee-keeping and production of honey.
12. Warehousing facility for storage of sugar.
13. Semi-conductor wafer fabrication manufacturing unit.
14. Developing or maintaining or operating a new infrastructure facility.

The expenditure incurred, wholly and exclusively, for the purpose of specified business prior to commencement of operation would be allowed as deduction during the previous year in which the assessee commences operation of his specified business, provided assessee has capitalized amount incurred in the books of account on the date of commencement of its operations.

1. Expenses not covered under section 35AD are Acquisition of any land; Goodwill; & Financial instrument.
2. Capital Expenditure shall not include any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ₹ 10,000.
3. The assessee cannot claim deduction in respect of such expenditure incurred for specified business under any other provision of the Income-tax Act, 1961 in the current year or under this section for any other year, if the deduction has been claimed or opted by him and allowed to him under section 35AD.

If any capital asset was acquired for the said business and Amount was debited to profit and loss account, it must be used for the said business for a period of atleast 8 years otherwise the Amount debited shall be considered to be income of the assessee as reduced by the Amount of depreciation that would have been allowed if expenditure was not allowed under this section, of the year in which the asset has been used for other purpose.

Illustration 13: An Assessee starts business of setting up and operating a warehousing facility for agricultural produce on 01.06.2023. Following information is given to you:

1. Profits from operating warehousing facility ₹ 40,00,000
2. The following assets have been purchased for warehousing facility and the profit of ₹ 40,00,000 is computed without giving effect to the following:

(i) Machinery purchased on 31.07.2023	₹ 10,00,000
(ii) Land purchased on 31.07.2023	₹ 10,00,000
(iii) Machinery purchased on 31.10.2023	₹ 6,00,000
(iv) Building purchased on 31.8.2023	₹ 4,00,000
(v) Building Constructed on 31.05.2023	₹ 19,00,000

Compute income or loss for the assessment year 2024-25

Illustration 14: Mr. Ram commenced operations of the businesses of setting up a warehousing facility for storage of food grains, sugar and edible oil on 01.04.2023. He incurred capital expenditure of ₹ 80 lakh, ₹ 60 lakh and ₹ 50 lakh, respectively, on purchase of land and building during the period January, 2023 to March, 2022 exclusively for the above businesses, and capitalized the same in its books of account as on 1st April, 2023. The cost of land included in the above figures are ₹ 50 lakh, ₹ 40 lakh and ₹ 30 lakh, respectively.

Further, during the P.Y.2023-24, it incurred capital expenditure of ₹ 10 lakh, ₹ 20 lakh and ₹ 12 lakh, respectively, for extension/reconstruction of the building purchased and used exclusively for the above businesses.

Compute the income under the head "Profits and gains of business or profession" for the A.Y.2024-25 and the loss to be carried forward, assuming that Mr. X has fulfilled all the conditions specified for claim of deduction under section 35AD.

The profits from the business of setting up a warehousing facility (before claiming deduction under section 35AD and section 32 for the A.Y. 2024-25 is ₹ 16 lakhs, ₹ 14 lakhs and ₹ 31 lakhs, respectively.

Illustration 15: Mr. Arnav is a proprietor having two units – Unit A carries on specified business of setting up and operating a warehousing facility for storage of sugar; Unit B carries on non-specified business of operating a warehousing facility for storage of edible oil. Unit A commenced operations on 1.4.2021 and it claimed deduction of ₹ 100 lacs incurred on purchase of two buildings for ₹ 50 lacs each (for operating a warehousing facility for storage of sugar) under section 35AD for A.Y. 2023-24. However, in February, 2024, Unit A transferred one of its buildings to Unit B. Examine the tax implications of such transfer in the hands of Mr. Arnav.

Amortisation of certain Preliminary Expenses [Section 35D]

Preliminary expenses are expenses incurred before setting up of the business; or the expenses are incurred in connection with extension (same line of business) of an undertaking or in connection with setting up a new business. (Setting up new factory, opening a new branch)

A. Eligible preliminary expenses are

- (i) Preparation of feasibility report.

- (ii) Conducting market survey or any other survey necessary for the business.
- (iii) Preparation of project report.
- (iv) Engineering services relating to the business.
- (v) Legal charges for drafting any agreement relating to the setting up or conduct of the business.
- (vi) Legal charges for drafting and printing of Memorandum of Association (MOA) and Articles of Association (AOA).
- (vii) Registration fees of a company paid to Registrar of Companies. (Stamp duty)
- (viii) Expenses and legal charges incurred in drafting, printing and advertising of prospectus.
- (ix) Expenditure incurred on issue of shares or debentures like underwriting commission, brokerage, advertisement etc. (Entire public issue expenses).

Note: Salary to employees, rent of premises, interest on borrowed capital are not treated as preliminary expenses hence deduction never allowed. These are treated as dead expenses.

B. Deduction is allowed to

- (i) An Indian company or
- (ii) a resident non-corporate assessee.

C. Deduction to Resident assessee

- (i) Aggregate Amount of eligible expenditure or
 - (ii) 5% of the cost of project
- whichever is lower is allowed as deduction

D. Deduction to Indian Company

Lower of following shall be allowed as deduction

- (a) Aggregate Amount of eligible expenditure or
- (b) 5% of the cost of project or 5% of the capital employed-whichever is higher
 1. Cost of project includes actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings).
 2. Capital employed is the aggregate of the issued share capital, debentures and long-term borrowings

E. Deduction is allowed in 5 equal installments over a period of 5 years beginning with the previous year in which the business commences or the previous year in which the extension of the undertaking is completed or the new unit commences production or operation.

Illustration 16: X Ltd. is an existing Indian company which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

1. Preparation of project report	₹ 4,00,000
2. Market survey	₹ 5,00,000
3. Legal and other charges for issue of additional capital required for the new unit	₹ 2,00,000

The following further data is given:

Cost of project	₹ 30,00,000
Capital employed in the new unit	₹ 40,00,000

What is the deduction admissible to the company under section 35D?

Illustration 17: Presume Assessee is Mr X.

Amortisation of expenditure incurred under Voluntary Retirement Scheme [Section 35DDA]

If any employer has given voluntary retirement to the employees and has paid any Amount in connection with such voluntary retirement, such payment shall be allowed to assessee in 5 annual equal installments commencing from the year in which payment is made.

Illustration 18: XYZ Ltd. has given voluntary retirement to 100 employees and has paid ₹ 5,00,000 to each of the employee and total payment made is ₹ 500 lakhs, in this case expenditure is allowed in 5 annual equal installments of ₹ 100 Lakh Each.

■ OTHER DEDUCTIONS [SECTION 36]

1. Insurance Premium.

(i) insurance of stocks Section 36(1)(f)

If any assessee has paid premium for insurance of raw material or finished goods etc., such premium is deductible.

(ii) Mediclaim policy of Employees Section 36(1)(ib)

If any assessee has paid premium for mediclaim policy taken in the name of employees, such premium is deductible provided premium was paid otherwise than in cash.

2. Bonus and Commission Section 36(1)(ii)

These are deductible in full provided the sum paid to the employees as bonus or commission shall not be payable to them as profits or dividends if it had not been paid as bonus or commission.

It is a provision intended to safeguard against a private company or an association escaping tax by distributing a part of its profits by way of bonus amongst the members, or employees of their own concern instead of distributing the money as dividends or profits.

3. Interest on borrowed capital Section 36(1)(iii)

○ If any assessee has borrowed capital for the purpose of business/profession, interest on such borrowing is deductible.

○ Provided that any Amount of the interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction. Therefore capitalised this interest as per explanation 8 to S 43(1). Depreciation can be claimed.

○ Interest paid after the asset is put to use is allowed as deduction.

○ Interest on capital or loan to proprietor is not allowed as deduction

○ Interest other than interest on borrowing (eg. Interest on late payment of GST, interest charged by bank on OD facility etc) can be claimed as deduction under section 37.

4. Discount on Zero Coupon Bonds (ZCBs) Section 36(1)(iiia)

Section 36(1)(iiia) provides deduction for the discount on ZCB on pro rata basis having regard to the period of life of the bond to be calculated in the manner prescribed.

$$\text{Deduction} = \frac{\text{Discount}}{\text{(Life of Bond)}}$$

5. Employer's contribution to Recognised Provident Fund or Approved Superannuation Fund Section 36(1)(iv)

Employer contribution to Recognised Provident Fund and Approved Superannuation Fund shall be allowed as deduction to the extent permitted by relevant act.

6. Employer's contribution towards a Pension Scheme Section 36(1)(iva)

Employer contribution to notified pension scheme as per section 80CCD shall be allowed maximum to the extent of 10% of salary (RBS) of employee.

7. Employer's contribution towards approved Gratuity Fund Section 36(1)(v)

Employer contribution to approved gratuity fund shall be allowed as deduction to the extent allowed in the relevant Act/Rule

8. Employee's contribution received by the employer section 36(1)(va)

Employees contribution shall be allowed as deduction only if employer has deposited the Amount in the relevant account upto the due date in the relevant Act.

(a) The Employees' Provident Funds Scheme, 1952, the employer should pay within 15 days of the subsequent month.

(b) Employees' State Insurance (General) Regulations, 1950, ESI contribution should be deposited maximum upto 15th of subsequent month.

9. Deduction for Bad Debts of a Business Section 36(1)(vii)

If any assessee has written off bad debts as irrecoverable in the books of accounts, he will be allowed deduction of such bad debts. However no deduction shall be allowed for provision for bad debts.

Recovery of bad debts Section 41(4)

If a deduction has been allowed in respect of a bad debt under section 36, and subsequently the amount recovered in respect of such debt is more than the amount due after the allowance had been made, the excess shall be deemed to be the profits and gains of business or profession and will be chargeable as income of the previous year in which it is recovered, whether or not the business or profession in respect of which the deduction has been allowed is in existence at the time.

Mr. Rocky incurred bad debts of ₹ 2,00,000 in previous year 2015-16 but AO allowed only 1,20,000. On 31/7/2023 he recovered ₹ 1,50,000, in this case as per section 41(4) ₹ 30,000 (i.e. Amount Recovered - Bad debts Allowed) will be considered to be income under the head business profession of previous year 2023-24.

10. Family Planning Expenditure section 36(1)(ix)

(a) Expenditure is incurred by Company Assessee

(b) Revenue expenditure is allowed in the same year.

(c) Capital expenditure incurred shall be allowed in 5 equal installments.

Note:

1. In case of assessee (other than company) deduction on account of family planning revenue expenditure can be claimed under section 37 and capital expenditure is disallowed as deduction though the assessee can claim depreciation u/s 32(1).

2. Expenditure (R + C) are allowed to be debited only to the extent income is available under the head business/profession and unadjusted expenditure shall be allowed to be set off and carried forward just like unabsorbed depreciation

11. Securities Transaction Tax Section 36(1)(xv)

If the assessee has paid securities transaction tax in connection with taxable securities transaction which are part of his business, STT shall be allowed as deduction.

12. Commodities Transaction Tax Section 36(1)(xvi)

If the assessee has paid commodities transaction tax in connection with taxable commodities transaction which are part of his business, CTT shall be allowed to be debited to the profit and loss account.

■ GENERAL DEDUCTIONS [SECTION 37(1)]

If any expenditure is not covered under section 30 to 36, then such expense shall be allowed under this section subject to following conditions:

- (a) Expenditure is of revenue nature
- (b) Expenditure is incurred for the purpose of business and profession.

Various expenditure which may be allowed under section 37(1) are as given below:

1. Expenditure in connection with advertisement. If the expenditure incurred is capital nature, depreciation is allowed.
2. Expenditure on travelling including the expenses of boarding and lodging in connection with business/profession.
3. Salary paid to the employees.
4. Expenditure in connection with entertainment of the employees or the customer
5. Expenditure in connection with opening ceremony (Mahurat) of the business/profession.
6. Expenditure on the occasion of various festivals like Diwali etc. for employees or customer
7. Interest on late payment of GST.
8. Expenditure in connection with legal proceedings.
9. Professional tax paid by a person carrying on business or profession.
10. Expenditure on the filing of return of income, filing of appeal or audit fee etc. is allowed.
11. Expenditure incurred on Keyman insurance policy
12. Any other expenditure which is revenue in nature and it is related to business or profession.
 - (a) Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.
 - (b) No allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.

■ EXPENDITURE WHICH ARE PARTLY IN BUSINESS USE AND PARTLY IN PERSONAL USE [SECTION 38]

If any person has any asset in business or profession as well as in personal use, expenditure is allowed only to the extent the asset is in the use of the business or profession.

Example: If Mr. A has one Laptop which is used to the extent of 80% in business and 20% for personal use, all expenditures shall be allowed to be debited to the extent of 80%

Illustration 19: Determine admissibility of following expenditure

1. Expenditure incurred for repairing a property taken on lease for business.
2. Current repairs
3. Capital repairs
4. The Amount of rent includes an Amount ₹ 1,800 being rent of office premises, the premises belong to the proprietor.

5. Insurance of premises used for the purposes of the business.
6. The car was used both for business and personal purposes. 2/3rd is for the business purposes.
7. The property tax of ₹ 4,000 was in respect of her self - occupied house whose rental value is ₹ 18,000.
8. Health Insurance premium of employees.
9. Salary includes bonus paid Amounting to ₹ 1,80,000. However, bonus payable under the Payment of Bonus Act, 1965 works out to ₹ 1,20,000. Payment made by the Company was in pursuance of settlement approved by the Labour Court.
10. Purchased a building for ₹ 5,00,000, to be used exclusively as a family planning centre for the employees.

Illustration 20: Show Tax Implication for the Following cases:

1. Purchased a new plant costing ₹ 3,00,000 on deferred payment (interest payable for the period subsequent to the installation Amounting to ₹ 1,00,000 has been capitalised along with the cost).
2. Interest on own capital.
3. Interest on overdraft facility.
4. Interest on loan taken for business.
5. Interest on loan before the asset is put to use.
6. Interest includes an Amount (₹) of ₹ 50,000 paid to the bank for loan taken for purchase of new machinery. It includes an interest of ₹ 4,000 till the asset is put to use.
7. The interest includes ₹ 10,000 paid on installments granted for Sales Tax payment.
8. X raised a loan from LIC of India on the security of his life insurance policy and used the same for the payment of expenses relating to repairs of machinery.

Illustration 21: How will you deal with the following in computing the business income?

1. Profit on transfer of Duty Entitlement Pass Book Scheme.
2. Profit on sale of securities
3. The Manager admitted that during the year purchases to the extent of ₹ 10 lakhs were not recorded in the books and also sales to the extent of ₹ 15 lakhs were kept out.
4. Gift from Father in law
5. Dividend on Shares of Indian company.
6. Profit from Business of dealing in equity shares.
7. Amount of sales includes a sum of ₹ 6,000 representing the value of goods withdrawn by Mr. Rocky for his personal use. These goods were purchased at a cost of ₹ 4,000.
8. Loss by theft occurred as embezzlement by the employees.
9. Paid interest of ₹ 30,000 for shortfall in advance tax paid.
10. The Amount of interest on loan includes an Amount of ₹ 1,300 being interest on loan taken from wife of X. She gave this loan from her stridhan. The Amount of loan taken from wife was utilised for the payment of arrears of income tax.
11. Anticipated loss on forward contract for purchase of raw material as a result of fall in market price.
12. Provision of CGST and SGST.

Illustration 22: How will you deal with the following in computing the total income of the company

1. Donation in Temple.
2. Donation of ₹ 25,000 to a political party.

3. The donation includes ₹ 1 lakh to an approved Scientific Research Association.
4. Administrative charges include expenses in respect of donation of ₹ 1,000 to the trade association for the purpose of an advertisement in the souvenir published by it.
5. Opening stock overvalued by ₹ 2,00,000.
6. Closing stock undervalued by ₹ 50,000.
7. It was found, some stocks were omitted to be included in both the opening and closing stock, the values of which were—opening stock: ₹ 9,000; closing stock: ₹ 18,000.
8. Penalty levied by GST department for non-compliance of GST laws.
9. Miscellaneous Expenses include ₹ 30,000 paid towards penalty for non-fulfillment of delivery conditions of a contract of sale for reasons beyond control.
10. Purchases also include ₹ 10,000 paid by way of compensation to a supplier as the assessee was unable to take the delivery of goods due to lack of storage space and finances.
11. Rent, rates and taxes also include a penalty of ₹ 10,000 levied for non-payment of sales tax.
12. Penalty levied for non-fulfillment of listing laws.

■ EXPENSES NOT ALLOWED AS DEDUCTION

1. Tax deduction at source for payment of interest, royalty etc. outside India [Section 40(a)(f)]

If any person has paid any interest, royalty or technical fee or other sum chargeable to income tax any person outside India or in India to a non-resident or to any foreign company, deduction shall be allowed if:

- (a) tax has been deducted at source upto the end of the year and
- (b) tax has been paid to the government upto the last date of filing of return of income under section 139(1).

Otherwise 100% expenditure shall be disallowed however it is allowed in the year in which tax has been paid to the government.

Illustration 23: Mr. Ram has paid ₹ 20 lakhs as interest outside India in the P.Y. 2022-23. Determine whether deduction is allowed or not in the following cases:

TDS Deduction date	TDS Deposit date	Analysis
3/1/2024	10/03/2024	
1/4/2024	10/04/2024	
31/1/2024	10/12/2024	

2. Tax deduction at source for payment of interest, commission, brokerage etc. in India [Section 40(a)(ia)]

If any person has to pay any sum to a resident on which tax is to be deducted at source, deduction shall be allowed if:

- (a) tax has been deducted at source upto the end of the year and
- (b) tax has been paid to the government upto the last date of filing of return of income under section 139(1).

Otherwise 30% expenditure shall be disallowed however it is allowed in the year in which tax has been paid to the government.

Illustration 24: Mr. Ram has paid ₹ 20 lakhs as interest to Mr. Shawn in India in the P.Y. 2021-22. Determine whether deduction is allowed or not in the following cases:

TDS Deduction date	TDS Deposit date	Analysis
3/1/2024	10/03/2024	
1/4/2024	10/04/2024	
31/1/2024	40% on 10/07/2024 50% on 10/10/2024 Balance on 10/04/2025	

3. Section 40(a)(ii)

Any sum paid on account of any rate or tax levied on profits on the basis of or in proportion to the profits and gains of any business or profession.

4. Section 40(a)(iib)

- (i) any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge, etc., which is levied exclusively on, or
- (ii) any amount appropriated, directly or indirectly, from a State Government undertaking by the State Government (SG)

5. Section 40(a)(iii)

Any sum which is chargeable under the head 'Salaries' if it is payable outside India or to a non-resident and if the tax has not been paid thereon nor deducted.

6. Section 40(a)(iv)

Any contribution to a provident fund or the fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to make sure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head 'Salaries'

7. Section 40(a)(v)

Tax paid on perquisites on behalf of employees is not deductible- In case of an employee, deriving income in the nature of perquisites (other than monetary payments), the amount of tax on such income paid by his employer is exempt from tax in the hands of that employee. Correspondingly, such payment is not allowed as deduction from the income of the employer.

■ PAYMENT OF SALARY OR INTEREST TO THE PARTNERS [SECTION 40(B)]

- (a) Interest to the partner is allowed if mentioned in the partnership deed but maximum @ 12% p.a.
- (b) Payment of salary, bonus, commission or any other remuneration is allowed to the working partner subject to the following limits:

First ₹ 3,00,000 of the book profits	90% of the book profit or ₹ 1,50,000 whichever is more
On balance Amount (₹) of book profit	60% of book profit

Meaning of Book Profits

Book profit means profit and gains of business profession but before charging any salary, bonus, commission etc. to the partners and further if the assessee has any brought forward depreciation, it will be adjusted while computing the book profits but if there are brought forward business loss, such business loss shall not be adjusted.

Illustration 25: Calculate maximum salary deduction allowed to XYZ partnership firm in following cases:

(a) ₹ 6,00,000 (b) ₹ 2,90,000 (c) ₹ 1,10,000

Payment made to relatives [Section 40A(2)]

1. Where any payment is made to the relative of any person or person having substantial interest in business, and
2. The Assessing Officer is of the opinion that such expenditure is excessive or unreasonable having regard to the market price/Arm's Length Price of the goods or services for which the payment is made,
3. Then, so much of the expenditure as considered by A.O. to be excessive or unreasonable, shall be disallowed as a deduction.

Meaning of Related Person

1. For An individual
 - (a) An individual who is relative of the assessee.
 - (b) An individual having a substantial interest in the business of the assessee.Relative, in relation to an "individual", means the spouse, brother or sister or any lineal ascendant or descendant of that individual [Section 2(41)].
2. For A Company
 - (a) Director of the company or any relative of a director
 - (b) An company having a substantial interest in the business of the assessee.
3. For A Firm
 - (a) Partner of the firm or relative of a partner
 - (b) An firm having a substantial interest in the business of the assessee.
4. For An AOP
 - (a) Member of the AOP or relative of a member
 - (b) An AOP having a substantial interest in the business of the assessee.
5. For An HUF
 - (a) Member of the family or relative of such person
 - (b) An HUF having a substantial interest in the business of the assessee.

Eg. Explain tax treatment of following transactions. Cost of goods purchased includes goods of ₹ 6,00,000 purchased on 12th May' 21 from B Ltd. in which X holds 70% equity capital (similar goods were purchased on 11th May' 21 from market for ₹ 4,00,000)

Cash expenditure [Section 40A(3)]

Where the assessee incurs any expenditure in respect of which payment or aggregate of payments is made to a person in a single day, of sum exceeding ₹ 10,000 otherwise than by an account payee cheque or an account payee demand draft or use of electronic clearing system (ECS) through a bank account then 100% of such payment shall be disallowed as a deduction.

Note: Where the payment is made for plying, hiring or leasing goods carriages, ₹ 35,000 shall be taken instead of ₹ 10,000.

In case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment has been made in a subsequent year otherwise than by account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other prescribed electronic modes then the payment so made shall be deemed to be the income of the subsequent year if such payment or aggregate of payments made to a person in a day exceeds ₹ 10,000 [Section 40A(3A)].

Illustration 26: Following cash payments are found debited in P & L A/c. Discuss tax implications

1. June 11, 2023 ₹ 5,000 paid to Mr. Ram
2. June 11, 2023 ₹ 9,000 paid to Mr. Shyam
3. June 11, 2023 ₹ 19,000 paid to Mr. Ram
4. June 12, 2023 ₹ 8,000 paid to Mr. Shyam

Illustration 27: Discuss Tax Implications

1. If PQR Ltd. has paid ₹ 65,000 in cash
2. Mr. Rocky has paid ₹ 11,000 by a bearer cheque
3. If PQR Ltd. has paid ₹ 10,050 by a crossed cheque
4. PQR Ltd. has paid ₹ 35,000 by an account payee cheque
5. Mr. Rocky pays a salary to his employee ₹ 15,000 by crossed cheque
6. PQR Ltd. has paid ₹ 32,000 in cash to a goods transport agency for transportation of goods
7. Mr. Rocky purchases goods worth ₹ 75,000 on 01.01.2024 and payment was made ₹ 60,000 on 03.01.2024 by account payee cheque and ₹ 8,000 in cash on 03.01.2024 and ₹ 7,000 in cash on 05.01.2024
8. Mr. Rocky purchases goods worth ₹ 8,000 and ₹ 5,000 against two bills from Mr. Shawn and makes the payment ₹ 13,000 in cash in a single day
9. Mr. Rocky purchases goods worth ₹ 15,000 from Mr. Shawn against one bill but makes payment of ₹ 7,500 and ₹ 7,500 at different times on the same date

Exceptions under rule 6DD

As per rule 6DD the above provisions are not applicable with regard to following payments:

1. Payment made to Reserve Bank of India, State Bank of India or other banking institutions, LIC, UTI/Central/State Government etc.
2. If the payment is made in a village or town and there is no bank at such place on the date of making the payment and payment is being given to any person who ordinarily resides at that place or has his business or profession at that place.
3. Where the payment is made for the purchase of
 - (i) agricultural or forest produce; or
 - (ii) the produce of animal husbandry or dairy or poultry farming; or
 - (iii) fish or fish products; or
 - (iv) the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products.
4. Where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

5. Where the payment is made for the purchase of the products manufactured in a cottage industry, to the producer of such products.
6. Where the payment is made by transferring funds from one bank account to the other or payment is being made by any credit card/a debit card/letter of credit etc., payment is allowed.
7. If payment is being made to an employee after retirement or to his family member after the death of the employee and payment is in connection with gratuity etc. and payment is not exceeding ₹ 50,000.
8. Where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee—
 - (i) is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and
 - (ii) does not maintain any account in any bank at such place or ship;
9. If payment is to be made on a particular day but banks are closed on that day because of holiday or strike.
10. Where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;

Deductibility in respect of provision for Gratuity Fund [Section 40A(7)]

If provision (contribution) is made towards approved gratuity fund, then such provision is allowed as per Section 36(1)(v) subject to section 43B. However If provision (contribution) is made towards unapproved gratuity fund, then such provision is disallowed under Section 40A(7).

Employer's contribution to various funds [Section 40A(9)]

Employer's contribution to various funds is allowed only if such funds are notified under any Act. If the employer has contributed to the recognised provident fund, approved superannuation fund, approved gratuity fund or any other similar fund required under any other Act, such contribution is allowed subject to provisions of Section 43B.

■ PROFITS CHARGEABLE TO TAX [SECTION 41]

(a) Remission or cessation of trading liability

If an allowance or deduction has been made in any assessment year in respect of loss, expenditure or trading liability and subsequently, assessee has obtained, whether in cash or in any 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, the amount obtained by assessee, or the value of benefit accruing to him shall be taxed as income of that previous year. It does not matter whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not. Even if such benefit is derived by successor (in case of succession of business) it will remain taxable in hands of such successor.

(b) Balancing charge

(c) Sale of capital asset used for scientific research

(d) Recovery of a bad debt

(e) Brought forward losses of defunct business

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.

■ CERTAIN DEDUCTIONS TO BE ONLY ON ACTUAL PAYMENT [SECTION 43B]

If any assessee has maintained books of accounts on the basis of mercantile system of accounting, all the expenditures are allowed on due basis. But as per section 43B, Following expenditures are allowed if paid on or before the due date mentioned u/s 139(1):

- (a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law like Municipal Tax, Professional Tax, Composition Tax etc.
- (b) Employer's contribution to any provident fund or superannuation fund or gratuity fund, Employees State Insurance (ESI) or any other fund for the welfare of employees.
- (c) Bonus or commission or leave salary to the employee.
- (d) Interest on any loan or borrowing from any Public Financial Institution or a State Financial Corporation or a State Industrial Investment Corporation or scheduled bank.
- (e) Any sum payable by the assessee to the Indian Railways for the use of railway assets.
- (f) Any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 would be allowed as deduction only in that previous year in which such sum is actually paid.

As per section 15 of the Micro, Small and Medium Enterprises Development Act, 2006, payment is to be made to the supplier as follows:

- (a) in case of written agreement- as per agreement subject to maximum 45 days from the date of acceptance of goods and service
- (b) in case of no written agreement- maximum 15 days

Meaning of Micro and Small Enterprise

S. No.	Meaning	
(1)	<i>In case of enterprises engaged in the manufacture or production of goods pertaining to specified industries</i>	
	Micro enterprise Where the investment in plant and machinery ≤ ₹ 25 lakhs	Small enterprise Where the investment in plant and machinery > ₹25 lakhs ≤ ₹5 crores
	Note - For calculating investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such notified items shall be excluded.	
(2)	<i>In case of enterprises engaged in providing or rendering services</i>	
	Micro enterprise Where the investment in equipment ≤ ₹ 10 lakhs	Small enterprise Where the investment in equipment > ₹10 Lakhs ≤ ₹2 crores

However, If the payment is made after due date of filing of return of income, expenditure is allowed in the year in which the assessee has made the payment.

Conversion of interest into a loan or borrowing or advance or payable in other manner

If any sum payable by the assessee as interest on any such loan or borrowing or advance, is converted into a loan or borrowing or advance, 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 does not amount to actual payment.

The manner in which the converted interest will be allowed as deduction has been clarified in Circular No.7/2006 dated 17.7.2006. The unpaid interest, whenever actually paid to the bank or financial institution, will be in the nature of revenue expenditure deserving deduction in the computation of income. Therefore, irrespective of the nomenclature, the deduction will be allowed in the previous year in which the converted interest is actually paid.

Hari, an individual, carried on the business of purchase and sale of agricultural commodities like paddy, wheat, etc. He borrowed loans from Andhra Pradesh State Financial Corporation (APSFC) and Indian Bank and has not paid interest as detailed hereunder:

	₹
(i) Andhra Pradesh State Financial Corporation (P.Y. 2021-22 & 2022-23)	15,00,000
(ii) Indian Bank (P.Y. 2022-23)	30,00,000
	45,00,000

Both APSFC and Indian Bank, while restructuring the loan facilities of Hari during the year 2022-23, converted the above interest payable by Hari to them as a loan repayable in 60 equal installments. During the year ended 31.3.2023, Hari paid 5 installments to APSFC and 3 installments to Indian Bank. Hari claimed the entire interest of ₹ 45,00,000 as an expenditure while computing the income from business of purchase and sale of agricultural commodities. Examine whether his claim is valid and if not what is the amount of interest, if any, allowable.

According to section 43B, any interest payable on the term loans to specified financial institutions and any interest payable on any loans and advances to, inter alia, scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee. Where there is default in the payment of interest by the assessee, such unpaid interest may be converted into loan. Such conversion of unpaid interest into loan shall not be construed as payment of interest for the purpose of section 43B. The amount of unpaid interest so converted as loan shall be allowed as deduction only in the year in which the converted loan is actually paid.

In the given case of Hari, the unpaid interest of ₹ 15,00,000 due to APSFC and of ₹ 30,00,000 due to Indian Bank was converted into loan. Such conversion would not amount to payment of interest and would not, therefore, be eligible for deduction in the year of such conversion. Hence, claim of Hari that the entire interest of ₹ 45,00,000 is to be allowed as deduction in the year of conversion is not tenable. The deduction shall be allowed only to the extent of repayment made during the financial year. Accordingly, the amount of interest eligible for deduction for the A.Y.2024-25 shall be calculated as follows:

	Interest outstanding	Number of Installments	Amount per inst	Inst paid	Int Allowable
APSFC	15 lakh	60	25,000	5	1,25,000
Indian Bank	30 lakh	60	50,000	3	1,50,000
Total amount eligible for deduction					2,75,000

Illustration 28: Debit side of the profit and loss account of X Ltd. shows the following expenses, which have been due but are outstanding as on March 31, 2024:

1. Leave encashment expenses ₹ 65,000. First payment on June 1, 2024 ₹ 15,000. Second payment on Dec. 25, 2024 ₹ 50,000.
2. GST payable ₹ 14,000. First payment on June 10, 2023 ₹ 3,000. Second payment on April 1, 2024 ₹ 11,000.
3. GST payable ₹ 48,000. First payment on Sept. 5, 2024 ₹ 48,000.
4. Bonus payable to employees ₹ 87,000. First payment on May 2, 2024 ₹ 30,000. Second payment on September 30, 2024 ₹ 57,000.
5. Interest payable to LIC on loan ₹ 75,000. First payment on May 13, 2024 ₹ 50,000. Second payment on January 10, 2025 ₹ 25,000.
6. Municipal tax payable ₹ 5,000. Not yet paid.
7. Interest on loan taken from Z Ltd ₹ 5,00,000. Paid on 7-11-2024.

Due date of filing return of income is 31/10/2024. Find out the previous years in which the aforesaid payment are deduction. The company maintains book of account on the basis of mercantile system of accounting

Stamp duty value of land and building held as SIT to be taken as the full value of consideration in respect of transfer [section 43CA]

1. Section 43CA has been inserted as an anti-avoidance measure to provide that where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the value so adopted or assessed or assessable (i.e., the stamp duty value) shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and gains of business of profession"

However, if the stamp duty value does not exceed 110% of the consideration received or accruing, then, such consideration shall be deemed to be the full value of consideration for the purpose of computing profits and gains from transfer of such asset.

2. Further, where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer instead of on the date of registration for such transfer, provided at least a part of the consideration has been received by way of an account payee cheque/account payee bank draft or use of ECS through a bank account or through such other prescribed electronic modes on or before the date of the agreement.

The prescribed electronic modes include credit card, debit card, net banking, IMPS (Immediate payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhar Pay [CBDT Notification No. 8/2020 dated 29.01.2020].

3. The Assessing Officer may refer the valuation of the asset to a valuation officer as defined in section 2(r) of the Wealth-tax Act, 1957 in the following cases -
 - (a) Where the assessee claims before any Assessing Officer that the value adopted or assessed or assessable by the authority for payment of stamp duty exceeds the fair market value of the property as on the date of transfer and
 - (b) the value so adopted or assessed or assessable by such authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court.

4. Where the value ascertained by the Valuation Officer exceeds the value adopted or assessed or assessable by the Stamp Valuation Authority, the value adopted or assessed or assessable shall be taken as the full value of the consideration received or accruing as a result of the transfer.

■ ALTERNATE MINIMUM TAX [SECTION 115JC TO 115JF]

"Alternate minimum tax" means the Amount (₹) of tax computed on adjusted total income at a rate of eighteen and one-half per cent;

"Regular income-tax" means the income-tax payable for a previous year by [a person on his total income] computed in the normal manner.

1. Alternate Minimum Tax provisions shall be applicable in case of all the assesses except a company (in case of company minimum alternate tax is applicable).
2. Further such provisions shall not be applicable for individual, HUF, AOP, BOI and Artificial Juridical persons if adjusted total income does not exceed 20 lakhs.
3. Adjusted total income shall be the total income as increased by-
 - (i) deductions claimed, if any, under any section (other than section 80P) included in Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" i.e. 80JAA, 80QQB, 80RRB etc.
 - (ii) deduction claimed, if any, under section 10AA [and]
 - (iii) deduction claimed, if any, under section 35AD as reduced by the Amount (₹) of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.

For e.g, if total income is ₹ 25,00,000 after claiming deductions under chapter VI-A under the heading C ₹ 8,00,000 and deduction u/s 10AA ₹ 7,00,000 and deduction u/s 35AD ₹ 7,50,000 (depreciation ₹ 2,00,000 has not been claimed u/s 32), in this case adjusted total income shall be ₹ 25,00,000 + ₹ 8,00,000 + ₹ 7,00,000 + ₹ 7,50,000 - ₹ 2,00,000 = ₹ 45,50,000.

In order to apply provisions of AMT, income tax shall be computed on the total income of ₹ 40,00,000 at the normal rates and also tax shall be computed on ₹ 60,50,000 at a rate of 18.5% and if regular tax is less than AMT, AMT is payable.

4. Tax will include surcharge plus HEC, wherever applicable.
5. If AMT is payable, tax credit is allowed which is AMT- regular tax and it can be adjusted in the subsequent years whenever regular tax is more than AMT and carry forward is allowed for maximum 15 years starting from the year subsequent to the year to which tax credit relates.

Example: XY partnership firm has total income of ₹ 18,00,000 after claiming deductions under chapter VIA under the heading C ₹ 4,00,000 and deduction u/s 10AA ₹ 5,00,000 and deduction u/s 35AD ₹ 6,00,000 (instead of depreciation u/s 32 ₹ 2,00,000) Show Tax Treatment.

Concessional tax and AMT Section 115JC(5): AMT would not apply if assessee is following Section 115BAC. In other words, if a person exercises an option to pay tax at concessional rates under section 115BAC or 115BAD, then such person is not required to pay AMT under this section.

AMT CREDIT Section 115JD(7): Section 115JD will not apply to a person who has exercised an option to pay tax u/s 115BAC or u/s 115BAD. In other words, if a person exercises an option to pay tax at concessional rates u/s 115BAC or u/s 115BAD, then such person will not be eligible to carry forward and set off of AMT credit.

If Assessee opts Taxation Under New Regime u/s 115BAC, then Provision Of AMT Not Applicable.

■ COMPULSORY MAINTENANCE OF ACCOUNTS [SECTION 44AA RULE 6F]

Provisions regarding maintaining of books of accounts shall be as given below:

1. The person having specified profession have to maintain any books of accounts as may enable the Assessing Officer to compute his total income, however they have to maintain prescribed books of accounts if gross receipt exceeds ₹ 1,50,000 in all the three years immediately preceding the previous year.

Example Mr. X is engaged in medical profession and his gross receipt during the various years is asunder:

1. 2022-23 1,40,000
2. 2021-22 1,70,000
3. 2020-21 1,25,000

In this case, during the previous year 2023-24, Mr. X is not required to maintain prescribed books of accounts because gross receipt has not exceeded ₹ 1,50,000 during all the three years immediately preceding the relevant previous year. But if receipt during 2022-23 is ₹ 1,60,000 and during 2020-21 it is ₹ 1,52,000, he has to maintain prescribed books of accounts during 2023-24.

If profession has been newly setup in the previous year and gross receipt are likely to exceed ₹ 1,50,000, he should maintain prescribed books of accounts.

Specified Profession shall include

1. Legal profession
2. Medical profession
3. Engineering profession
4. Architectural profession
5. Profession of accountancy
6. Technical consultancy
7. Interior decoration
8. Authorised representatives
9. Film artists
10. Company Secretary
11. Information Technology

Preservation of the books of accounts The books of accounts are to be kept and maintained for the period of atleast 6 years from the end of the relevant assessment year.

2. Persons carrying on business or any profession, not specified above

Such persons are not required to maintain accounts in general, however if their income from business or profession exceeds one lakh twenty thousand rupees or their total sales turnover or gross receipts as the case may be, in business or profession exceeds ₹ 10 lakhs in any one of the three years immediately preceding the previous year, they will be required to maintain any books of accounts.

In case of business or profession newly set up in any previous year, obligation to maintain accounts will arise if the income is likely to exceed ₹ 1,20,000 or total sales turnover or gross receipts as the case may be in business or profession are likely to exceed ₹ 10 lakhs during such previous year.

For Individual and HUF Limit of ₹ 2,50,000 instead of ₹ 1,20,000 and Limit of ₹ 25,00,000 instead of ₹ 10,00,000 shall be applicable.

3. Persons whose business income is to be computed on presumptive basis under section 44AD/44ADA/44AE

If income of any person is to be computed under section 44AD or 44ADA or 44AE on presumptive basis but such person has rejected presumptive income and his income is exceeding the maximum Amount (₹) which is exempt from income tax, in such cases such person shall be required to maintain any books of accounts (also audit is required as per section 44AB)

eg. Mr. X has turnover of his business ₹ 20,00,000 but he has rejected presumptive income, books/audit not required but if turnover is ₹ 50,00,000 and person has rejected presumptive income, books as well as audit is required.

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 ₹ 25,000 would be leviable under section 271A.

■ AUDIT OF ACCOUNTS OF CERTAIN PERSONS CARRYING ON BUSINESS OR PROFESSION [SECTION 44AB]

Compulsory audit of accounts [Section 44AB]

The following persons have to get their accounts audited.

1. Every person carrying on business, if his total sales turnover or gross receipts, in business exceeds ₹ 100 lakh during the previous year.
2. Every person carrying on profession if his gross receipts in profession exceed ₹ 50 lakh during the previous year.
3. If income of any person is to be computed under section 44AD or 44ADA or 44AE on presumptive basis but such person has rejected presumptive income, in such cases such person shall be required to get the accounts audited. The accounts should be audited by a Chartered Accountant and audit report should be submitted by specified date.

Specified date: One month prior to the due date for furnishing the ITR u/s 139(1)

Proviso to Section 44AB(a) Inserted: NO AUDIT Upto 10 Crore Turnover

(a) If Turnover of assessee is more than 1 crore but upto 10 crore

(b) Aggregate of all Amounts received in cash is not more than 5% of total Receipts during the PY, and

(c) Aggregate of all Amounts paid in cash is not more than 5 % of total payments during the year.

Note:

1. Method of accounting is not relevant. Proviso refers to the Amount (₹) received/paid in cash during the PY. So, even if the income is accrued or booked in preceeding PY but received current PY, then year of receipt of such income is relevant and not the year of accrual of such income.
2. Aggregate of all Amounts received would include sale proceeds of fixed assets, investments, etc
3. Aggregate of all Amounts paid may include payments made for purchase of fixed asset, investment, etc.

Eg.

Case	Turnover	Total Receipts	Cash Receipts	Total Payments	Cash Payments	Audit
1.	95,00,000	80,00,000	16,00,000	60,00,000	12,00,000	
2.	110,00,000	90,00,000	4,00,000	80,00,000	7,20,000	
3.	110,00,000	90,00,000	4,00,000	80,00,000	4,00,000	
4.	500,00,000	400,00,000	40,00,000	350,00,000	17,50,000	
5.	500,00,000	400,00,000	18,00,000	350,00,000	17,50,000	
6.	10,00,00,000	8,00,00,000	32,80,000	7,00,00,000	36,00,000	

Penalty for failure to get books of account audited: If any person fails to get his accounts audited in respect of any previous year or furnish the audit report by the specified date, penalty of lower of (a) and (b) mentioned below would be leviable on such person -

- (a) $\frac{1}{2}\%$ of total sales, turnover or gross receipts, as the case may be, in business or of the gross receipts in profession, in such previous year; or
- (b) ₹ 1,50,000 [Section 271B].

■ SPECIAL PROVISION FOR COMPUTING PROFITS AND GAINS OF BUSINESS ON PRESUMPTIVE BASIS [SECTION 44AD]

1. If any assessee has turnover of his business upto ₹ 200 lakhs, such assessee is allowed to compute income on presumptive basis and income under the head business/profession shall be presumed to be 8% of the turnover and no further deduction is allowed under section 30 to 38.
However, if the turnover of business is $> ₹ 200 \text{ lakhs} \leq ₹ 300 \text{ lakhs}$, the benefit of section 44AD can be availed only if aggregate cash receipts in relevant P.Y. $\leq 5\%$ of total turnover or gross receipts.
2. Such option is allowed only to an Individual/HUF/Firm who are resident but not to LLP or Company.
3. Section 44AD is applicable only to business and not to specified profession and also it is not applicable for the persons having earning as commission or brokerage.
4. Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the Amount (₹) of deposit default.
5. Brought forward business loss is allowed to be adjusted from such income but brought forward depreciation is not allowed to be adjusted from such income.
6. The assessee shall be exempt from maintaining books of accounts or audit.
7. If an assessee has opted for presumptive income under section 44AD and in the subsequent 5 years he has rejected presumptive income, in that case he will not be allowed to opt for presumptive income for next 5 year. If assessee has rejected the presumptive income, he will be required to maintain any books of accounts and also audit is required.

Rate of 6% shall be applied instead of 8% if the Amount (₹) of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year.

Illustration 29: Mr. X is engaged in a business with turnover ₹ 170,00,000 (all payments received by account payee cheque, bank draft or through electronic clearing) and expenses incurred in connection with earning of income are ₹ 160,00,000. He has LTCG ₹ 5,00,000. He has donated ₹ 4,00,000 to Rajiv Gandhi Foundation by cheque. He has brought forward loss of business ₹ 1,00,000 of previous year 2018-19. Compute his Income and Tax Liability for previous year 2023-24, in two situations- (i) He has opted for section 44AD. (ii) He has not opted for section 44AD.

Illustration 30: Mr. X engaged in Retail Trade, reports a turnover of ₹ 58,50,000 (all payments received in account payee cheque) for the financial year 2023-24. His income from the said business as per books of account is computed at ₹ 2,90,000. Retail trade is the only source of income for Mr. X.

- (i) Is Mr. X eligible to opt for presumptive determination of his income chargeable to tax for the Assessment Year 2024-25?

- (ii) Is so, determine his income from retail trade as per the applicable presumptive provision.
- (iii) In case, Mr. X has not opted for presumptive taxation of income from retail trade, what are his obligations under the Income-tax Act, 1961?
- (iv) What is the 'due date' for filing his return of income, under both the options?

■ PRESUMPTIVE SCHEME FOR SPECIFIED PROFESSION [SECTION 44ADA]

1. Resident Individual or Partnership excluding LLP having specified profession shall be allowed to have option to compute income on presumptive basis provided gross receipt is not exceeding ₹ 50 lakh during that year and income under the head Business/Profession shall be presumed to be 50% of gross receipt and no further deduction shall be allowed under the head Business/Profession.

However, if the gross receipts from profession is $> ₹ 50 \text{ lakhs} \leq ₹ 75 \text{ lakhs}$, the benefit of section 44ADA can be availed only if aggregate cash receipts in relevant P.Y. $\leq 5\%$ of total gross receipts

2. The assessee shall be exempt from maintaining books of accounts.
3. Such Assessee has the option to reject presumptive income but in that case the assessee shall be required to maintain any books of accounts and also audit is required.
4. Assessee can change the option on year to year basis.
5. Brought forward business loss is allowed to be adjusted from such income but brought forward depreciation is not allowed to be adjusted from such income.
6. Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the Amount of deposit default.

■ PRESUMPTIVE SCHEME FOR BUSINESS OF PLYING, HIRING OR LEASING GOODS CARRIAGES [SECTION 44AE]

1. If any person is engaged in the business of plying, hiring or leasing goods carriages, he will have the option to compute income under the head business/profession on presumptive basis and it will be ₹ 7,500 per month or part of the month per goods carriage provided it is not a heavy goods vehicle. Heavy goods vehicle means goods vehicle having gross weight more than 12 ton (12000 kg.) If it is a heavy goods vehicle income shall be presume to be ₹ 1000 per ton of gross weight.
2. No further deduction is allowed under section 30 to 38 but in case of a firm interest and salary to partners is allowed as per section 40(b).
3. The assessee shall be exempt from maintaining books of accounts or audit.
4. The assessee has the option to reject presumptive income but in that case assessee should maintain any books of accounts and also audit is required.
5. An assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments, shall be deemed to be the owner of such goods carriage.
6. Assessee can change the option on year to year basis.
7. Brought forward depreciation shall not be allowed to be adjusted but brought forward business loss shall be allowed to be adjusted.

Illustration 31: Mr. X retired from Govt. service in March 2023. He got ₹ 20,00,000 on account of retirement benefits. Out of the aforesaid sum, he purchased on 23rd April 2023 a few motor vehicles and got their delivery on that date. The particulars of the vehicles are given below-

Vehicle	Number	Cost of the vehicle
Heavy goods Vehicle (15 ton)	2	₹ 9,00,000
Medium goods Vehicle (8 ton)	4	₹ 4,50,000
Light commercial Vehicle (4 ton)	3	₹ 3,20,000

He started plying the vehicles from 04.06.2023. On an average every vehicle remains off the road for about a week for repairs and maintenance. He maintains a rough record of the receipts and outgoings which is given below-

Receipts	₹ 3,70,000
Less: Expenses (Excluding depreciation and salaries to Mr. Y)	(₹ 60,000)
Profit	₹ 3,10,000

You are required to compute the Total Income of Mr. X from the business of goods carriage for the previous year 2023-24.

Illustration 32: An assessee owns a heavy commercial vehicle having gross vehicle weight of 15 ton each for 9 months 15 days, a medium goods vehicle having gross vehicle weight of 8 ton for 9 months and a light goods vehicle having gross vehicle weight of 5 ton for 12 months during the previous year. Compute his income applying the provisions of section 44AE.

PRACTICE QUESTIONS

1. From the following profit and loss account of Mr. X for the year ended 31st March, 2024, compute his Total Income and Tax Liability.

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
Opening Stock	9,50,000	Sales	101,06,000
Purchases	80,50,000	Closing Stock	3,60,000
Salaries	7,00,000	Long term capital gain on sale of house Property	36,000
Rent, rates and taxes	1,25,000	Dividends from foreign company	12,000
Deposit in National Saving Certificate	42,000	Winnings of a lottery (gross)	5,00,000
Miscellaneous Expenses	21,000		
Provision for Income Tax	31,000		
Provision for gratuity	24,000		
Provision for GST	45,000		
Salary to Mrs. X	48,000		
Purchased one computer on 01.11.2023 and put to use on the same date	40,000		
Net Profit	9,38,000		
	110,14,000		110,14,000

Additional information:

1. Purchases include
 - (a) Purchase of ₹ 1,00,000 from a relative (market price ₹ 80,000) and payment was made in cash.
 - (b) Purchase of ₹ 25,000 being the products manufactured without aid of power in a cottage industry and the payment was made to its producer and payment was made in cash.
 - (c) Purchases of ₹35,000 from a person who is residing in a village having no bank and payment was made in cash.
2. Opening and closing stock were overvalued by 10%.
3. Salary includes ₹ 25,000 being bonus paid to the staff on 01.11.2023 on the occasion of Diwali.
4. Rent, rates and taxes include Municipal tax paid on 01.11.2023 ₹ 30,000
5. Provision for Gratuity is on actuarial basis.
6. Mrs. X is a housewife and payment is excessive by ₹ 48,000. Mr. X has not opted for presumptive taxation of Income u/s 44AD.

Sol.

	₹
Net profit as per profit & loss account	9,38,000
Add: Expenses Disallowed	
Deposit in NSC (not an expenditure)	42,000
Provision for income tax	31,000
Provision for GST	45,000
Salary to Mrs. X (Sec 40A(2))	48,000
Purchase of computer (capital expenditure)	40,000
Purchase from relative (Sec 40A(2))	20,000
Payment in cash (Sec 40A(3))	80,000
Adjustment for opening stock $(9,50,000 \times 10/110)$	86,363.64
Bonus paid after due date (Sec 43B)	25,000
Municipal tax paid after due date (Sec 43B)	30,000
Total	13,85,363.64
Less: Depreciation on computer $(40,000 \times 40\% \times \frac{1}{2})$	(8,000)
Closing stock overvalued $(3,60,000 \times 10/110)$	(32,727.27)
Long term capital gain	(36,000)
Dividend from foreign company	(12,000)
Winnings of lottery	(5,00,000)
Business income	7,96,636.37
Income from Other Source	
Dividend from foreign company	12,000
Winnings from lottery	5,00,000
Income from Other Sources	5,12,000
Income under the head Capital Gains (LTCG)	36,000
Gross Total Income	13,44,636.37
Less: Deduction u/s 80C {Deposit in NSC}	(42,000)
Total Income (rounded off u/s 288A)	13,02,640
Computation of Tax Liability	
Tax on Long term capital gain ₹36,000 @ 20% u/s 112	7,200
Tax on ₹5,00,000 @ 30% u/s 115BB	1,50,000
Tax on ₹7,66,640 at slab rate	65,828
Tax before health & education cess	2,23,028
Add: HEC @ 4%	8,921.12
Tax Liability	2,31,949.12
Rounded off u/s 288B	2,31,950

2. The profit and loss account of ABC Ltd. for the year ended 31st March, 2024 showed a net profit of ₹8,00,000 and some of the debits and credits are as given below:
1. Debit side of profit and loss account included the following:
 - (a) The depreciation provided in the books ₹ 60,000, however the amount computed under the Income Tax Act ₹ 1,20,000.
 - (b) ₹ 30,000 was paid to the company's lawyer for arguing appeals of the company before the Income Tax Appellate Tribunal against levy of penalty for some earlier cases where appeals have been dismissed by the tribunal.
 - (c) ₹ 2,000 being fine imposed by the municipality for violating their regulations.
 - (d) Provision for Income Tax ₹ 35,000.
 2. The credit side of the profit and loss account included the following:
 - (a) Income from units of UTI ₹ 35,000
 - (b) Dividend from Indian company ₹ 20,000
 3. It is also observed that both the opening stock of ₹ 90,000 and closing stock of ₹ 1,08,000 are undervalued by 10% on cost.
Compute the Total Income and Tax Liability of the company

Sol. Computation of Total Income of ABC Ltd.

Income under the head Business/Profession	₹
Net profit as per profit and loss account	8,00,000
Add: inadmissible expenses	
Fine imposed by the municipality for violation of regulation	2,000
Provision for Income Tax	35,000
Under valuation of closing stock (1,08,000 × 1/9)	12,000
Total	8,49,000
Less:	
Income from units of UTI	(35,000)
Dividend from Indian company	(20,000)
Under valuation of opening stock	(10,000)
Depreciation	(60,000)
Business Income	7,24,000
Income under the head Other Sources	
Dividend from Indian company	20,000
Income from UTI	35,000
Income under the head Other Sources	55,000
Gross Total Income	7,79,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	7,79,000
Computation of Tax Liability	
Tax on ₹7,79,000 @ 30%	2,33,700
Add: HEC @ 4%	9,348
Tax Liability	2,43,048
Rounded off u/s 288B	2,43,050

Note: Amount paid to the lawyer of ₹30,000 for arguing appeals before the Tribunal is an allowable expense.

3. Mr. X is a leading lawyer of Mumbai. He deposits in the bank all the receipts and always pays all the expenses by cheque. The analysis of his bank account for the year ended 31st March, 2024 is as under:

Receipts	Amount ₹	Payments	Amount ₹
Balance b/f	15,000	Salaries	5,00,000
Professional Fees	16,75,000	Rent of chamber	2,55,000
Dividend from Indian Co.	8,000	Telephone Expenses	26,000
Rent from house property which is let out	60,000	Magazine Subscription	3,000
Dividend from UTI	10,000	Motor car expenses	10,000
Interest from a company (gross)	8,000	Motor car (purchased and put to use on 01.12.2023)	3,00,000
Gift from his son from outside India	6,000	Misc. office expenses	5,500
Honorarium for delivering lectures in C.A. institute	5,000	Advance payment of income tax	38,000
Honorarium for writing articles in Hindustan Times	1,000	Personal expenses	48,500
		House property expenses:	
		Municipal taxes 6,000	
		Repairs 1,000	
		Insurance 2,000	
		Collection Charges 1,000	10,000
		Subscription to Bar Association	1,500
		Balance c/f	5,90,500
	17,88,000		17,88,000

Mr. X has not opted for presumptive taxation of Income u/s 44ADA. Compute his Total Income, Tax Liability and Tax Payable after taking into account the following information:

- (a) 10% of the motor car expenses relate to personal use.
 (b) Salaries include employer's contribution to Recognised Provident Fund of ₹ 18,000 which was credited on 01.07.2024.
 (c) Mr. X stays in his house, the gross annual value of which is ₹ 16,800.

Following are the expenses which have been included in the above account in respect of this house:

- (a) Municipal taxes: ₹ 2,000.
 (b) Repairs: ₹ 500
 (c) Insurance premium: ₹ 500

He has loss under the head house property ₹31,200 and the loss can be set off as per section 71B.

Sol. Computation of Total Income

Professional incomes	₹
Professional fees	16,75,000.00
Less:	
Salaries	(5,00,000.00)
Rent of chamber	(2,55,000.00)
Telephone expenses	(26,000.00)
Magazines subscription	(3,000.00)
9/10 of motor car expenses	(9,000.00)
Dep. on motor car (3,00,000 × 7.5% × 90%)	(20,250.00)
Misc. office expenses	(5,500.00)
Subscription to Bar Association	(1,500.00)
Income from profession	8,54,750.00
Computation of income from house property	
Let Out House	
Gross Annual Value	60,000.00
Less: municipal taxes (6,000 - 2,000)	(4,000.00)
Net annual value	56,000.00
Less: 30% of NAV u/s 24(a)	(16,800.00)
Less: Interest on capital borrowed u/s 24(b)	Nil
Income from house property	39,200.00
Self occupied house	
Annual value	Nil
Income from house property	39,200.00
Loss under the head House Property	(31,200.00)
Income under the head House Property	8,000.00
Computation of income under the head Other Sources	
Honorarium for delivering lectures in C.A. Institute	5,000.00
Honorarium for writing articles in Hindustan Times	1,000.00
Dividend from Indian company	8,000.00
Dividend from UTI	10,000.00
Interest from a company	8,000.00
Income under the head Other Sources	32,000.00
Computation of Total Income of Mr. X	
Income under the head House Property	8,000.00
Income under the head Business/Profession	8,54,750.00
Income under the head Other Sources	32,000.00
Gross Total Income	8,94,750.00

Professional incomes	₹
Less: Deduction u/s 80C to 80U	Nil
Total Income	8,94,750.00
Computation of Tax Payable	
Tax on ₹8,94,750 at slab rate	91,450.00
Add: HEC @ 4%	3,658.00
Tax Liability	95,108.00
Less: Advance Income Tax Paid	(38,000.00)
Tax Payable	57,108.00
Rounded off u/s 288B	57,110.00

4. ABC Ltd., a manufacturing company, which maintains accounts under mercantile system has disclosed a net profit of ₹12.50 lakhs for the year ending 31st March, 2024. You are required to compute the total Income and Tax Liability of the company, after considering the following information, duly explaining the reasons for each item of adjustment:

- (i) Advertisement expenditure includes the sum of ₹ 60,000 paid in cash to the sister concern of a director, the market value of which is ₹ 52,000.
- (ii) Repairs of plant and machinery includes ₹1.80 lakhs towards replacement of worn out parts of machineries.
- (iii) A sum of ₹6,000 on account of liability foregone by a creditor has been taken to general reserve. The same was charged to the revenue account in the Assessment Year 2021-22.
- (iv) Sale proceeds of import entitlements amounting to ₹ 1 lakh has been credited to profit and loss account, which the company claims as capital receipt not chargeable to income tax.
- (v) The company has donated ₹ 2,00,000 to National Urban Poverty Eradication Fund. The amount has been debited to the profit and loss account.
- (vi) Being also engaged in the biotechnology business, the company incurred the following expenditure on in-house research and development as approved by the prescribed authority:
 - (a) Research equipment purchased ₹ 1,50,000.
 - (b) Remuneration paid to scientists ₹ 50,000.
 The total amount of ₹ 2,00,000 is debited to the profit and loss account.

Sol. Computation of Total Income of ABC Ltd.

Net profit as per profit and loss account	12,50,000
Add:	
Payment of advertisement expenditure of ₹ 60,000	60,000
(a) ₹ 8,000, being the excess payment to a related disallowed under section 40A(2)	
(b) As the payment is made in cash and since the remaining amount of ₹ 52,000 exceeds ₹ 10,000, shall be disallowed under section 40A(3)	
Liability foregone by creditor [Taxable under section 41(1)]	6,000
Income Under Head PGBP	12,16,000
Computation Of Tax	

Tax on ₹12,16,000 @ 30%	3,64,800
Add: HEC @ 4%	14,592
Tax Liability	3,79,392
Rounded off u/s 288B	3,79,390

5. Determine the previous year in which the expenditure is allowable in the following cases (TDS is supposed to be deducted with regard to all the payments and all the payments are in India):
- ABC Ltd. has made payment of interest on 10th, June 2023 and has deducted tax at source on the same date and has deposited the amount on 08.07.2023.
 - The company has paid commission on 10.03.2024 and has deducted tax on the same date but it was paid on 05.04.2024.
 - The company has paid fees for professional services on 31.03.2024 and deducted tax at source on the same date but the tax was paid on 07.04.2024.
 - The company has paid to a contractor on 31.03.2024 and tax was deducted on the same date but it was paid on 01.06.2024.
 - The company has paid technical fees on 01.01.2024 and no tax has been deducted at source.
 - The company has paid brokerage on 01.04.2024 and has deducted the tax on the same date and has paid it on 07.04.2024.

Sol.

- Previous year
 - Previous year
 - Previous year
 - Previous year
 - 30% of the amount disallowed in P.Y.
 - Previous year
6. Following is the profit & Loss account of Mr. A, a dealer in shares and securities for the year ended on 31st March, 2024:

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
To Trading Expenses	103,60,000	By Sales	113,54,000
To Administrative Expenses	1,15,000	By Interest on fixed deposit with bank	18,500
To Financial Expenses	50,265	By Dividend from Indian company	66,360
To Demat and Delivery charges	5,350	By Interest on GST refund (Assessment Year 2021-22)	330
To Securities Transaction Tax	6,500		
To Net profit before depreciation	9,02,075		
	114,39,190		114,39,190

Compute Total Income and Tax Liability of Mr. A

Sol. Computation of Total Income

Income under the head business/profession	₹
Net Profit as per profit and loss account	9,02,075.00
Less:	
Interest on Fixed deposit with bank	(18,500.00)
Dividend from Indian company	(66,360.00)
Income under the head business/profession	8,17,215.00
Income Under Head Other Sources	
Interest on Fixed deposit	18,500.00
Dividend from Indian company	66,360.00
Income under the head Other Sources	84,860.00
Gross Total Income	9,02,075.00
Less: Deduction u/s 80C to 80U	Nil
Total Income (rounded off u/s 288A)	9,02,080.00
Computation of Tax Liability	
Tax on ₹9,02,080 at slab rate	92,916.00
Add: HEC @ 4%	3,716.64
Tax Liability	96,632.64
Rounded off u/s 288B	96,630.00

7. Profit and loss account of Mr. A for the previous year 2023-24 is asunder:

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
Salaries & Wages	6,00,000	Gross Profit	14,50,000
Advertisement	1,00,000	Long term capital gains	4,00,000
Travelling Expenses	2,00,000	Recovery of bad debts (earlier it was allowed)	50,000
Depreciation on business assets	50,000		
Donation to an approved institution for rural development	70,000		
Interest paid	2,30,000		
General Expenses	3,50,000		
Net Profit	3,00,000		
	19,00,000		19,00,000

Additional informations:

- Salaries and wages include the sum of ₹ 1,60,000 paid to Mr. A
- Payment of interest includes:
 - Interest to his major son 'X' amounting to ₹ 30,000 @ 15% on a deposit of ₹ 2,00,000
 - Interest to Mr. A amounting to ₹ 30,000 @ 12% p.a.
 - Interest of ₹ 20,000 paid on loan taken for the payment of income tax liability.

3. The amount of depreciation allowable is ₹ 40,000.
4. Mr. A has purchased National Saving Certificate VIII issue on 31.03.2023 for ₹ 40,000 and has deposited ₹ 60,000 in public provident fund account during the year 2023-24.
Compute Tax Liability of Mr. A for the Assessment Year 2024-25.

Sol. Computation of Total Income

Computation of Income under the head Business/profession	
Net Profit as per profit and loss account	3,00,000
Add:	
Salary to the proprietor	1,60,000
Interest to Mr. A	30,000
Interest for income tax liability	20,000
Depreciation	10,000
Less:	
Long term capital gains	(4,00,000)
Income under the head Business/Profession	1,20,000
Income under the head Capital Gains (LTCG)	4,00,000
Gross Total Income	5,20,000
Less: Deduction u/s 80C (40,000 + 60,000)	(1,00,000)
Total Income	4,20,000
Computation Of Tax	
Tax on ₹1,70,000 (₹4,00,000 - ₹2,30,000) @ 20% u/s 112	34,000
Tax on ₹20,000 at slab rate	Nil
Rebate U/S 87A	12,500
Tax Before Cess	21,500
Add: HEC @ 4%	860
Tax Liability	22,360

8. Profit and loss account of Mr. A for the Previous Year 2023-24 is as given below:

Profit and Loss Account

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
To Purchases	95,00,000	By Sales	102,71,000
To Salaries and bonus	2,70,000	By Discount	10,000
To GST payable	30,000	By Interest (gross) from Indian companies	70,000
To General expenses	1,00,000		
To Expenditure on technical know-how	36,000		
To Expenses on GST proceedings	15,000		
To Advertisements	50,000		
To Interest on capital	20,000		

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
To Rent of buildings owned by Mr. A	30,000		
To Net profit	3,00,000		
	103,51,000		103,51,000

Additional information is given below:

1. Purchases include a cash purchase of ₹ 20,000 from a farmer who lives in a village which is not served by any bank.
 2. Advertisements include presentation of 50 VIP bags in Jan 2020 costing ₹ 350 each.
 3. Salaries and bonus includes the following payments. Salary paid to Mr. A ₹ 52,000, Bonus paid to Mr. A ₹ 30,000 Commission paid to Mr. A ₹ 23,000
 4. The proprietor has carried forward business loss from the assessment year 2020-21 amounting to ₹ 1,00,000.
 5. The written down value of buildings on 01.04.2021 was ₹ 2,50,000.
 6. Technical know-how was purchased and put to use on 01.07.2023.
- Compute the Total Income and Tax Liability of Mr. A

Sol. Computation of Total Income

Computation of Income under the head Business/profession	₹
Net Profit as per profit and loss account	3,00,000
Add:	
Salaries and bonus	1,05,000
GST payable	30,000
Expenditure on technical know-how	36,000
Interest on capital	20,000
Rent of own building	30,000
Less:	
Depreciation on technical know-how (36,000 × 25%)	
Depreciation on building (2,50,000 × 10%)	
Interest from Indian companies	(70,000)
Income under the head Business/Profession	4,17,000
Less: Brought forward business loss of assessment year 2020-21	(1,00,000)
Income under the head Business/Profession	3,17,000
Income under the head Other Sources	70,000
{Interest from Indian companies}	
Gross Total Income	3,87,000
Less: Deductions u/s 80C to 80U	Nil
Total Income	3,87,000
Computation of Tax Liability	
Tax on ₹3,87,000 at slab rate	6,850.00
Less: Rebate u/s 87A	(6,850.00)
Tax Liability	Nil

9. The Profit & Loss account of Mr. X for the previous year ending 31.03.2024 is as given below:

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
To Purchases	90,00,000	By Sales	102,00,000
To Business expenses	6,00,000	By Stock	1,50,000
To Depreciation	50,000	By Dividend from foreign company (gross)	30,000
To Salary to Mr. X	3,60,000	By Sundry receipts	20,000
To Interest on capital	1,89,000	By Long term capital gain	1,00,000
To Sundry expenses	1,01,000		
To Net profit	2,00,000		
	105,00,000		105,00,000

You are further informed that -

- Purchases include cash purchases of ₹ 1,00,000 (payment made on a particular date to a particular person)
- Bonus of ₹ 1,07,000 for the previous year 2022-23 was paid on 31.12.2023 but not included in the profit and loss account.
- Recovery of bad debts during the year from a discontinued business of ₹ 1,00,000 but not included in the profit and loss account. Deduction was allowed in respect of bad debts.
- Written down value of machinery as on 01.04.2023 was ₹ 5,00,000. Rate of depreciation being 15%.
 - Machinery sold during the year for ₹ 1,00,000
 - Machinery acquired and put to use in December 2023 for ₹ 4,00,000
- Loss and allowances carried forward
 - Business loss - Assessment Year 2019-20 = ₹ 3,00,000
 - Depreciation - Assessment Year 2020-21 = ₹ 2,00,000

Mr. X has not opted for presumptive taxation of Income u/s 44AD. Compute Total Income and Tax Liability.

Sol. Computation of Total Income

	₹
Net Profit as per profit and loss account	2,00,000
Add:	
Cash purchases {u/s 40A(3)}	1,00,000
Recovery of bad debts {as per sec 41(4)}	1,00,000
Salary of Mr. X	3,60,000
Interest on capital	1,89,000
Less:	
Bonus Paid	(1,07,000)
Depreciation On Machinery	(40,000)
Dividend from foreign company	(30,000)
Long term capital gains	(1,00,000)

Income under the head Business/Profession	6,72,000
Less: b/f Business Loss	(3,00,000)
Less: Unabsorbed depreciation	(2,00,000)
Income under the head Business/Profession	1,72,000
Income under the head Capital Gains (LTCG)	1,00,000
Income under the head Other Sources	30,000
{Dividend from foreign company}	
Gross Total Income	3,02,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	3,02,000
Computation Of Tax	
Tax on LTCG ₹52,000 (₹1,00,000 - ₹48,000) @ 20% u/s 112	10,400
Tax on ₹2,02,000 at slab rate	Nil
Less: Rebate u/s 87A	(10,400)
Tax Liability	NIL

10. Mr X is exporting computer software outside India. The profit & loss account for the previous year ending 31.03.2024.:

Particulars (Debits)	Amount ₹	Particulars (Credits)	Amount ₹
To Purchases	80,00,000	By Total sales	101,60,000
To Salaries	4,10,000	By Profit on sale of land held for the last 1 ½ years	6,00,000
To Interest to Mr. X	1,50,000		
To Salary to Mr. X	6,00,000		
To Depreciation on plant and machinery	2,00,000		
To Purchase of trade marks	2,00,000		
To Net profit	12,00,000		
	107,60,000		107,60,000

You are further informed that -

1. Trade marks purchased and put to use on 01.07.2023.
2. Written down value of plant and machinery as on 01.04.2023 is ₹ 12,00,000. Rate of depreciation being 15%.
3. Employer contribution to recognized provident fund of ₹ 4,00,000 for the previous year 2023-24 was paid on 31.12.2023 but not included in the above profit and loss account.
4. The proprietor has brought forward depreciation and long term capital loss amounting ₹ 2,36,000 and ₹ 2,00,000 from the Assessment Year 2020-21 respectively.

Mr. X has not opted for presumptive taxation of Income u/s 44AD. You are required to compute the Total Income and Tax Liability.

Sol. Computation of Income under the head Business/profession

	₹
Net Profit as per profit and loss account	12,00,000
Add:	
Interest to Proprietor	1,50,000
Salary to Proprietor	6,00,000
Purchase of trademark	2,00,000
Depreciation on plant and machinery	20,000
Less:	
Short term capital gains	
(6,00,000)	
Depreciation on trade mark	(50,000)
Employer contribution to recognized provident fund	(4,00,000)
Income under the head Business/Profession	11,20,000
Less: Brought forward depreciation	(2,36,000)
Income under the head Business/Profession	8,84,000
Income under the head Capital Gains (STCG)	6,00,000
Gross Total Income	14,84,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	14,84,000
Computation of Tax Liability	
Tax on ₹14,84,000 at slab rate	2,57,700
Add: HEC @ 4%	10,308
Tax Liability	2,68,008
Rounded off u/s 288B	2,68,010

■ CHARGEABILITY OF CAPITAL GAINS [SECTION 45(1)]

Any profits or gains arising from the transfer of a capital asset effected in the previous year shall be deemed to be the income of the previous year in which the transfer took place e.g. Mr. Ram transferred land on 25.03.2022 for ₹ 70,00,000 but payment was received on 10.04.2022, in this case capital gains shall be taxable in the previous year 2021-22.

Capital Assets [Section 2(14)]

A capital asset means

- (a) property of any kind held by an assessee, whether or not connected with his business or profession;
- (b) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the 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-
 - (i) premium payable exceeding ₹ 2,50,000 for any of the previous years during the term of such policy; or
 - (ii) the aggregate amount of premium exceeding ₹ 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.

[ULIP Provisions are not covered at intermediate level]

The following shall not be considered to be capital asset:

1. any stock-in-trade, consumable stores or raw materials held by an assessee for the purposes of his business or profession
2. Personal movable effects. However, following personal movable assets shall be capital asset-
 - (a) jewellery;
 - (b) archaeological collections;
 - (c) drawings;
 - (d) paintings;
 - (e) sculptures; or
 - (f) any work of art.

Jewellery" includes— (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals (b) precious or semi-precious stones held in any manner.

3. Rural Agriculture Land.

Rural Agriculture land is land which is not in urban area

- (i) If land is within the distance of 2 kms from the limits of municipality having population more than 10,000 but not exceeding 1,00,000
- (ii) If land is within the distance of 6 kms from the limits of municipality having population more than 1,00,000 but not exceeding 10,00,000
- (iii) If land is within the distance of 8 kms from the limits of municipality having population more than 10,00,000

Example

	Area	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.	Is the land situated in this area a capital asset?
(i)	A	1 km	9,000	No
(ii)	B	1.5 kms	12,000	Yes
(iii)	C	2 kms	11,00,000	Yes
(iv)	D	3 kms	80,000	No
(v)	E	4 kms	3,00,000	Yes
(vi)	F	5 kms	12,00,000	Yes
(vii)	G	6 kms	8,000	No
(viii)	H	7 kms	4,00,000	No
(ix)	I	8 kms	10,50,000	Yes
(x)	J	9 kms	15,00,000	No

- 4. Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme 2015 and 2018 notified by the Central Government
- 5. Special Bearer Bonds, 1991 issued by the Central Government
- 6. Specified Gold Bonds: 6½% Gold Bonds, 1977, or 7% Gold Bonds, 1980, or National Defence Gold Bonds, 1980, issued by the Central Government

■ SHORT TERM CAPITAL ASSET AND LONG TERM CAPITAL ASSET

Section 2(42A), "Short-term capital asset" means a capital asset held by an assessee for not more than 36 months, except in the following cases:

The period shall be 12 months instead of 36 months

- 1. Shares Listed in Recognised Stock Exchange
- 2. A unit of the Unit Trust of India
- 3. A unit of an equity oriented mutual fund
- 4. A zero coupon bond
- 5. Any other security listed in a recognized stock exchange in India

The period shall be 24 months instead of thirty-six months

1. Unlisted Shares
2. Land and Building

Note: Asset other than short term capital asset is long term capital asset

■ COMPUTATION OF SHORT TERM CAPITAL GAINS & LONG TERM CAPITAL GAINS [SECTION 48]

Short term capital gain shall be computed in the manner given below:

Full Value of Consideration	XXX
Less: Selling Expense	XXX
Less: Cost Of Acquisition	XXX
Less: Cost Of Improvement	XXX
Short Term Capital Gain	XXX

Long term capital gain shall be computed in the manner given below:

Full Value of Consideration	XXX
Less: Selling Expense	XXX
Less: Indexed Cost Of Acquisition	XXX
Less: Indexed Cost Of Improvement	XXX
Long Term Capital Gain	XXX

“Indexed cost of acquisition / improvement” means the cost adjusted as per cost inflation index

$ICOA = COA \times \text{Inflation Index Of Transfer Year} / \text{Inflation Index Of purchase year}$

$ICOI = COI \times \text{Inflation Index Of Transfer Year} / \text{Inflation Index Of improvement year}$

Note: 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

Note: The benefit of indexation will not apply to the long-term capital gains arising from the transfer of bonds or debentures other than

- (1) Capital indexed bonds issued by the Government; or
- (2) Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015.

In case of depreciable assets, there will be no indexation and the capital gains will always be short-term capital gains.

The cost inflation indices for the financial years so far have been notified as under:

Financial Year	Cost Inflation Index
2001-02	100
2002-03	105
2003-04	109
2004-05	113
2005-06	117
2006-07	122
2007-08	129

Financial Year	Cost Inflation Index
2008-09	137
2009-10	148
2010-11	167
2011-12	184
2012-13	200
2013-14	220
2014-15	240
2015-16	254
2016-17	264
2017-18	272
2018-19	280
2019-20	289
2020-21	301
2021-22	317
2022-23	331
2023-24	348

Asset Purchased Before 01.04.2001

- If any capital asset has been purchased or constructed before 01.04.2001, in that case cost of acquisition shall be considered to be the cost incurred or fair market value of the asset as on 01.04.2001 whichever is higher.
- Also index factor of 2001-02 shall be used.
- Any cost of improvement prior to 01-04-2001 shall not be taken into consideration.
- However in case of immovable property, If FMV is more than SDV of immovable property as on 1/4/2001, then SDV as on 1/4/2001 shall be the cost of acquisition.

Meaning of Transfer [Section 2(47)]

1. The sale, exchange or relinquishment of the asset.
2. The extinguishment of any rights therein. Extinguishment covers destruction of the assets. E.g. Termination of a lease; redemption of preference shares/debentures.
3. The compulsory acquisition of the asset by the govt.
4. Conversion of asset into stock-in-trade.
5. Possession of any immovable property in part performance of a contract.
6. Any transaction which has the effect of transferring, or enabling the enjoyment of, any immovable property. [it is by becoming a member in a co-operative society, company or other association of persons]
7. Maturity or redemption of zero coupon bond.

Transactions not regarded as transfer [Section 47]

1. No capital gain shall be computed in case of transfer of any capital asset through gift or will or inheritance etc
2. Any distribution of capital assets on the partition of a Hindu Undivided Family.

3. Transfer of capital asset by holding company to subsidiary company or by subsidiary company to holding company provided company receiving capital asset is an Indian company and also 100% share capital of subsidiary company is held by holding company or its nominees.
4. Transfer of any capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company.
5. Transfer of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company
6. Receiving of shares from an amalgamated company in lieu of shares held in amalgamating company provided the amalgamated company is an Indian company
7. Transfer or issue of shares by a resulting company in case of demerger
8. In case of Conversion of bonds or debentures etc. into shares or conversion of preference shares into equity shares, no capital gains shall be computed.
9. Redemption by an individual of Sovereign Gold Bonds issued by RBI under the Sovereign Gold Bond Scheme, 2015
10. Any transfer of a capital asset in a transaction of reverse mortgage.
11. Any other transaction listed under section 47.

Transfer of capital asset under Reverse Mortgage

- (a) Reverse Mortgage scheme is for the benefit of senior citizens, who own a residential house property.
- (b) In order to supplement their existing income, they can mortgage their house property with a scheduled bank or housing finance company, in return for a lump-sum Amount or for a regular monthly/quarterly/annual income.
- (c) The senior citizens can continue to live in the house and receive regular income, without the botheration of having to pay back the loan.
- (d) Any transfer of a capital asset in a transaction of reverse mortgage to a bank or housing finance company shall not be considered as transfer for the purpose of capital gains.
- (e) Section 10(43), further, 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.
- (f) The bank will recover the loan along with the accumulated interest by selling the house after the death of the borrower.
- (g) The excess Amount will be given to the legal heir
- (h) However, before resorting to sale of the house, preference will be given to the legal heirs to repay the loan and interest and get the mortgaged property released.

Example: Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly installments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?

Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, section 10(43) provides that the Amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly installment Amounts received by Mr. Abhishek would not be taxable.

Cost with reference to certain modes of acquisition [Section 49(1)]

If any person has received any capital asset through any of the transaction mentioned in section 47 and subsequently asset is transferred by him, in such cases cost of acquisition and cost of improvement of previous owner shall be considered to be cost of acquisition/improvement of the assessee.

As per section 2(42A), time period of previous owner shall also be taken into consideration.

Illustration 1: Mr. X purchased house 01.04.2001 ₹ 2,00,000 and incurred ₹ 3,00,000 on improvement on 01.07.2002 and it was received by his son Mr. Y on 01.07.2012 and Mr. Y incurred ₹ 4,00,000 on improvement 01.07.2014 and house was sold by him on 01.07.2023 ₹ 100,00,000, in this case tax liability of Mr. Y shall be?

Cost of acquisition in case of assets received as gift [Section 49(4)] (applicable w.e.f 01.10.2009)

If any person has received gift in kind and it is taxable under section 56 (2)(x), in such cases, at the time of transfer, cost of acquisition of such asset shall be the value taken into account for taxability of gift u/s 56(2)(x).

Illustration 2: Mr. X purchased one house property on 01.07.2002 for ₹ 2,00,000 and it was gifted to Mr. Y on 01.11.2020 and value for the purpose of charging stamp duty was ₹ 5,00,000 and subsequently the house property was sold by Mr. Y on 01.01.2024 for ₹ 25,00,000, in this case tax liability of Mr. Y shall be?

■ CAPITAL GAINS IN CASE OF TRANSFER OF SHARES

- In case of original shares, cost of acquisition shall be the Amount for which the asset was purchased but if it was purchased before 1/4/2001, cost of acquisition shall be the Amount for which it was purchased or its market value as on 01.04.2001, whichever is higher.
- In case of bonus shares, cost of acquisition shall be nil but if bonus shares are issued before 01.04.2001, cost of acquisition shall be the market value as on 01.04.2001.
- In case of right shares, cost of acquisition shall be the Amount for which such shares have been purchased.
- If right to purchase right shares has been renounced, Amount received shall be considered to be short term capital gains.
- Cost of acquisition for the right renouncee shall be the Amount paid to the person renouncing the right and Amount paid to the company.
- No deduction in respect of STT: However, no deduction shall 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) under Chapter VII of the Finance (No.2) Act, 2004.

Illustration 3: Mr. X purchased 100 equity shares in ABC Ltd. on 01.10.1995 @ ₹ 10 per share. The company has issued 100 bonus shares on 01.10.1998 and market value of the shares on 01.04.2001 was ₹ 7 per share. The company has again issued 100 bonus shares on 01.10.2013. The company has offered 100 right shares on 01.04.2020 @ ₹ 140 per share though the market value is ₹ 250 per share. Mr. X purchased half of the shares and remaining half were renounced by him in favour of his friend Mr. Y. He has charged ₹ 20 per share from Mr. Y for renouncing the right. All the shares were sold by Mr. X and Mr. Y @ ₹ 300 per share on 01.01.2024. Mr. X has income under the head house property ₹ 2,20,000 and has causal income ₹ 50,000 and has invested ₹ 1,00,000 in NSC. Mr. Y has income under the head house property ₹ 3,50,000 and has invested ₹ 30,000 in NSC. Compute total income of Mr. X and Mr. Y.

Listed Equity Shares Sold Through Recognized Stock exchange and Security Transaction Paid [Section 111A/112A]

Short Term Capital Gain: As per section 111A, such capital gains shall be taxed @ 15%.

Long term Capital Gain: As per section 112A, such capital gains shall be taxed @ 10% in excess of ₹ 1,00,000 and while computing capital gains indexation is not applicable.

Cost of Acquisition in case of Capital Gains u/s 112A

As per section 55(2) (ac), In case of equity shares or units of equity oriented mutual funds or units of business trust which have been sold w.e.f. 01.04.2018 onwards, cost of acquisition shall be higher of:

1. Cost of acquisition
2. Lower of
 - (a) Fair market value of such asset on 31.01.2018
 - (b) Actual sale value

Illustration 4: Mr.X purchases 1,000 equity shares in X Ltd. at a cost of ₹ 15 per share (brokerage 1%) in January 1998. She gets 100 bonus shares in August 2000. She again gets 1100 bonus shares by virtue of her holding on February 2006. Fair market value of the shares of X Ltd. On April 1, 2001 is ₹ 25. In January 2024, she transfers all her shares @ ₹ 120 per share (brokerage 2%). (market value on 31-01-2018 is ₹ 70 per share) Compute the capital gains taxable in the hands of Mr X

- (a) X Ltd. is an unlisted company and securities transaction tax was not applicable at the time of sale.
- (b) X Ltd. is a listed company and the shares are sold in a recognised stock exchange and securities transaction tax was paid at the time of sale.

Capital Gains in case of Insurance Claims [Section 45(1A)]

If any capital asset is destroyed because of fire or natural calamity etc. like flood/ earthquake etc. and assessee has received any insurance claim for such asset, in such cases capital gains shall be computed in the normal manner and such capital gains shall be taxable in the year in which insurance claim has been received. Amount of insurance claim received shall be considered to be full value of consideration.

Example: ABC Ltd. has one plant and machinery on 01.04.2023 with written down value ₹ 20,00,000 the asset is destroyed due to natural calamity and the company has received insurance claim of ₹ 21,00,000, in this case there will be short term capital gain of ₹ 1,00,000.

Capital Gains in case of conversion of capital assets into Stock-In-Trade [Section 45(2)]

If any person has converted any capital asset into stock-in-trade, it will be considered to be 'transfer' and capital gains shall be computed in the year of conversion and, market value shall be considered to be full value of consideration. Capital gains so computed shall be taxable in the year in which stock-in-trade has been sold. (Proportionately)

Illustration 5: Mr. X purchased Gold on 01.10.1991 for ₹ 2,00,000 and its fair market value on 01.04.2001 is ₹ 3,00,000 and he converted it into stock-in-trade on 01.10.2009 and market value of the gold on the date of conversion was ₹ 11,00,000 and subsequently half of the stock-in-trade was sold on 01.10.2021 for ₹ 6,50,000 and balance half was sold on 01.10.2023 for ₹ 7,50,000. Compute his total income for various year

Illustration 5A: A is the owner of a car. On 1-4-2022, he starts a business of purchase and sale of motor car He treats the above car as part of the stock-in-trade of his new business. He sells the same on 31-3-2023 and gets a profit of ₹ 1 lakh. Discuss the tax implication in his hands under the head "Capital gains".

Capital gains in case of transfer of a capital asset by a person to a Firm, Association of Person or Body of Individual [Section 45(3)]

If any person has transferred any capital asset to the partnership firm or body of individual or association of persons as a partner or to become a partner, it will be considered to be transfer and capital gains shall be computed in the year in which capital asset has been transferred and full value of consideration shall be the Amount recorded in the books of account of the firm etc. Market value shall not be taken into consideration.

Illustration 6: Mr. X and Mr. Y are two partners of a firm X & Co. On 01.01.2024, Mr. Z joins the firm and brings shares in a company as his capital contribution. Fair market value of these shares on 01.01.2024 is ₹ 5,00,000 where as Amount credited in Mr. Z's account in the firm is ₹ 4,00,000. Assuming that cost of acquisition in 2007-08 of these shares was ₹ 48,000, find out the Amount of chargeable capital gain for the assessment year 2024-25 in the hands of Mr. Z.

Computation of capital gains on compulsory acquisition of a capital asset [Section 45(5)]

If any capital asset has been acquired compulsorily by the Government or other similar agency, capital gains shall be computed in the year in which the asset was acquired but capital gains so computed shall be taxable in the year in which the compensation or the part of compensation is first received.

Enhanced Compensation

If the compensation is enhanced by the Court, Tribunal etc., such enhanced compensation shall be the capital gains of the year in which the enhanced compensation is received. The cost of acquisition and the cost of improvement shall be taken to be nil.

Illustration 7: Mr. X (Date of birth 01.10.1946) has purchased one house on 01.04.1995 for ₹ 4,00,000 and incurred ₹ 2,00,000 on its improvement on 01.10.1998. Its market value on 01.04.2001 was ₹ 3,00,000. This house was acquired by the Government on 01.10.2014 and the compensation fixed was ₹ 50,00,000 and the Government has paid half of the compensation on 01.10.2023 and balance half on 01.10.2024. The assessee has filed an appeal for increasing the compensation and the court has given decision on 31.03.2025 directing the Government to pay additional compensation of ₹ 5,00,000. The Government has paid half of the Amount on 01.04.2026 and balance half on 01.04.2027. He has invested ₹ 72,000 in NSC in previous year 2023-24. Compute assessee's total income for the assessment year 2024-25 and also capital gains for various year

Illustration 8: Mr. X purchased one house on 01.07.1997 for ₹ 2,00,000 and incurred ₹ 1,00,000 on its improvement in 1998-99 and its market value as on 01.04.2001 is ₹ 2,50,000. She incurred ₹ 2,00,000 on its improvement in 2012-13 and the house was acquired by the Government on 01.07.2015 and compensation fixed is ₹ 60,00,000 and half of the Amount was paid by the Government on 01.01.2024 and balance half on 01.01.2025. She has also received interest of ₹ 2,00,000 in previous year 2023-24 from the Government for delay in payment of compensation. Income under the head Business/Profession ₹ 20,03,990. Compute total income of Mr X for the Assessment Year 2024-25.

Conversion of Stock In Trade Into Capital Asset

- (a) When SIT is converted into Capital Asset, such conversion is considered as deemed sales and FMV on the date of conversion shall be considered as business income.
- (b) FMV on conversion date shall also be considered as cost of acquisition of Capital asset so converted.
- (c) Period of holding of capital asset shall be reckoned from date of conversion

Eg. Refer Class Notes.

Special provision for full value of consideration in certain cases [Section 50C]

If any person has transferred land or building and stamp duty value is upto 110% of the FVC claimed by the assessee, in such cases FVC shall be the consideration claimed by the assessee but if stamp duty value is more than 110% of the consideration claimed by the assessee, in that case FVC shall be the Stamp duty value.

If the assessee has disputed such Amount, assessing officer may refer the matter to the Valuation Officer and value determined by Valuation Officer shall be taken into consideration but if the value determined by Valuation Officer is more than the stamp duty value, in that case stamp duty value shall be considered to be FVC and capital gains shall be computed accordingly. Valuation Officer means an expert employed by Income Tax Department to determine the value.

If the date of agreement and date of registration are different, in that case value on the date of agreement shall be taken into consideration provided some advance was given otherwise than in cash on or before the date of agreement.

Illustration 9: Mr. X who transferred his land and building on 10.02.2024, furnishes the following information:

- (i) Net consideration received ₹ 35,00,000.
- (ii) Value adopted by stamp valuation authority, which was contested by Mr. X ₹ 50,00,000.
- (iii) Value ascertained by Valuation Officer on reference by the Assessing Officer ₹ 52,00,000.
- (iv) This land was distributed to Mr. X on the partial partition of his HUF on 01.04.2001. Fair market value of the land as on 01.04.2001 was ₹ 1,60,000.
- (v) A residential building was constructed on the above land by Mr. X at a cost of ₹ 3,50,000 (construction completed on 01.12.2012) during the financial year 2013-14.

Illustration 10: What will be your answer in above question if value adopted by valuation officer is ₹ 45,00,000

Capital gains in case of transfer of capital asset by a depository [Section 45(2A)]

If any person has a demat account with the depository, profits or gains from transfer of shares or securities shall be considered to be that of beneficiary i.e. the account holder and not that of depository. The cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first out method.

Computation of capital gains on Transfer of Land or Building under specified agreement [Section 45 (5A)]

- In case of an assessee being individual or Hindu undivided family,
- Who enters into a specified agreement for development of a project,
- The capital gain arising from such transfer shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.
- Full value of consideration: For this purpose, the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.
- It may, however, be noted these beneficial provisions would not apply, where the assessee transfers his share in the project on or before the date of issue of said completion certificate and the capital gain tax liability would be deemed to arise in the previous year in which such transfer took place. In such a case, full value of consideration received or accruing shall be determined by the general provisions of the Act.

"specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.

■ 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 [Section 46(1)].
2. The above provision is restricted in its application to the circumstances mentioned therein i.e., the assets of the company must be distributed in specie to shareholders on the liquidation of the company. 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.
3. In the hands of shareholders:
 - (a) Shareholders receive money or other assets from the company on its liquidation.
 - (b) The Amount received by the shareholder out of accumulated profits of the company shall be considered to be dividend under section 2(22)(c) and excess over it shall be considered to be full value of consideration for computing capital gains.

Illustration 11: A Ltd. has issued 1,00,000 shares of ₹ 10 each and the company goes into liquidation on 01.10.2023 and distributable asset of the company are valued at ₹ 8 lakh. The company's accumulated profits on the date of liquidation are ₹ 3.5 lakhs which are included in ₹ 8 lakhs. Mr. X has purchased 100 shares in this company on 01.10.1998 for ₹ 10 each and market value of the shares on 01.04.2001 is ₹ 12 per share. Compute dividends in the hands of Mr. X and also capital gains.

Capital gains in case of buy back of Shares and Specified Securities [Section 46A]

If any company other than domestic company has purchased its own shares or other securities, in such cases capital gain shall be computed in the hands of the holders in the normal manner.

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.

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), since the domestic company is liable to pay additional income-tax on the buy back of shares.

Taxation provisions in respect of buyback

(1)	(2)	(3)	(4)
Taxability in the hands of	Buyback of shares by domestic companies	Buyback of shares by a company, other than a domestic company	Buyback of specified securities by any company
Company	Subject to additional Income tax @ 23.296%.	Not subject to tax in the hands of the company.	Not subject to tax in the hands of the company.
Shareholder/ holder of specified securities	Income arising to shareholders exempt under section 10(34A)	Income arising to shareholder taxable as Capital gains u/s 46A.	Income arising to holder of specified securities taxable as capital gains u/s 46A.

■ SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF SLUMP SALE [SECTION 50B]

If any person has sold any unit/division for a lump sum consideration, it is called slump sale and capital gain shall be computed for the entire unit instead of individual asset and capital gains shall be computed in the manner given below:

1. Fair market value of the capital assets as on the date of transfer, shall be deemed to be the full value of the consideration received. (FMV) of capital assets would be the higher of
 - (a) FMV 1, being the fair market value of capital assets transferred by way of slump sale (determined on the date of slump sale); and
 - (b) FMV 2, being the fair market value of the consideration (monetary and non-monetary) received or accruing as a result of transfer by way of slump sale
2. Net worth of the unit on the date of sale shall be deducted from full value of consideration to compute Capital Gains. Also expenses in connection with transfer shall be deducted
3. Indexation is not applicable.
4. If unit is sold within 3 years, a capital gain is Short term otherwise Capital Gain is Long Term.
5. While computing net worth, revaluation of asset shall be ignored.

Illustration 12: Mr. A is a proprietor of ABC Enterprises having 2 units started on 01.04.2013. He transferred on 01.04.2023 his unit 1 by way of slump sale for a total consideration of ₹ 90 Lacs whereas FMV of capital assets on the date of transfer is ₹ 92 Lacs. The expenses is incurred for this transfer were ₹ 1,30,000/-. His Balance Sheet as on 31.03.2022 is as under:

Liabilities	Amount [₹]	Assets	Unit 1	Unit 2	Total
Share Capital	42,00,000	Building	30,00,000	8,00,000	38,00,000
Revaluation reserve Of building(unit 1)	12,00,000	Machinery	10,00,000	4,00,000	14,00,000
Bank Loan(70% for unit 1)	8,00,000	Debtors	6,00,000	1,40,000	7,40,000
Trade Creditors (25% for unit 1)	6,20,000	Other Assets	7,00,000	1,80,000	8,80,000

Compute the capital gain for the assessment year 2024-25.

Full value of consideration for transfer of unlisted shares [Section 50CA]

In order to ensure the full consideration is not understated in case of transfer of unlisted shares, a new section 50CA has been inserted to provide that where the consideration received or accruing as a result of transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, such fair market value shall be deemed to be the full value of consideration received or accruing as a result of such transfer. For the purpose, "quoted shares" means the share quoted on any recognized stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

Capital gains on conversion of debentures etc. into shares

- (a) As per section 47, no capital gain shall be computed in case of conversion of debenture etc. into shares
- (b) However if subsequently these shares have been sold, capital gains shall be computed in the manner given below:

(i) As per section 49(2A), the cost of acquisition of the shares shall be the cost of acquisition of the debentures etc.

(ii) Period of holding shall start from the date of purchasing the debentures etc.

Illustration 13: Mr. X has purchased 100 debentures in ABC Ltd. on 01.10.2002 @ ₹ 300 per debentures and subsequently these debentures were converted into shares on 01.10.2017 and 3 shares were issued for each debenture. The assessee has sold all the shares on 01.04.2023 @ ₹ 750 per share and market value as on 31-01-2018 ₹ 500 per share. Compute capital gains for the assessment year 2024-25 in the following situations: (a) STT not paid (b) STT Paid

■ CAPITAL GAINS ON TRANSFER OF DEBENTURES OR BONDS

While computing capital gains on transfer of debenture or bond, indexation shall not be applicable even if it is long term capital asset and LTCG shall be taxable at the rate of 10% instead of 20% e.g. Mr. X purchased listed debentures of ABC Ltd. on 01.07.2002 for ₹ 5,00,000 and sold it on 01.07.2019 for ₹ 15,00,000, in this case tax treatment shall be.

■ GOODWILL OF A BUSINESS OR PROFESSION OR A TRADEMARK OR BRAND NAME ASSOCIATED WITH A BUSINESS OR PROFESSION OR A RIGHT TO MANUFACTURE, PRODUCE OR PROCESS ANY ARTICLE OR THING, OR RIGHT TO CARRY ON ANY BUSINESS OR PROFESSION, TENANCY RIGHTS, STAGE CARRIAGE PERMITS AND LOOM HOURS.

Cost of Acquisition

(a) **Self Generated:** COA shall be NIL

(b) **Purchased from Previous Owner**

Amount of Purchase Price. However, in case of a capital asset, being goodwill of a business or profession, in respect of which depreciation under section 32(1) has been obtained by the assessee in any previous year (upto P.Y.2019-20), the cost of acquisition of such goodwill would be the amount of the purchase price as reduced by the total amount of depreciation (upto P.Y.2019-20) obtained by the assessee under section 32(1).

(c) **Acquired by Mode given in Section 49(1) (Transactions Not Treated As Transfer)**

In cases where the capital asset became the property of the assessee by any of the following modes from the previous owner, and such capital assets were acquired by the previous owner by purchase, cost of acquisition to the assessee will be the amount of the purchase price for such previous owner

However, in case of a capital asset, being goodwill of a business or profession, in respect of which depreciation under section 32(1) has been obtained by the assessee in any previous year (upto P.Y.2019-20), the cost of acquisition of such goodwill would be the amount of the purchase price for such previous owner as reduced by the total amount of depreciation (upto P.Y.2019-20) obtained by the assessee under section 32(1).

Cost Of Improvement

(a) In case of goodwill of business, right to manufacture any article or thing and right to carry on business or profession COI shall be taken as NIL

(b) In case of other 4 assets namely, trademark or brand name associated with business, tenancy rights, route permits and loom hours COI shall be actual capital expenditure incurred by Assessee.

Note: In case of Above assets, option to take FMV as on 1/4/2001 shall not be available

■ EXEMPTIONS FROM CAPITAL GAIN

Transfer of Residential House Property & Purchase or construction of residential house property [Section 54]

Conditions

- (a) Only individual or HUF can claim exemption under section 54
- (b) Conditions to be fulfilled
- (i) There should be a transfer of residential house (buildings or lands appurtenant thereto)
 - (ii) It must be a long-term capital asset
 - (iii) Income from such house should be chargeable under the head "Income from house property"
 - (iv) Where the amount of capital gains exceeds ₹ 2 crore, one residential house in India should be
 - ♦ purchased within 1 year before or 2 years after the date of transfer; (or)
 - ♦ constructed within a period of 3 years after the date of transfer.Where the amount of capital gains does not exceed ₹ 2 crore, the assessee i.e., individual or HUF, may at his option
 - ♦ purchase two residential houses in India within 1 year before or 2 years after the date of transfer (or)
 - ♦ construct two residential houses in India within a period of 3 years after the date of transfer.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.
- (v) Quantum of exemption
- ♦ Amount Invested in new house property, or
 - ♦ Amount of Capital Gain
 - ♦ ₹ 10 Crore
- Whichever is lower.
- (vi) Capital Gain Account Scheme: Where the Amount is not so utilised for purchase or construction of new residential house before the due date of furnishing of return, it shall be deposited by Assessee, on or before the due date of furnishing of return of income under section 139 in the deposit account as per Capital Gain Account Scheme, 1988.
- (vii) If any Amount remained unutilized in capital gain account scheme at the expiry of three years from the date of transfer shall be treated as long term capital gain of the previous year in which the period of 3 years expire.
- (viii) The house so purchased/constructed must not be transferred within a period of three years otherwise exemption given shall be withdrawn and for this purpose while computing capital gains, its cost of acquisition shall be reduced by the Amount of the exemption earlier allowed.

Extension of time for acquiring new asset or depositing or investing Amount of capital gain section 54H: If the asset has been acquired compulsorily by the Government, period of investment shall be determined from the date of payment instead of the date of compulsory acquisition.

Illustration 14: Mr. X purchased one residential house on 01-07-2001 for ₹ 2,00,000 and it was sold by him on 01-07-2022 for ₹ 100 lakhs and he purchased one house in 01-07-2024 for ₹ 20,00,000. He sold this house on 01-07-2025 for ₹ 22,00,000. Compute capital gains for various year

Illustration 15: Mr. X purchased one house on 01.04.2001 for ₹ 2,00,000 and sold the house on 01.07.2023 for ₹ 70,00,000 and purchased one house on 01.09.2023 for ₹ 12,00,000 and it was sold by him on 01.01.2024 for ₹ 15,00,000. He is aged 82 year Compute his income and tax liability for assessment year 2024-25.

Illustration 16: Mr. X Purchased one residential house on 01.04.2001 for ₹ 2,00,000 and it was sold by him on 01.07.2022 for ₹ 50,00,000 and he purchased a new house on 01.09.2023 for ₹ 55,00,000 and this house was sold by him on 01.07.2024 for ₹ 56,00,000. Compute his tax liability for A.Y. 2024-25 and also capital gains for all the year

Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases [Section 54B]

Conditions

- (a) Only individual or HUF can claim exemption
- (b) The asset which is transferred should be an agricultural land situated in urban area. Such asset can be either LTCA / STCA. The agricultural land was used by the individual or his parents for agricultural purpose for a period of atleast 2 years immediately preceding the date of its transfer.
- (c) New agricultural land (U or R) should be purchased within 2 years from the date of Transfer.
- (d) Capital Gain Account Scheme is available.
- (e) Quantum of exemption
 - (i) Amount Invested in new Agricultural Land, or
 - (ii) Amount of Capital Gain.Whichever is lower.
- (f) The land so purchased must not be transferred within a period of three years otherwise while computing capital gains on the transfer of new asset, its cost of acquisition shall be reduced by the Amount of the exemption earlier allowed. However, if the new agricultural land is a rural agricultural land, there would be no capital gains on transfer of such land.
- (g) If any Amount remained unutilized in capital gain account scheme at the expiry of two years from the date of transfer shall be treated as capital gain of the previous year in which the period of 2 years expire.

Capital gains in case of compulsory acquisition of agricultural land Section 10(37)

If any individual or Hindu Undivided Family has agricultural land and this land was being used by him for agricultural purposes for a period of at least 2 years when it was acquired by the government, in this case capital gains shall be exempt from income tax.

Illustration 17: Mr. X purchased agricultural land on 01.10.2002 for ₹ 3,00,000 and it was being used for agricultural purposes by him. It was sold on 01.01.2024 for ₹ 50,00,000. The assessee has purchased one agricultural land in the rural area on 10.01.2023 for ₹ 10,00,000 and this land was sold by him on 11.09.2024 for ₹ 11,00,000 and has invested ₹ 30,000 in National Saving Certificate. He is aged about 86 year Compute his tax liability for assessment year 2024-25.

(b) Presume the land was purchased in the urban area instead of rural area.

Illustration 18: Mr. X has an agricultural land (costing ₹ 6 lakh) in Lucknow and has been using it for agricultural purposes since 01.04.2004 till 01.08.2014 when the Government took over compulsory acquisition of this land. A compensation of ₹ 10 lakh was settled. The compensation was received by Mr. X on 01.07.2023. Compute the Amount of capital gains taxable in the hands of Mr. X.

Illustration 19: Will your answer be different if the land belonged to ABC Ltd. and not Mr. X and compensation on compulsory acquisition was received by the company? Explain.

Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases [Section 54D]

Conditions

- (a) Exemption is allowed to all the assessee.
- (b) There must be compulsory acquisition of land and building or any right in land or building forming part of an industrial undertaking
- (c) The land and building should have been used by the assessee for purposes of the business of the industrial undertaking in the 2 years immediately preceding the date of transfer.
- (d) The assessee must purchase any other land or building or construct any building (for shifting or re-establishing the existing undertaking or setting up a new industrial undertaking) within 3 years from the date of transfer.
- (e) Quantum of exemption
 - (i) Amount Invested in new house property, or
 - (ii) Amount of capital Gain.Whichever is lower:
- (f) The land or building so purchased/constructed must not be transferred within a period of three years otherwise exemption given shall be withdrawn and for this purpose while computing capital gains on the transfer of new asset, its cost of acquisition shall be reduced by the Amount of the exemption earlier allowed.
- (g) Capital gains account Scheme is available.

Illustration 20: Mr. X has one industrial undertaking in panki industrial area and the building which is being used for industrial purposes was purchased on 01.10.2007. Since then it was being used for industrial purpose and was purchased for ₹ 23,00,000 and its w.d.v. as on 01.04.2015 is ₹ 10,38,000. This building was acquired by the Government on 01.01.2020 and compensation fixed was ₹ 25,00,000. Entire payment was released by the Government on 01.07.2023. The assessee has purchased one building for the purpose of industrial undertaking in Dada Nagar Industrial Area on 01.01.2023 for ₹ 6,00,000. Compute his tax liability for assessment year 2024-25.

Capital gain not to be charged on investment in certain bonds [Section 54EC]

Conditions

- (a) Exemption is allowed to all the assessee.
- (b) The assessee can transfer any Long term land or building and claim exemption under this section.
- (c) The assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the Specified bonds.

Specified bonds are bond redeemable after five years, issued by,— (i) National Highways Authority of India (ii) Rural Electrification Corporation Limited (iii) Power Finance Corporation Limited. (iv) Indian Railway Finance Corporation Limited.

- (d) Maximum exemption allowed in a particular previous year shall be ₹ 50 lakh.
- (e) If the long term specified asset is transferred or converted into cash within a period of 5 years, exemption earlier allowed shall be considered to be long term capital gains of the year in which such asset was transferred or converted into cash.
- (f) Capital gain account scheme shall not apply.

Illustration 21: Mr. X purchased agricultural land in the urban area on 01.04.2001 for ₹ 2,00,000. It was being used for agricultural purposes since then and was sold by the assessee on 01.07.2022 for ₹ 123,00,000. He made following investments:

- (i) Bonds of National Bank for Agriculture and Rural Development on 01.10.2023 for ₹ 1,50,000 which are redeemable after 5 year
- (ii) He purchased agricultural land on 01.11.2022 for ₹ 2,00,000,
- (iii) He has invested ₹ 75,000 on 01.12.2023 in the bonds of National Highway Authority of India redeemable after five year
- (iv) He sold the bonds of National Highway Authority of India on 15.04.2023 for ₹ 3,00,000.

Compute his capital gains for various years and also tax liability for assessment year 2024-25.

Exemption from capital gains on transfer of any capital assets other than a Residential House [Section 54F]

Conditions

- (a) Only individual or HUF can claim exemption under section 54F.
- (b) There must be transfer of a long-term capital asset, not being a residential house. Transfer of plot of land is also eligible for exemption.
- (c) To avail Exemption, New residential house property should be purchased within one year before or two years after the date of transfer or constructed within 3 years from the date of transfer, in India.
- (d) The assessee should not own more than one residential house on the date of transfer.
- (e) The assessee should not
 - (i) purchase any other residential house within a period of 2 years or
 - (ii) construct any other residential house within a period of 3 years from the date of transfer of the original asset.
- (f) Capital gain account scheme shall apply
- (g) Quantum of exemption:
 - (i) $LTCG \times (\text{Amount Invested (Max. 10 Crore)} / \text{Net Consideration})$
 - (ii) LTCGWhichever is lower.
- (h) The house so purchased or constructed must not be transferred for a minimum period of three years otherwise exemption earlier allowed shall be considered to be the long term capital gain of the year in which the asset has been transferred.

Similarly if the assessee has purchased any other house within one year before or two years after or the assessee has constructed any other house within three years after the date of transfer of original asset, exemption given shall be withdrawn in that case also.

Illustration 22: Mr. X purchased gold on 01.04.1991 for ₹ 3,00,000 and its market value on 01.04.2001 is ₹ 2,00,000. This gold was sold by him on 01.01.2024 for ₹ 35,00,000 and selling expenses are ₹ 37,000. He has purchased one house on 01.05.2023 for ₹ 4,00,000 because he did not have any house in his name and he deposited ₹ 3,00,000 in capital gain account scheme on 30.09.2024.

Mr. X is also engaged in a business and he has turnover of his business ₹ 105,00,000 and cost of goods sold ₹ 100,00,000 and other expenses ₹ 5,10,000. He has withdrawn ₹ 2,00,000 from capital gain account scheme on 01.01.2024 and constructed 1st floor of the house which was purchased by him on 01.05.2023. Remaining Amount in the capital gain account scheme was unutilized.

Compute assessee's tax liability for assessment year 2024-25 and capital gains for various year

Illustration 23: Mr. X sold gold for ₹ 5,50,000 on 01.10.2023 which had been acquired by him in October, 2004 for ₹ 55,000. He wants to utilize the said Amount of sale consideration for purchase or construction of a new residential house. He already owns one residential house at the time of sale of the gold on 01.10.2023. He has deposited ₹ 4,00,000 under the capital gains deposit scheme with a specified bank on 30.04.2024. Ascertain the capital gains taxable in Mr. X's hands for assessment year 2024-25 and advise him as to what further action he has to take to avail the exemption.

Extra Topics (Just Read Once For Knowledge)

Section 2(42A) Explanation 1. Period Of Holding

- (a) In the case of a share held in a company in liquidation: The period subsequent to the date on which the company goes into liquidation shall be excluded.
- (b) Asset acquired through gift, inheritance etc: The period for which the asset was held by the previous owner shall be included.
- (c) Shares / Securities: The period shall be reckoned from the date of allotment of such financial asset.
- (d) Right entitlement: The period shall be reckoned from the date of the offer of such right till the date when such right is renounced by the person.
- (e) Purchasers of the securities from the market: The holding period shall be reckoned from the date of the broker's note for purchase on behalf of the investor.
- (f) Transactions between the parties and not through stock exchanges: The date of contract of sale as declared by the parties shall be treated as the date of transfer provided it is followed up by actual delivery of shares and the transfer deeds.
- (g) Securities acquired in lots at different points of time: The First-in-first-out (FIFO) method shall be adopted to reckon the period of the holding of the security, in cases where the dates of purchase and sale could not be correlated through specific numbers of the scrips. In other words, the assets acquired last will be taken to be remaining with the assessee while assets acquired first will be treated as sold. Indexation, wherever applicable, for long-term assets will be regulated on the basis of the holding period determined in this manner.
- (h) Allotment of shares in amalgamated Indian company in lieu of shares held in amalgamating company Section 47(vii): The period for which the share or shares in the amalgamating company were held by the assessee shall be included.
- (i) Issue of shares by the resulting company to the shareholders of demerged company in a scheme of demerger: The period shall be counted from the date shares are held in the demerged company.
- (j) The period for which the capital asset was held by the amalgamating company shall also be considered in determining the period of holding of such asset by the amalgamated company.

■ INCOMES TAXABLE UNDER THE HEAD OTHER SOURCES [SECTION 56]

If any income cannot be taxed under first 4 heads, such income shall be taxable under the head other sources and such income may be

1. Interest income
2. Dividend income
3. Casual income
4. Gift
5. Family pension
6. Payment received under keyman insurance policy to a person who is not an employee
7. Income from owning and maintaining of race horses
8. Forfeiture of advance money
9. Any other income which is not taxable under first four heads.

■ TAXABILITY OF GIFT [SECTION 56]

1. Gift received by any person shall be taxable.
2. The gifts shall be divided into 3 parts.
 - (i) Gift of sum of money
 - (ii) Gift of any property other than immovable property
 - (iii) Gift of immovable property

1. Gift of sum of money

If any person has received any sum of money from one or more persons without consideration and the aggregate value of all such gifts received during the year exceeds fifty thousand rupees, the whole of the aggregate value of such sum shall be taxable under the head Other Sources but if the aggregate value is upto ₹ 50,000, entire Amount shall be exempt from income tax.

2. Gift of any property other than immovable property**Gift without consideration**

If any person has received gift of any property other than immovable property without consideration and the aggregate fair market value of such properties received during a particular year exceeds ₹ 50,000, it will be taxable under the head Other Sources but if aggregate value of all such properties is upto ₹ 50,000, it will be exempt from income tax.

Inadequate consideration

If any person acquires property for a consideration which is less than the aggregate fair market value of the property by an Amount exceeding ₹ 50,000, the aggregate fair market value of such

property as exceeds such consideration (Prescribed FMV - purchase price = exceeds 50,000, whole Amount taxed u/h 'OS')

"PROPERTY" means the following capital asset of the assessee, namely:— immovable property being land or building or both;

- (i) shares and securities;
- (ii) jewellery;
- (iii) archaeological collections (relating to past/ ancient)
- (iv) drawings (a picture or diagram made with a pencil, pen, or crayon without paint.)
- (v) paintings;
- (vi) sculptures;
- (vii) any work of art; or
- (viii) bullion (Gold and silver in the form of biscuits / bricks / bars)
- (ix) virtual digital asset

3. Gift of immovable property

Where an any person receives in any previous year, from any person or persons on or after the 1-10-2009, any immovable property (being a capital asset),

- (i) without consideration (Gift), the stamp duty value of which exceeds ₹ 50,000, the stamp duty value of such property is taxable under the head 'Other Sources'
- (ii) For Inadequate consideration (purchase), the stamp duty value of such property as exceeds such consideration, if the Amount of such excess is more than the higher of the following Amounts, namely:
 - (a) the Amount of ₹ 50,000
 - (b) the Amount equal to 10% of the consideration. then the stamp duty value of such property as exceeds such consideration is taxable u/h 'Other Sources'.i.e. if (Stamp duty value - purchase price = exceeds 50,000 and SDV is more than 110% of the consideration then, difference Amount taxed u/h 'OS') [w.e.f AY 2021-22]

Note: If consideration or its part is paid in cheque before the date of agreement to sell then the Stamp Duty Value shall be taken prevailing on the date of agreement to sell. But if it is not so then stamp duty value is taken of the date of registration.

The gift is exempt in the following cases

- (a) If any individual has received any gift from any of his relative, it will be exempt from income tax. The term relative shall include
 - ♦ spouse of the individual;
 - ♦ brother or sister of the individual;
 - ♦ brother or sister of the spouse of the individual;
 - ♦ brother or sister of either of the parents of the individual;
 - ♦ any lineal ascendant or descendant of the individual; (ascendant means mother/ father/ grand mother / grand father and so on: Descendant means son / daughter / grand son / grand daughter etc.
 - ♦ any lineal ascendant or descendant of the spouse of the individual;
 - ♦ spouse of the person referred to in items (b) to (f)

- (b) If any individual has received any gift from any person of any Amount (₹) on the occasion of his/her marriage. If gift is received by the parents of such individual, in that case it will be taxable. If any individual has received gift on the occasion of anniversary, it will be taxable.
- (c) If any person has received any gift under a will/ inheritance, it will be exempt from income tax.
- (d) in contemplation of death of the payer or donor (Contemplation of Death means the apprehension of an individual that his life will end in the immediate future by a particular illness etc.)
- (e) from any local authority or charitable hospital or charitable educational institution or charitable trust or other similar organisation.
- (f) by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to conditions notified by the Central Government
- (g) by a member of the family of a deceased person
 - (i) from the employer of the deceased person (without any limit); or
 - (ii) from any other person or persons to the extent that such sum or aggregate of such sums \leq ₹ 10 lakhs,
 - where the cause of death of such person is illness related to COVID-19 and 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.

Illustration 1: Mr. X, a dealer in shares, received the following without consideration during the P.Y.2023-24 from his friend Mr. Y,

- (1) Cash gift of ₹ 75,000 on his anniversary, 15th April, 2023.
- (2) Bullion, the fair market value of which was ₹ 60,000, on his birthday, 19th June, 2023.
- (3) A plot of land at Faridabad on 1st July, 2023, the stamp value of which is ₹ 5 lakh on that date. Mr. Y had purchased the land in April, 2016.
- (4) Mr. X purchased from his friend Z, who is also a dealer in shares, 1000 shares of X Ltd. @ ₹ 400 each on 19th June, 2023, the fair market value of which was ₹ 600 each on that date. Mr. X sold these shares in the course of his business on 23rd June, 2023.
- (5) On 1st November, 2023, Mr. X took possession of property (building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 1st November, 2021 was ₹ 32 lakh and on the date of booking was ₹ 23 lakh. He had paid ₹ 1 lakh by cheque as down payment on the date of booking.

Compute the income of Mr. X chargeable under the head "Income from other sources" for A.Y.2024-25.

Illustration 2: Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961

- (i) X HUF received ₹ 75,000 in cash from niece of Mr. X (i.e., daughter of Mr. X's sister). Mr. X is the Karta of the HUF.
- (ii) Miss. X, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 9,00,000.
- (iii) Mr. X received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was ₹ 100 per share. He also received jewellery worth ₹ 45,000 (FMV) from his nephew on the same day.
- (iv) X HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is ₹ 5,25,000.

Illustration 3: Compute the Amount charged under the head “Income from Other Sources”

- (a) Mr. X gifts immovable property to Mr Y. Its stamp duty value is ₹ 15,00,000. Market price ₹ 20,00,000.
- (b) Mr X sells his immovable property to Mr Y for ₹ 25,00,000. Its stamp duty value is ₹ 30,00,000.
- (c) Mr. Y has received gift of agricultural land having stamp duty value of ₹ 45,000 from Mr. A and also a residential house from Mr. B having a stamp duty value of ₹ 2,00,000.
- (d) Mr. Y has received gift of industrial land having stamp duty value of ₹ 6,00,000 from his grandson.
- (e) Mr. X gifts immovable property to D Ltd. Its stamp duty value is ₹ 35,00,000. Market price ₹ 60,00,000.
- (f) X purchases building for ₹ 5,00,000 having stamp duty value of ₹ 5,50,000.
- (g) X purchases building for ₹ 12,00,000 having stamp duty value of ₹ 12,60,000.
- (h) Stamp duty value on the (a) date of agreement ₹ 8,00,000 (b) date of registration ₹ 8,70,000. Consideration for acquisition of property ₹ 7,62,000. Advance paid by cheque.
- (i) Stamp duty value on the (a) date of agreement ₹ 8,00,000 (b) date of registration ₹ 8,70,000. Consideration for acquisition of property ₹ 7,62,000. Advance not paid.

Illustration 4: Compute the Amount (₹) charged under the head “Income from Other Sources”

- (a) Mr. X gifts shares to Mr Y. Prescribed FMV is ₹ 4,00,000.
- (b) Mr. X sells his jewellery to Mr Y for ₹ 8,00,000. Prescribed FMV is ₹ 9,00,000.
- (c) Mr. X sells his M. F. Hussain paintings to Mr Y for ₹ 7,00,000. Prescribed FMV is ₹ 7,30,000.
- (d) Mr. Y has received gift of jewellery having prescribed FMV of ₹ 30,000 from Mr. A and also shares whose prescribed FMV ₹ 40,000 from Mr. B.
- (e) Mr. Y has received gift of M. F. Husain paintings having prescribed FMV of ₹ 80,000 from his father.
- (f) Mr. X received ₹ 50,000 by cheque from Mr. A. Immovable property of ₹ 30,000 from Mr. B. Jewellery of ₹ 35,000 from Mr. C.
- (g) Mr. X gifted jewellery worth ₹ 2,00,000 to his friend's daughter on the occasion of her marriage. After 2 years, he gifted diamond of ₹ 50,000 on the birth of their first child.
- (h) Mr. X gifts Rolls Royce car to Mr Y. Prescribed FMV is ₹ 3.5 Cr.
- (i) Mr. Y has received gift of jewellery having prescribed FMV of ₹ 50,000. Mr. Y has purchased shares of ₹ 2,00,000 whose prescribed Fair Market Value is ₹ 2,50,000.

■ FAMILY PENSION

Regular payments given by the employer to the employee after retirement is called pension and it is taxable under the head Salary.

After the death of the employee, employer may pay some pension to the family member of the employee and it is called family pension. It is taxable under the head Other Sources but as per section 57 deduction is allowed equal to 1/3rd of such pension but maximum ₹ 15,000.

Exemption in respect of family pension

1. The family pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in specified circumstances would, however, be exempt under section 10(19).
2. The family pension received by any member of the family of an individual who had been in the service of Central or State Government and had been awarded “Param Vir Chakra” or “Vir Chakra” or “Vir Chakra” or other notified gallantry awards would be exempt under section 10(18)(ii).

Illustration 5: Mrs. X is getting family pension of ₹ 7,000 p.m. She also has dividend income from domestic company of ₹ 7,00,000. She has long term capital gain of ₹ 3,89,000. Compute her tax liability.

■ TAXABILITY OF INTEREST RECEIVED ON LATE PAYMENT OF COMPENSATION FROM THE GOVERNMENT

As per section 145A, interest received for late payment of compensation from the Government or other similar agency in connection with compulsory acquisition of land or building shall be taxable in the year in which it has been received and it will be taxable under the head other sources however, deduction shall be allowed @ 50% of such interest.

Illustration 6: Interest on enhanced compensation received by Mr. X during the previous year 2023-24 is ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the previous year 2017-18, ₹ 1,65,000 relates to previous year 2017-18 and ₹ 1,85,000 relates to previous year 2019-20. Discuss the tax implication, if any, of such interest income for A.Y.2024-25

■ CASUAL INCOME [SECTION 56]

- Under section 2(24)(ix), casual income shall include card games, cross word puzzles, betting, races including horse races, any game show on electronic media or any other gambling. While computing income from casual income, as per section 58(4) no expenditure or allowance or deductions shall be allowed and accordingly the gross receipt itself shall be considered to be income.
- TDS Rate : 30%
- If Amount (₹) received is given then such Amount (₹) shall be grossed up in order to arrive at casual income earned.
i.e. $[\text{Amount (₹) Received} / (100\% - 30\%)]$

Illustration 7: Mr. X purchased one lottery ticket of ₹10,000 and there was a winning of ₹ 12,00,000. He has no other income. Calculate his tax liability.

■ APPLICABLE RATE OF TAX IN RESPECT OF WINNINGS FROM ONLINE GAMES [SECTION 115BBJ]

- 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%
- 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
- No expenditure or allowance can be allowed from such income.
- Deduction under Chapter VI-A is not allowable from such income.
- Adjustment of unexhausted basic exemption limit is also not permitted against such income.

■ KEYMAN INSURANCE POLICY

Keyman insurance policy means a life insurance policy taken by an Assessee on the life of his employee or any person who is or was connected in any manner whatsoever with the business of the Assessee. Taxability of Amount received is as follows:

Amount Received By	Taxable Under Head
Employer	PGBP
Employee	Salary
Legal Hier of EE on death of EE	Other Source

Section 10(10D) Amount received under Life Insurance Policy

Any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy

- Premium payable for all the years during the term of the policy do not exceeds 10% of the actual capital sum assured is exempt
- Premium payable for any years during the term of the policy exceeds 10% of the actual capital sum assured is taxable.
- Where any sum is received on the death of a person it is fully exempt from tax u/s 10(10D).

Note: The limit of 10% shall be taken as 15% for person who is a person with disability as referred to in section 80U or suffering from disease as specified in section 80DDB.

In respect of policies issued on or 1.4.2023	<ul style="list-style-type: none"> □ Any sum received under a LIP including the sum allocated by way of bonus is exempt □ after 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 5,00,000 for any of the previous years during the term of such policy. □ In a case where premium is payable by a person for more than one LIP (other than ULIP) and the aggregate of premium payable on such policies exceed 5,00,000 for any of the previous years during the term of any such policy(ies), exemption would be available in respect of any of those LIPS (other than ULIP), at the option of the assessee, whose aggregate premium payable does not exceed 5,00,000 for any of the previous years during their term.
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Guidelines issued by the CBDT

In case any difficulty arises in giving effect to the provisions of this clause, the CBDT may issue guidelines for the purpose of removing the difficulty with the previous approval of the Central Government.

Accordingly, the CBDT has, with the approval of the Central Government, vide this circular, issued the following guidelines in respect of LIPs (other than ULIPs)-

Situation 1: No sum of any nature including bonus (such sum hereinafter referred as "consideration") is received by the assessee on any LIPs which are issued on or after 1.4.2023 (such LIPs hereinafter referred as "eligible LIPs") during any previous year preceding the current previous year (being the P.Y. in which consideration is received and its taxability is being examined) or consideration has been received on such eligible LIPs in an earlier previous year but has not been claimed exempt. In such a situation, the exemption u/s 10(10D) would be determined as under:

1. **Where the assessee has received consideration, during the current P.Y., under one eligible LIP only**

Circumstance	Eligibility for exemption u/s 10(10D)
If the amount of premium payable on such eligible LIP does not exceed ₹ 5,00,000 for any of the PYs during the term of such eligible LIP and annual premium does not exceed 10% of actual capital sum assured	Such consideration would be eligible for exemption u/s 10(10D). [Refer Example 1 and 2 given below]
If the amount of premium payable on such eligible LIP > ₹ 5,00,000 for any of the PYs during the term of such eligible LIP	Such consideration would not be eligible for exemption u/s 10(10D). [Refer Example 3 given below]

Example 1

LIP	A
Date of issue	1.4.2013
Annual premium	6,00,000
Sum assured	60,00,000
Consideration received as on 01.11.2023 on maturity	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2023-24.	

Eligibility for exemption u/s 10(10D)

The consideration received under LIP "A" would be exempt u/s 10(10D) in A.Y. 2024-25 since annual premium does not exceed 10% of the actual capital sum assured. Moreover, as the policy has been issued before 1.4.2023, limit of ₹ 5,00,000 of amount of premium payable is not applicable, since it is not an eligible ULIP.

Example 2

LIP	A
Date of issue	1.4.2023
Annual premium	5,00,000
Sum assured	50,00,000
Consideration received as on 01.11.2033 on maturity	52,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2023-24.	

Eligibility for exemption u/s 10(10D)

The consideration received would be exempt u/s 10(10D) in A.Y. 2034-35, since the annual premium payable on the policy does not exceed ₹ 5,00,000 and also does not exceed 10% of actual capital sum assured.

Example 3

LIP	A
Date of issue	1.4.2023
Annual premium	6,00,000
Sum assured	60,00,000
Consideration received as on 01.11.2033 on maturity	70,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.	

Eligibility for exemption u/s 10(10D)

The consideration received would **not** be exempt u/s 10(10D) in A.Y. 2034-35 since the annual premium payable on the eligible LIP exceeds ₹ 5,00,000.

2. Where the assessee has received consideration, during the current P.Y., under more than one eligible LIP

Circumstance	Eligibility for exemption u/s 10(10D)
If the aggregate of the amount of premium payable on such eligible LIPs does not exceed ₹ 5,00,000 for any of the PYs during the term of such eligible LIPs and the annual premium ≤ 10% of actual capital sum assured	Such consideration would be eligible for exemption u/s 10(10D). [Refer Example 4 given below]
If the aggregate of the amount of premium payable on such eligible LIPs > ₹ 5,00,000 for any of the PYs during the term of such eligible LIP	Consideration in respect of any of those eligible LIPs whose aggregate amount of premium payable does not exceed ₹ 5,00,000 for any of the PYs during their term would be eligible for exemption u/s 10(10D), provided their annual premium ≤ 10% of actual capital sum assured. [Refer Examples 5, 6 and 7 given below]

Example 4

LIP	A	B
Date of issue	1.4.2023	1.4.2023
Annual premium	3,00,000	2,00,000
Sum assured	30,00,000	20,00,000
Consideration received as on 01.11.2033 on maturity	32,00,000	21,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.		

Eligibility for exemption u/s 10(10D)

In this case, the aggregate of the annual premium payable for LIP “A” and LIP “B” does not exceed ₹ 5,00,000 during the term of these policies.

Further, annual premium payable in respect of LIP “A” and LIP “B” does not exceed 10% of actual capital sum assured. Therefore, the consideration received under LIP “A” and “B” would be exempt u/s 10(10D) in A.Y. 2034-35

Example 5

LIP	A	B
Date of issue	1.4.2023	1.4.2023
Annual premium	4,50,000	5,50,000
Sum assured	45,00,000	55,00,000
Consideration received as on 01.11.2033 on maturity	52,00,000	60,00,000
Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34.		

Eligibility for exemption u/s 10(10D)

In this case, the aggregate of the annual premium payable for LIP "A" and LIP "B" exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIP "A" would be exempt u/s 10(10D) in A.Y. 2034-35, since its annual premium payable does not exceed ₹ 5,00,000 for any previous year during the term of the policy and also does not exceed 10% of actual capital sum assured.

Consequently, the consideration received under LIP "B" alone would not be exempt u/s 10(10D) in A.Y. 2034-35.

Example 6

LIP	A	B	C
Date of issue	1.4.2023	1.4.2023	1.4.2023
Annual premium	1,00,000	3,50,000	6,00,000
Sum assured	10,00,000	35,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	12,00,000	40,00,000	70,00,000

Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y. 2033-34.

Eligibility for exemption u/s 10(10D)

The aggregate of annual premium payable for LIP "A", LIP "B" and LIP "C" exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIPs "A" and "B" would be exempt u/s 10(10D) in A.Y. 2034-35, since aggregate of annual premium payable for these two policies does not exceed ₹ 5,00,000 for any previous year during the term of these two policies and annual premium payable in respect of these policies does not exceed 10% of actual capital sum assured.

Consequently, the consideration received under LIP "C" alone would not be exempt u/s 10(10D) in A.Y. 2034-35.

Example 7

LIP	X	A	B	C
Date of issue	1.4.2022	1.4.2023	1.4.2023	1.4.2023
Annual premium	5,50,000	1,00,000	3,50,000	6,00,000
Sum assured	55,00,000	10,00,000	35,00,000	60,00,000
Consideration received as on 01.11.2032 on maturity	62,00,000			
Consideration received as on 01.11.2033 on maturity		12,00,000	40,00,000	70,00,000

Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2033-34, except LIP X in P.Y. 2032-33.

Eligibility for exemption u/s 10(10D)

The consideration received under LIP "X" would be exempt u/s 10(10D) in A.Y. 2032-33, since annual premium does not exceed 10% of the actual capital sum assured. Moreover, as the policy has been

issued before 1.4.2023, limit of ₹ 5,00,000 on amount of premium payable is not applicable, since LIP “X” is not an eligible LIP.

The aggregate of annual premium payable for LIP “A”, LIP “B” and LIP “C” (being LIPs issued on or after 1.4.2023) exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIPs “A” and “B” would be exempt u/s 10(10D) in A.Y. 2034-35, since aggregate of annual premium payable for these two policies does not exceed ₹ 5,00,000 for any previous year during the term of these two policies and annual premium payable in respect of these policies does not exceed 10% of actual capital sum assured.

Consequently, the consideration received under LIP “C” alone would not be exempt u/s 10(10D) in A.Y. 2034-35.

Situation 2: Consideration has been received by the assessee under any one or more eligible LIPs (i.e., issued on or after 1.4.2023) during any P.Y. preceding the current P.Y. and it has been claimed to be exempt u/s 10(10D). Such eligible LIPs are referred as “Earlier Exempt Eligible LIPs (EEE LIPs)” in this paragraph and corresponding examples and reference to eligible LIPs shall not include EEE LIPs. The exemption u/s 10(10D) would be determined as under:

1. Where the assessee has received consideration, during the current P.Y., under one eligible LIP only

Circumstance	Eligibility for exemption u/s 10(10D)
If aggregate amount of premium payable on such eligible LIP and EEE LIPs does not exceed ₹ 5,00,000 for any of the PYs during the term of such eligible LIP and annual premium in respect of eligible LIP does not exceed 10% of actual capital sum assured.	Consideration under such eligible LIP would be eligible for exemption u/s 10(10D).
If aggregate amount of premium payable on such eligible LIP and EEE LIPs > ₹ 5,00,000 for any of the PYs during the term of such eligible LIP	Consideration under such eligible LIP would not be eligible for exemption u/s 10(10D).

2. Where the assessee has received consideration, during the current P.Y., under more than one eligible LIP

Circumstance	Eligibility for exemption u/s 10(10D)
If aggregate of the amount of premium payable on such eligible LIPs and EEE LIPs does not exceed ₹ 5,00,000 for any of the PYs during the term of such eligible LIPs and annual premium in respect of eligible LIPs also does not exceed 10% of actual capital sum assured.	Consideration received would be eligible for exemption under u/s 10(10D).
If aggregate of the amount of premium payable on such eligible LIPs and EEE LIPs > ₹ 5,00,000 for any of the PYs during the term of such eligible LIPs	Consideration in respect of any of those eligible LIPs (whose aggregate amount of premium along with the aggregate amount of premium of EEE LIPs does not exceed ₹ 5,00,000 for any of the PYs during their term) would be eligible for exemption u/s 10(10D). [Refer Examples 8, 9 and 10 given below]

Example 8

LIP	X	A	B	C
Date of issue	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	4,50,000	1,00,000	1,50,000	6,00,000
Sum assured	45,00,000	10,00,000	15,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	50,00,000			
Consideration received as on 01.11.2034 on maturity		12,00,000	18,00,000	70,00,000

Note - The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2034-35, except LIP X in P.Y. 2033-34.

Eligibility for exemption u/s 10(10D)

The consideration under LIP "X" would be exempt u/s 10(10D) in P.Y. 2033-34, since the annual premium does not exceed ₹ 5,00,000 and also does not exceed 10% of actual capital sum assured. In this case, the aggregate of the annual premium payable for LIP "A", LIP "B" and LIP "C" along with the premium for LIP "X" exceeds ₹ 5,00,000 during the term of these policies.

The aggregate of the annual premium payable for LIP "A" and the premium for LIP "X" also exceeds ₹ 5,00,000 during the term of these policies.

Consequently, the consideration received under LIP "A", LIP "B" and LIP "C" would not be exempt u/s 10(10D) in A.Y. 2035-36.

Example 9

LIP	X	A	B	C
Date of issue	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	2,50,000	2,00,000	2,50,000	6,00,000
Sum assured	25,00,000	20,00,000	25,00,000	60,00,000
Consideration received as on 01.11.2033 on maturity	30,00,000			
Consideration received as on 01.11.2034 on maturity		24,00,000	38,00,000	70,00,000

Note - The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2034-35, except LIP X in P.Y. 2033-34.

Eligibility for exemption u/s 10(10D)

The consideration under LIP "X" would be exempt u/s 10(10D) in P.Y. 2033-34, since the annual premium does not exceed ₹ 5,00,000 and also does not exceed 10% of actual capital sum assured. In this case, the aggregate of the annual premium payable for LIP "A", LIP "B" and LIP "C" along with the premium for LIP "X" exceeds ₹ 5,00,000 during the term of these policies.

However, the consideration received under LIPs "A" or "B" (any one) can be claimed as exempt u/s 10(10D) in A.Y. 2035-36.

If the consideration received under LIP "A" is claimed to be exempt as aggregate of the annual premium payable for LIP "X" and "A" did not exceed ₹ 5,00,000 for any of the P.Ys., the consideration received under LIP "B" would not be exempt.

If the consideration received under LIP "B" is claimed to be exempt as aggregate of the annual premium payable for LIP "X" and "B" did not exceed ₹ 5,00,000 for any of the PYs., the consideration received under LIP "A" would not be exempt. Exemption for consideration received under LIP "B" is preferred as it is more beneficial to the assessee.

Alternative treatment: If the consideration under LIP "X" was not claimed to be exempt u/s 10(10D) in A.Y. 2034-35 by the assessee, then, the consideration received under LIP "A" and LIP "B" would be exempt u/s 10(10D) in A.Y. 2035-36 since the aggregate of the annual premium payable for the LIPs "A" and "B" together did not exceed ₹ 5,00,000 for any of the previous years during the term of these two policies. However, the most beneficial treatment is to claim LIP "X" and "B" as exempt.

It may be noted that in every case, the consideration received for LIP "C" would not be exempt u/s 10(10D).

Example 10

LIP	X	Y	A	B	C
Date of issue	1.4.2023	1.4.2023	1.4.2024	1.4.2024	1.4.2024
Annual premium	2,00,000	2,00,000	2,00,000	3,00,000	6,00,000
Sum assured	20,00,000	20,00,000	20,00,000	30,00,000	60,00,000
Consideration received as on 01.7.2033 on maturity	12,00,000				
Consideration received as on 01.11.2034 on maturity		24,00,000			
Consideration received as on 01.11.2035 on maturity			24,00,000	36,00,000	70,00,000

Note – The assessee did not receive any consideration under any other eligible LIPs in earlier P.Y. preceding the P.Y.2035-36, except LIP "X" and "Y".

Eligibility for exemption u/s 10(10D)

The consideration under LIP "X" would be exempt u/s 10(10D) in A.Y.2034-35, since the annual premium does not exceed ₹ 5,00,000 and also does not exceed 10% of actual capital sum assured.

The consideration received under LIP "Y" would be exempt u/s 10(10D) in A.Y. 2035 -36, since the aggregate of annual premium payable for LIP "X" and "Y" does not exceed ₹ 5,00,000 and annual premium payable for LIP "Y" does not exceed 10% of actual capital sum assured.

The consideration received under LIPs "A", ULIP "B" and ULIP "C" would not be exempt u/s 10(10D) in A.Y. 2036-37, since aggregate of annual premium payable for these three policies and LIP "X" and "Y" exceeds ₹ 5,00,000.

Alternative treatment: If the consideration on surrender under LIP "X" was not claimed to be exempt u/s 10(10D) in A.Y. 2034-35 by the assessee, then the consideration received under LIP "Y" would be exempt and the consideration received under LIP "A" or LIP "B" (any one) can be exempt u/s 10(10D) in A.Y. 2036-37. If the consideration received under LIP "A" is claimed to be exempt, as aggregate of the annual premium payable for LIP "Y" and "A" did not exceed ₹ 5,00,000 for any of the PYs., the consideration received under LIP "B" would not be exempt.

If the consideration received under LIP "B" is claimed to be exempt as aggregate of the annual premium payable for LIP "Y" and "B" did not exceed ₹ 5,00,000 for any of the PYs., the consideration received under LIP "A" would not be exempt. Exemption for consideration received under LIP "B" is preferred as it is more beneficial to the assessee.

If the consideration on surrender of LIP "X" and on maturity of LIP "Y" were not claimed to be exempt under section 10(10D) in A.Y.2034-35 and A.Y.2035-36, respectively, then consideration received

under both LIP "A" and LIP "B" would be exempt in A.Y.2036-37 (being LIPs issued on or after 1.4.2023, whose aggregate consideration does not exceed ₹ 5,00,000).

It may be noted that, in every case, consideration received under LIP "C" would not be exempt under section 10(10D).

Clarification on GST Component: It is also clarified by the CBDT that the premium payable / aggregate premium payable for a life insurance policy/policies, other than a ULIP, issued on or after 1.4.2023, for any previous year, would be exclusive of the amount of GST payable on such premium.

Clarification on premium of Term life insurance policy: It is further clarified by the CBDT that the limit of ₹ 5,00,000 of amount of premium payable would not be applicable in case of a term life insurance policy i.e. where sum under a life insurance policy is only paid to the nominee in case of the death of the person insured during the term of the policy and no amount is paid to anyone if the insured person survives the policy tenure.

Hence, any sum received under a term insurance policy shall continue to be exempt under section 10(10D), irrespective of the amount of the premium payable in respect of such policy. Further the premium paid or such policies would not be counted for checking the limit of ₹ 5,00,000 of amount of premium payable.

Manner of computation of taxable income from LIP under section 56(2)(xiii) [Notification No. 61/2023 dated 16.08.2023]

Where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a life insurance policy, other than the sum

- (i) received under a ULIP (ii) 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" under section 56(2)(xiii).

Accordingly, the CBDT has, vide this notification, inserted Rule 11UACA to compute the income chargeable to tax under section 56(2)(xiii). Where any person receives at any time during any previous year any sum under such LIP, then, the income chargeable to tax under section 56(2)(xiii) during the previous year in which such sum is received has to be computed in the following manner -

	Situation	Income chargeable to tax during the previous year in which such sum is received
(i)	where the sum is received for the first time under the LIP during the previous year (first previous year)	A-B, where A = the sum or aggregate of sum received under the LIP during the first previous year; and B = the aggregate of the premium paid during the term of the LIP till the date of receipt of the sum in the first previous year that has not been claimed as deduction under any other provision of the Act.
(ii)	where the sum is received under the LIP during the previous year subsequent to the first previous year (subsequent previous year)	C-D, where C = the sum or aggregate of sum received under the LIP during the subsequent previous year; and D = the aggregate of the premium paid during the term of the LIP till the date of receipt of the sum in the subsequent previous year not being premium which - (a) has been claimed as deduction under any other provision of the Act; or (b) is included in "B" or "D" in any of the previous year(s).

“Sum received under a LIP” means any amount, by whatever name called, received under such policy which is not exempt under section 10(10D), other than the sum –

- (a) received under a ULIP; or
- (b) received under a Keyman insurance policy

Income from letting out of plant & machinery or Furniture [Section 56(2)(ii)]

Income from machinery, plant or furniture belonging to the assessee and let on hire, if not charged under the head business, is chargeable to income-tax under the head “Income from Other Sources”. Depreciation is also allowed as deduction.

Income from composite letting of plant & machinery, furniture with building [Section 56(2)(iii)]

Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, is chargeable to income-tax under the head “Income from Other Sources”. Depreciation is also allowed as deduction. (Composite rent inseparable)

Dividend Income

Dividend income from Domestic as well as from Foreign company shall be taxable in the hands of the shareholder.

In case of dividend income, Assessee shall be allowed deduction only for the interest expenses and that too shall also be restricted to 20% of the dividend income.

■ MEANING OF DIVIDEND [SECTION 2(22)]

Dividend is part of the profit distributed by company to its shareholder. It also includes deemed dividend under section 2(22)(a), (b), (c), (d), (e).

1. Distribution in cash or as assets [Section 2(22)(a)]

If any company has distributed any Amount to its shareholders either in cash or in kind, it will be considered to be dividend but only to the extent of accumulated profits whether capitalized or not.

Example: ABC Ltd. has share capital of ₹ 35 lakhs. The company has general reserve of ₹ 25 lakhs and has distributed Silver coins to shareholders on the occasion of Diwali. Determine Amount of dividend u/s 2(22)(a) if FMV of silver coins are:

- (a) 20 Lakh
- (b) 25 Lakh
- (c) 30 Lakh

2. Distribution of Debentures / Deposit certificates to shareholders and bonus shares to preference shareholders [Section 2(22)(b)]

If any company has distributed Debentures / Deposit certificates to shareholders or bonus shares to preference shareholders it will be considered to be dividend but only to the extent of accumulated profits whether capitalized or not.

Example: Mr. Ram is holding 100 preference share in A Ltd. The company has issued him 1000 bonus shares and their market value is ₹ 12,000. In this case, it will be considered to be dividend but only to the extent of accumulated profits whether capitalized or not.

3. Distribution on liquidation Section 2(22)(c)

If any company has distributed any Amount to its shareholders in connection with its liquidation, it will be considered to be dividend but only to the extent of accumulated profits and any excess over it shall be considered to be full value of consideration as per section 46 and capital gains shall be computed accordingly.

Example: ABC Ltd. has 1,00,000 equity shares of ₹ 10 each and the company goes into liquidation on 31.07.2022 and company has net distributable Amount of ₹ 60 lakhs after discharging all the liabilities including income tax and additional income tax and it includes accumulated profits of ₹ 20 lakhs and the entire Amount was distributed among the shareholders and Mr. X is holding 10,000 equity shares which were purchased by him on 01.03.2022 for ₹ 1,10,000. Show tax implication.

4. Distribution on reduction of share capital [Section 2(22)(d)]

Any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits e.g. Mr. X is holding 100 shares in ABC Ltd. of ₹ 10 each and company has paid ₹ 5 per share in connection with reduction of share capital, in this case Amount (₹) so received shall be considered to be dividend but only to the extent of accumulated profits including capitalized profits.

5. Loan and advance by a closely held company [Section 2(22)(e)]

If any company in which public are not substantially interested has given any loan or advance to an equity shareholder who is holding not less than 10% of the voting power of the company, in such cases such loan or advance shall be considered to be dividend in the hands of such shareholder but only to the extent of accumulated profits excluding capitalized profits.

Similarly, If the loan or advance has been given to any concern in which such a shareholder has substantial interest, such loan or advance shall also be considered to be dividend in the hands of such shareholder but only to the extent of accumulated profits excluding capitalized profits.

If the loan or advance has been given to any person on behalf of such a shareholder, it will also be considered to be dividend.

If any such company has the business of lending as substantial part of its business, in such cases the above provisions shall not apply

Example: Mr. X holding 28% of equity shares in a company took a loan of ₹ 5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹ 4,00,000. The company is engaged in some manufacturing activity.

- (i) Is the Amount of loan taxable as deemed dividend in the hands of Mr. X, if the company is a company in which the public are substantially interested?
- (ii) What would be your answer, if the lending company is a private limited company (i.e.) a company in which the public are not substantially interested?

Interest on securities [Section 56(2)(id)]

Interest on securities is chargeable to tax on due basis. Investor in security is eligible to receive dividend on pre-specified date (commonly known as Record date), person holding the security on record date is eligible to receive full interest due on that date irrespective of his/her period of holding of that security.

For example X Ltd pays interest on debenture on half yearly basis on 30th September and 31st march every year. Mr. Ram purchased debentures from stock market on 1st September, in this case he will going to receive 6 month interest on 30th September. However if it happens to be fresh issue (i.e. debentures are purchased from company and not from stock market), then Mr. Ram will receive interest for one month only.

Following interest are exempt from tax

Income Under the Head Other

However, certain interest income arising to certain persons would be exempt under section 10(15), for example,:

- (i) Income by way of interest, premium on redemption or other payment on notified securities, bonds, annuity certificates or other savings certificates is exempt subject to such conditions and limits as may be specified in the notification.
- It may be noted that interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any assessment year only to the extent of:
- (a) ₹ 3,500 in case of an individual account.
- (b) ₹ 7,000 in case of a joint account.
- (ii) Interest on Gold Deposit Bond issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government.
- (iii) Interest on bonds, issued by-
- (a) a local authority; or
- (b) a State Pooled Finance Entity
- and specified by the Central Government by notification in the Official Gazette.
- “State Pooled Finance Entity” means such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development.

Consideration received in excess of FMV of shares issued by a closely held co. [Section 56(2)(viib)]

- (a) Section 56(2)(viib) brings to tax the consideration received from a resident or non resident person by a company, other than a company in which public are substantially interested, which is in excess of the fair market value (FMV) of shares.
- (b) Such excess is to be treated as the income of a closely held company taxable under section 56(2) under the head “Income from Other Sources”, in cases where consideration received for issue of shares exceeds the face value of shares i.e. where shares are issued at a premium i.e., (Issue price of share - FMV of such share) × No. of shares

Co.	No. of shares	Face value (₹)	FMV (₹)	Issue price (₹)
A (P) Ltd.	10,000	100	120	130
B (P) Ltd.	20,000	100	120	110
C (P) Ltd.	30,000	100	90	98
D (P) Ltd.	40,000	100	90	110

Income from Owning and Maintaining of Race Horses

If any person has income from owning and maintaining of race horses, such income shall be taxable under the head other sources and income shall be computed in the normal manner and will be taxed at the normal rates.

Income from owning and maintaining of any other animal

If the assessee is engaged in the business of owning and maintaining any other animal, his income shall be computed under the head business/profession because section 56 includes only income from owning and maintaining race horses. E.g. Mr. X has income from owning and maintaining of race camels, in this case income shall be taxable under the head business/profession.

Interest or dividend income from UTI or Mutual Funds

If any person has received any interest or dividend from the UTI or Mutual Fund notified under section 10(23D), such income is taxable in hands of shareholder.

Books of Accounts [Section 145]

- A person is not required to maintain any books of accounts under the head salary or house property or capital gains and income has to be computed as per the procedure given in the relevant head.
- Books of accounts are required under the head Business/Profession and under the head Other Sources.
- An assessee has the option to maintain books of accounts either on the basis of mercantile system of accounting or on cash basis.
- Any system of accounting once adopted has to be followed consistently, however it can be changed with the permission of Assessing Officer.

Forfeiture of Advance Money

If any person has entered into an agreement to sell any capital asset and some advance money was received but the buyer refused to purchase the capital asset and advance money was forfeited on or after 1/4/2014, in such cases the Amount so forfeited shall be considered to be income under the head Other Sources.

Example: Mr. Ram has entered into agreement to sell a house property for ₹ 60 lakh to Mr. Shyam and advance money of ₹ 6,00,000 was received but Mr. shyam refused to purchase the property and advance money was forfeited, in this case ₹ 6,00,000 shall be considered to be income of Mr. Ram under the head Other Sources.

Bond Washing Transactions [Section 94]

If any person has transferred any security in the name of any other person sometimes before the due date of interest or dividend and has reacquired it sometimes after the due date in order to evade tax on interest or dividend, it will be considered to be a bond washing transaction and income shall be considered to be of the person who has originally transferred the securities.

Mr. Bhatia has purchased 10% debentures of ₹ 10,00,000 in A Ltd. on 01.04.2020 and interest is due on half yearly basis i.e. on 30th Sept and 31st March of every year. If Mr. Bhatia has transferred this security just before the 30 sep in the name of his friend Mr. Arora through a fictitious sale transaction and has re-transferred it in his name after the 30 Sep through a fictitious purchase transaction so that he can evade tax, it will be called bond washing transaction and in such cases interest income of ₹ 50,000 is taxable in the hands of Mr. Bhatia.

Other incomes charged under the head 'other sources'

1. **Director's sitting fees, commission etc:** Fees for attending the Board Meeting is always charged under the head Income from Other Sources. However other remuneration or commission may be charged under the head Income from Salary if directors are employed as the employee of the Company. However if the Directors are not appointed as the employee then any remuneration received by them shall be charged under the head Income from Other Sources. Deduction u/s 57(iii) is allowed : Any revenue expenditure incurred for the purpose of earning such income is allowed as deduction.
2. **Examinership remuneration:** The remuneration for checking the answer sheet is charged under the head Income from Other Sources. Deduction u/s 57(iii) is allowed.
3. **Remuneration received by Members of Parliament:** The remuneration is charged under the head Income from Other Sources since MPs or MLAs are not the servant of the Government, they are the representative of the public. Deduction u/s 57(iii) is allowed.

4. **Income from Subletting:** It is charged under the head Income from Other Sources since the assessee who has further let out the building is not the owner of the building. Deduction of rent paid to the owner is allowed as deduction u/s 57(iii).
5. **Rent from a vacant piece of plot of land:** It is charged under the head Income from Other Sources since there doesn't exist a building. Deduction u/s 57(iii) is allowed.
6. **Interest on Bank deposits:** It is charged under the head Income from Other Sources if account is held as investment. Deduction u/s 57(iii) is allowed. Also deduction u/s 80TTA is allowed on interest on saving account.
7. **Interest on Deposit with companies :** It is charged under the head Income from Other Sources if account is held as investment. Deduction u/s 57(iii) is allowed. 80TTA not allowed.
7. **Insurance commission:** It is charged under the head Income from Other Sources. Deduction u/s 57(iii) is allowed.
8. **Agricultural income from agricultural land situated outside India:** It is charged under the head Income from Other Sources. However if there is an agricultural income from a land situated in India then such income is exempt under section 10(1). Deduction u/s 57(iii) is allowed.
9. **Royalty income:** It is charged under the head Income from Other Sources. It is also for eligible for 80QQB or 80RRB deductions if certain conditions are satisfied. Deduction u/s 57(iii) is allowed.
10. **Interest on delayed refund of income tax:** It is charged under the head Income from Other Sources. However refund of tax is not taxable since it is not an income. Deduction u/s 57(iii) is allowed.

Deductions allowable under [Section 57]

While computing income under the head other sources, Revenue expenditure incurred in connection with earning of such income shall be allowed as deduction. However, in case of dividend income, deduction shall be allowed only for the interest expenses and that too shall also be restricted to 20% of the dividend income.

Amounts not deductible [Section 58]

No deduction shall be made in computing the "Income from other sources" of an assessee in respect of the following items of expenses:

- (i) In the case of any assessee:
 - (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.
- (ii) Any expenditure in respect of which a payment is made to a related person: In addition to these disallowances, section 58(2) specifically provides that the disallowance of 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.

Disallowance of payment or aggregate of payments exceeding ₹10,000 made to a person during a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM Aadhar Pay covered by section 40A will be applicable to the computation of income under the head 'Income from other sources' as well.
- (iii) Disallowance of 30% of expenditure: 30% of expenditure shall not be allowed, in respect of a sum which is payable to a resident and on which tax is deductible at source, if

- ♦ such tax has not been deducted or;
- ♦ such tax after deduction has not been paid on or before the due date of return specified in section 139(1).

(iv) No deduction in respect of any expenditure incurred in connection with casual income: No deduction in respect of any expenditure or allowance in connection with income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever shall be allowed in computing the said income.

The prohibition will not, however, apply in respect of the income of an assessee, being the owner of race horses, from the activity of owning and maintaining such horses. In respect of the activity of owning and maintaining race horses, expenses incurred shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward in accordance with the provisions of section 74A.

Profits chargeable to tax [Section 59]

If the assessee has claimed any expenditure while computing income and subsequently he has recovered the same Amount, then Amount so recovered shall be considered to be income of the year in which Amount has been recovered.

■ METHOD OF ACCOUNTING [SECTION 145]

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

Exemptions (Section 101)

Section	Provision
10(4)(ii)	Income by way of interest on moneys standing to his credit in a Non-resident (External) Account (NRE A/c) is exempt in the hands of an individual, being a person resident outside India as per the FEMA, 1999 or in the hands of an individual who has been permitted by the RBI to maintain such account.
10(10BC)	Compensation received or receivable from the Central Government State Government or local authority by an individual or his legal heir on account of any disaster is exempt except to the extent of loss or damage allowed as deduction under the Act.
10(16)	The value of scholarship granted to meet the cost of education would be exempt from tax in the hands of the recipient irrespective of the amount or source of scholarship.
10(17)	Daily allowance and Constituency allowance received by any Member of Parliament or of State Legislatures is exempt
10(17A)	Payment, whether in cash or kind, in pursuance of an award instituted in public interest by the Govt or reward by the Govt for approved purposes is exempt.
10(10A)	Any commuted pension received by an individual from a fund set up by LIC of India or any other insurer under a pension scheme, approved by Controller of Insurance or IRDA of India will be exempted.

PRACTICE QUESTIONS

1. Mr Ram furnishes the following particulars of his income for the relevant PY.	
(a) Interest on securities (held as investment) - collection charges ₹ 200.	5,000
(b) Dividend from a foreign company - collection charges ₹ 9,000.	21,000
(c) Dividend from an Indian company - collection charges ₹ 100.	2,000
(d) Family pension (Per Month)	6,000
(e) Lottery income (Cost of lottery ticket ₹ 3,000)	7,000
(f) Refund of income tax including interest of ₹ 200	1,200
(g) Board sitting fees at Mahe (₹ 2,000 incurred for travelling to Mahe)	10,000
(h) Gift received from a friend on occasion of his first wedding anniversary	51,000

Find out the income is chargeable under the head 'Income from Other Sources.

2. From the following particulars, compute the gross total income of Radha:
- (a) She is employed on a part time basis in a fashion designing firm on a salary of ₹ 1,00,000.
 - (b) She has a house property situated in Delhi which has been let out at a rent of ₹ 3,000 p.m.
 - (c) She holds the following shares and securities:
 - ♦ 1,000 Equity shares in X Ltd. of ₹ 10 each, bought @ ₹ 40 per share.
 - ♦ ₹ 20,000, 8% ICICI Bonds.
 - ♦ 1,000, 12% Preference shares of ₹ 100 each in Rosa Ltd. a foreign company. Dividend received on 25th March, 2024.
 - ♦ X Ltd. an Indian company declared 18% equity dividend on 25th March, 2024, but the cheque was received subsequent to 31st March, 2024. Other interest and dividends were, however, duly received.
 - (d) She had set up a factory with building, plant, machinery, furniture, etc. However, she decided to give it on hire at a composite rent of ₹ 12,000 p.m. During the year, she spent ₹ ₹ 15,000 for repairs and ₹ 5,000 for insurance of the factory. The depreciation allowable is ₹ 50,000.
 - (e) She had borrowed ₹ 5,00,000 interest thereon. The Amount was spent for marriage of her brother.

3. Discuss the taxability of the following receipts in the hands of Mr. Sanjay Kamboj under the Income Tax Act, 1961:

- (i) ₹ 51,000 received from his sister living in US on 1-6-2023.
- (ii) Received a car from his friend on payment of ₹ 2,50,000 the FMV of which was ₹ 5,50,000. Provisions of taxability or Non-taxability must be discussed.

Sol. (i) As per section 56(2), Gift received from relative is not taxable. In the given case, Sister is covered under the definition of relative and Gift received from her is not taxable.

(ii) As per section 56(2), Gift in Kind exceeding ₹ 50,000 received from non - relative is taxable but in the given case Car is not covered under the definition of Gift in Kind hence Car received from non-relative is not taxable.

4. Discuss the taxability or otherwise in the hands of the recipients, as per the provisions of the Income-tax Act, 1961:

- (i) Mr. N, a member of his father's HUF, transferred a house property to the HUF without consideration. The value of the house is ₹ 10 lacs as per the Registrar of stamp duty.

(ii) Mr. Kumar gifted a car to his sister's son (Sunil) for achieving good marks in CA Final exam. The fair market value of the car is ₹ 5,00,000.

Sol. (i) Non-Taxable: As per sec 56(2)(x), if HUF has received any Gift from its member, it will be exempt from Income tax. In the given case, HUF has received a Gift of house property from its member Mr. N hence it will be exempt from income tax and what is the value of house property shall not matter.

(ii) Non-Taxable: If any person has received a gift from brother of mother, it will be covered in the definition of relative and shall be exempt from income tax further if a gift is taxable it should be covered in the definition of property as given u/s 56(2)(x). In the given case gift is from relative and further gift is of motor car which is not covered in the definition of property hence it will be exempt from Income Tax.

5. State whether the following are chargeable to tax and the amount liable to tax.

A sum of ₹ 1,20,000 was received as gift from non-relatives by Mr. X on the occasion of the marriage of his son Mr. Y.

Sol. As per section 56(2)(x), if any gift has been received on the occasion of marriage, it will be exempt from income tax but if gift has been received by the parents of the person getting married, such gift shall be taxable hence in this case gift received by Mr. X is taxable because marriage is that of his son Mr. Y.

6. The following details have been furnished by Mrs. X, pertaining to the year:

(i) Cash gift of ₹ 51,000 received from her friend on the occasion of her "Shastiaptha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.

(ii) On the above occasion, a diamond necklace worth ₹ 2 lacs was presented by her sister living in Dubai.

(iii) When she celebrated her daughter's wedding on 21.02.2024, her friend assigned in Mrs. X's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was ₹ 51,000.

(iv) She has short term capital gains under section 111A ₹ 10 lakhs.

Compute total income and tax liability.

Sol. (i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of ₹ 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. X.

(ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister is not taxable under section 56(2)(x), even though jewellery falls within the definition of "property".

(iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds ₹ 50,000 in a year. In the given case, as FD amount exceeds 50,000, it shall be taxable u/h other sources

Particulars	₹
Income under the head Other Sources	1,02,000
Income under the head Capital Gains (STCG u/s 111A)	10,00,000
Gross Total Income	11,02,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	11,02,000.00
Computation of Tax Liability	
Tax on ₹ 1,02,000 at slab rate	Nil
Tax on ₹ 8,52,000 (₹ 10,00,000 - ₹ 1,48,000) @ 15%	1,27,800.00
Add: HEC @ 4%	5,112.00
Tax Liability	1,32,912.00
Rounded off u/s 288B	1,32,910.00

7. Mrs. X has received the following gifts during previous year 2023-24.

- On the occasion of her marriage on 14.08.2023, she has received ₹ 90,000 as gift out of which ₹ 70,000 are from relatives and balance from friends.
- On 12.09.2023, she has received gift of ₹ 18,000 from cousin of her mother.
- A cell phone of ₹ 71,000 is gifted by her employer on 15.08.2023.
- She gets a gift of ₹ 25,000 from the elder brother of her husband's grandfather on 25.10.2023.
- She has received a gift of ₹ 2,000 from her friend on 14.04.2023.
- She has won ₹ 4 lakh from a game show on electronic media.

Compute her tax liability.

Sol. Computation of taxable income of Mrs. X from gifts

Particulars	Taxable amount	Reason for taxability or otherwise of each gift
Relatives and friends	Nil	Gifts received on the occasion of marriage are not taxable.
Cousin of Mrs. X's mother	18,000	Cousin of Mrs. X's mother is not a relative. Hence, the gifts
Elder brother of husband's grandfather	25,000	Brother of husband's grandfather is not a relative. Hence, the gift is taxable.
Friend	2,000	Gift from friend is taxable.
Aggregate value of gifts	45,000	

Since the aggregate value of gifts received by Mrs. X during the previous year 2023-24 does not exceed ₹ 50,000, the same is not chargeable to tax under section 56(2)(x) of the Income-Tax Act, 1961.

Gift received from the employer in kind upto ₹ 5,000 is exempt from income tax but excess over it is taxable hence in this case taxable amount of gift shall be ₹ 66,000 (71,000 - 5,000) and it will be taxable under the head Salary.

Gross Salary	66,000
Less: Standard deduction u/s 16(<i>ia</i>)	(50,000)
Income under the head Salary	16,000
Income under the head Other Sources	4,00,000
Gross Total Income	4,16,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	4,16,000
Computation of Tax Liability	
Tax on ₹ 16,000 at slab rate	Nil
Tax on ₹ 4,00,000 @ 30%	1,20,000
Less: Rebate u/s 87A	(12,500)
Tax before HEC	1,07,500
Add: HEC @ 4%	4,300
Tax Liability	1,11,800

8. Mr. Jagdish, aged 61 years, has set-up his business in Thailand and is residing in Thailand since last 20 years. He owns a house property in Bangkok, half of which is used as his residence and half is given on rent (such rent received, converted in INR is ₹ 6,00,000). The annual value of the house in Thailand is ₹ 50,00,000 i.e. converted value in INR. He purchased a flat in Pune during F.Y. 2019-20, which has been given on monthly rent of ₹ 27,500 since 01.07.2022. The annual property tax of Pune flat is ₹ 40,000 which is paid by Mr. Jagdish whenever he comes to India. Mr. Jagdish last visited India in July 2022. He has taken a loan Union Bank of India for purchase of the Pune flat amounting to ₹ 15,00,000. The interest on such loan for the F.Y. 2023-24 was ₹ 84,000. However, interest for March 2024 quarter has not yet been paid by Mr. Jagdish. He had a house in Jaipur which was sold in May 2019. In respect of this house he received amount of rent of ₹ 96,000 in Feb. 2024 (not taxed earlier).

He also derived some other incomes during F.Y. 2023-24 which are as follows.

- Profit from business in Thailand ₹ 2,75,000
- Interest on bonds of a Japanese Co. ₹ 45,000 out of which 50% was received in India.
- Income from Apple Orchard in Nepal given on contract and the yearly contract fee of ₹ 5,00,000, for F.Y. 2023-24 was deposited directly by the contractor in Kathmandu branch of Union Bank of India in Mr. Jagdish's bank account maintained with Union Bank of India's Pune Branch.

Compute the total income of Mr. Jagdish for Assessment Year 2024-25 chargeable to income tax in India.

Sol. Computation of total income of Mr. Jagdish for the A.Y. 2024-25

Stay in India for a minimum period of 182 days in the relevant previous year or, in the alternative, 60 days in the relevant previous year and 365 days in the four immediately preceding previous years is required to qualify as a resident. In this case, since Mr. Jagdish has not visited India at any time during the P.Y.2023-24, he would be a non-resident for that year.

Income under the head house property	
Flat in pune	
GAV (Rent received/receivable) (27,500 × 12)	3,30,000
Less: Municipal tax paid	(Nil)
NAV	3,30,000
Less: Standard deduction u/s 24(a) @ 30%	(99,000)
Less: interest on loan u/s 24(b)	(84,000)
Income from flat in pune	1,47,000
Arrears of rent (96,000-28,800)	67,200
Income from house property	2,14,200
Income from other sources	
Interest on bonds (50% received in India)	22,500
Gross total Income	
Income under the head house property	2,14,200
Income under the head other sources	22,500
Gross Total income	2,36,700
Less: Deductions u/s 80C to 80U	Nil
Total Income	2,36,700

Notes:

- Rent from Bangkok house property is assumed to be received in Bangkok.
 - Municipal tax paid in 19-20 and not paid in 20-21 hence not deducted from GAV.
 - Income from apple orchid is received in Nepal as deposited in Nepal hence not taxable in India in case of NR. Student can solve the answer by assuming received in India
9. Mr. Mahadev, a noted bhajan singer of Rajasthan and his wife Mrs. Dariya furnish the following information

	₹
Income of Mr. Mahadev- professional bhajan singer (computed)	5,65,000
Income under the head salary of Mrs. Dariya (computed)	3,80,000
Loan received by Mrs. Dariya from Ramu & Jay (Pvt) Ltd. (Mrs. Dariya holds 35% shares of the Co. has incurred losses since its inception 2 years back)	2,50,000
Income of their minor son Golu winning signing reality show on T.V.	2,50,000
Cash gift received by Golu from friend of Mr. Mahadev on winning the show	21,000
Interest income received by minor married daughter Gudia from deposit with Ramu & Jay Pvt Ltd.	40,000

Compute total taxable income of Mr. Mahadev & Mrs. Dariya

Sol. Computation of Taxable income of Mr. Mahadev

Income under the head business profession	
Professional income (computed)	5,65,000
Income under the head other sources	
Interest income of daughter Gudia	40,000
Less: exemption u/s 10(32)	(1,500)
Income under the head other sources	38,500
Gross Total Income	6,03,500
Less: Deduction u/s 80C to 80U	Nil
Total Income	6,03,500

Computation of Taxable income of Mrs. Dariya

Income under the head salary (computed)	3,80,000
Gross Total Income	3,80,000
Less: Deduction u/s 80C to 80U	Nil
Total Income	3,80,000

Notes:

1. Income of Minor shall be clubbed in the income of parents who have higher income before clubbing the income of minor. In the given case income of father is greater than mother's income hence amount shall be clubbed in the income of Father.
 2. Loan amount would not be considered as deemed dividend u/s 2(22)(e) as company does not have accumulated profits.
 3. Income from skill and talent shall not be clubbed in the income of the parents and shall be taxable in the hands of children itself.
 4. As per section 56(2)(x), Gift shall be taxable if amount received during the year exceed 50,000 but in the given case, cash gift received is less than 50,000 hence nothing shall be clubbed in the hands of the parent.
10. XYZ Ltd. A domestic company, declared dividend of ₹ 170 lakh for the Financial Year 2022-23 and distributed the same on 31-07-2023. Mr. A holding 10% share in XYZ Ltd. received dividend of ₹ 17 lakh in July, 2023. Mr. B holding 5 % share in XYZ Ltd. received dividend of ₹ 8.5 lakh in July 2023.

Discuss the tax liabilities in the hands of Mr. A and Mr. B assuming that Mr. A and Mr. B have not received dividend from any other domestic company during the year.

Sol.

Tax Liability of Mr. A	
Dividend received	17,00,000
Income under the head Other Sources	17,00,000
Total Income	17,00,000
Computation of Tax Liability	
Tax on ₹ 17,00,000 at slab rate	3,22,500
Add: HEC @ 4%	12,900
Tax Liability	3,35,400

Tax Liability of Mr. B	
Dividend received	8,50,000
Income under the head Other Sources	8,50,000
Total Income	8,50,000
Computation of Tax Liability	
Tax on ₹ 8,50,000 at slab rate	82,500
Add: HEC @ 4%	3,300
Tax Liability	85,800

11. Mr. Rakesh has 15% share holding in RSL (P) Ltd and has also 50% share in Rakesh & Sons, a partnership firm.

The accumulated profit of RSL (P) Ltd. is 20 Lakh. Rakesh & Sons had taken a loan of ₹ 25 Lakh, from RSL Ltd. Explain, whether the above loan is treated as dividend, as per the provision of Income Tax Act, 1961.

Sol. As per Section 2(22)(e), If the loan or advance has been given to any concern in which shareholder has substantial interest, such loan or advance shall be considered to be dividend in the hands of such concern but only to the extent of accumulated profits excluding capitalized profits.

In this case dividend in the hands of the shareholder is nil and in hands of the firm are ₹ 20 lakhs.

12. State with reasons whether the following receipts are taxable or not under the provisions of Income-tax Act, 1961?

Mr. Suman received an advance of ₹ 3 lakhs on 06-06-2023 to transfer his residential house property. Since the transfer was not effected during the previous year due to failure in negotiations, he deducted the advance money forfeited from the cost of acquisition of the property.

Sol. As per section 56, if any person has entered into an agreement to sell any capital asset and some advance money was received but the buyer refused to purchase the capital asset and advance money was forfeited, in such cases the amount so forfeited shall be considered to be income under the head Other Sources. So Forfeiture of advance money shall be considered as income from other source and shall not be deducted from cost of acquisition of the property.

13. Discuss the taxability or otherwise in the hands of the recipients, as per the provisions of the Income-tax Act, 1961:

(i) ABC Private Limited, a closely held company, issued 10,000 share at ₹ 130 per share. (The face value of the share is ₹ 100 per share and the fair market value of the share is ₹ 120 per share).

(ii) Mr. A received an advance of ₹ 50,000 on 01.09.2023 against the sale of his house. However, due to non-payment of installment in time, the contract has cancelled and the amount of ₹ 50,000 was forfeited.

Sol. (i) **Taxable:** As per section 56(2)(viib), If any closely held company receives any consideration for issue of shares that exceeds the face value of shares then the aggregate consideration received as exceeds the fair market value of shares is considered as income under the other sources. In the given case, ABC Private Ltd. issued shares at a price which exceeds the face value of shares. So the taxable amount shall be ₹ 1,00,000 (10,000 shares × (₹ 130 - ₹ 120))

(ii) **Taxable:** If any person has entered into an agreement to sell any capital asset and some advance money was received but the buyer refused to purchase the capital asset and advance money was forfeited, in such cases the amount so forfeited shall be taxable u/h other sources in the year in which amount is forefeited.

Under the Income-tax Act, 1961, an assessee is generally taxed in respect of his own income. However, there are certain cases where an assessee has to pay tax in respect of income of another person. The provisions for the same are contained in sections 60 to 64 of the Act. These provisions have been enacted to counteract the tendency on the part of the tax-payers to dispose of their property or transfer their income in such a way that their tax liability can be avoided or reduced.

Transfer of income without transferring the asset [Section 60]

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.

Eg. Mr. A has two house and each house is let out for ₹ 10 lakh p.a. He has transferred income of one of the house to his wife Mrs. A. In this case, clubbing provision shall be applicable and income shall be taxable in the hands of Mr. A.

Transfer of asset through revocable transfer [Section 61]

If any person has transferred any asset through revocable transfer, income from that asset shall be clubbed in the income of transferor.

Meaning of revocable transfer [Section 63]

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.

Mr. Ram has transferred one house to Mr. Shyam with the condition that the house can be taken back by him at any time. In this case, clubbing provision shall be applicable on any income derived by Mr. Shyam from such house.

Exception where clubbing provisions are not attracted even in case of revocable transfer [Section 62]

Section 61 will not apply to any income arising to any person if there is -

- (a) A transfer by way of trust which is not revocable during the life time of the beneficiary; and
- (b) Any other transfer, which is not revocable during the life time of the transferee.

In the above cases, the income from the transferred asset is not includible in the total income of the transferor, provided the transferor derives no direct or indirect benefit from such income.

If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the beneficiary or transferee, as the case may be.

As and when the power to revoke the transfer arises, the income arising by virtue of such transfer will be included in the total income of the transferor.

Example

Mr. Ram has transferred one asset to Mr. Shyam with the condition that the asset shall be retained by Mr. Shyam as long as he is alive and after that the asset shall be taken back by Mr. Ram. In this case, clubbing provision shall not apply.

■ TRANSFER OF ASSETS TO SPOUSE [SECTION 64(1)(IV)]

1. If any person has transferred any asset, other than a house property to his or her spouse directly or indirectly without adequate consideration, in such cases, income of the asset shall be clubbed in the income of transferor.

However, If the asset is transferred under an agreement to live apart, clubbing provision shall not apply.

Note:

- If there is inadequate consideration, clubbing provisions shall be applicable only with regard to the income relating to that part of the consideration which is considered to be inadequate.
- If an individual transfers a house property to his spouse, without adequate consideration or otherwise than in connection with an agreement to live apart, the transferor shall be deemed to be the owner of the house property and its annual value will be taxed in his hands.
- In order to apply clubbing provision relationship of husband and wife must exist on the date of transfer of the asset and also on the date of accrual of income.
- If any person has transferred the asset to the spouse and there is accretion to the asset, income from such accretion shall not be clubbed.
- Eg. Mr. R Gifted ₹ 10 Lakh to wife, which she has given as a loan to Mr. J @ 12% interest per annum. During the the year she received interest of ₹ 1,20,000 which she invested in shares of X Ltd. In this case dividend received from X Ltd. Shall not be clubbed in hand of Mr. R as it is accretion of income.

Illustration 1: Mr. A transferred 2,000 debentures of ₹ 100 each of W Ltd. to Mrs. A on 13.05.2023 without consideration. The company paid interest of ₹ 130,000 in September, 2023 which was given as a loan by Mrs. Ram to K in October, 2023. K paid interest of ₹ 13,000 upto March, 2024. How would both the interest income be charged to tax in assessment year 2024-25?

2. Where the asset transferred directly or indirectly by an individual to the spouse has been invested by the transferee in any business, the income arising out of the business to the transferee in any previous year shall be clubbed in the income of transferor but for this purpose capital as on first day of relevant previous year shall be taken into consideration.

Illustration 2: A proprietary business was started by Smt. X in the year 2019. As on 01.04.2022 her capital in business was ₹ 4,00,000. Her husband gifted ₹ 3,00,000, on 01.04.2022, which Smt. X invested in her business on the same date. Smt. X earned profits from her proprietary business for the Financial year 2022-23 ₹ 2,00,000 Financial year 2023-24 ₹ 2,40,000 Financial year 2024-25 ₹ 2,80,000. Amount of profit was further invested in the business. Compute Amount to be clubbed in the income of Husband of Smt. X in each of the year.

3. If any person has transferred the asset to the spouse and the spouse has invested it in some partnership firm as capital contribution or otherwise, in this case interest received from the partnership firm shall be clubbed in the income of the transferor and capital as on first day of relevant previous year shall be taken into consideration.

If any salary has been received from partnership firm, it will not be clubbed.

If any share has been received from the profits of partnership firm, such shares shall be exempt under section 10(2A).

4. If there is indirect transfer, clubbing provisions shall be applicable in that case also e.g. Mr. Ram gifted certain cash/asset to his major son and son gifted the same asset to mother, in this case it will be considered transfer and income shall be clubbed in the income of Mr. Ram.
5. If any person has given loan to the spouse, income from such loan shall not be clubbed.

Transfer of assets for the benefit of spouse [Section 64(1)(vii)]

All income arising directly or indirectly to any person or association of persons, from the assets transferred, directly or indirectly, to such person or association of persons by an individual without adequate consideration is includible in the income of the individual to the extent such income is used by the transferee for the immediate or deferred benefit of the transferor's spouse.

Transfer of the asset to the son's wife [Section 64(1)(vi)]

If any person has transferred the asset to the son's wife, in this case, clubbing provision shall apply in the similar manner as in the case of transfer of the assets to the spouse.

Transfer of assets to any other person for the benefit of wife or son's wife [Section 64(1)(viii)]

If any person has transferred the asset to any other person, clubbing provision shall not be applicable, but if the transferor has any right to receive any benefit from the asset or the benefit shall be received by the spouse of the transferor or by the son's wife of the transferor, in that case, clubbing provision shall be applicable.

Example

Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife. Mrs. Kasturi claims that the amount of ₹ 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property. Examine with reasons whether the contention of Mrs. Kasturi is valid in law.

Solution

The clubbing provisions under section 64(1)(viii) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor-individual.

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case.

The contention of Mrs. Kasturi is, hence, not valid in law.

Salary/commission/fee etc. from a concern in which the spouse has substantial interest [Section 64(1)(ii)]

- In computing the total income of any individual, there shall be included all such income as arises directly or indirectly to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest.

Note:

- A person is said to be having substantial interest in a concern if he along with his relatives holds atleast 20% of equity shares in a company or has at least 20% share in profits of the concern at any time during the previous year.

- Section 2(41). Relative in relation to an individual means the husband, wife, brother or sister or any lineal ascendant (mother, father, grandmother, grandfather) or descendant (son, daughter, grandson, grand daughter) of that individual.
- Remuneration is included in the hands of that individual who has substantial interest. But where both husband and wife have a substantial interest in the concern and both are in receipt of the remuneration from such concern, remuneration shall be included in the total income of husband or wife whose total income, excluding such remuneration, is greater.
- In case where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience, then such income shall not be clubbed.

Example

Mr. A holds shares carrying 25% voting power in X (P) Ltd. Mrs. A is working as a computer software programmer in X (P) Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. The other income of Mr. A & Mrs. A are ₹ 7,00,000 & ₹ 4,00,000, respectively. Compute the gross total income of Mr. A and Mrs. A, assuming that they do not opt for section 115BAC.

Solution

Mr. A holds shares carrying 25% voting power in X (P) Ltd i.e., a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. A from X (P) Ltd. will be clubbed in the hands of Mr. A.

Computation of Gross total income of Mr. A

Particulars	₹	₹
Salary received by Mrs. A (₹ 30,000 × 12)	3,60,000	
Less: Standard deduction under section 16(ia)	50,000	3,10,000
Other Income		7,00,000
Gross total income		10,10,000

The gross total income of Mrs. A is ₹ 4,00,000.

Example

Mr. B holds shares carrying 30% voting power in Y (P) Ltd. Mrs. B is working as accountant in Y (P) Ltd. getting income under the head salary (computed) of ₹ 3,44,000 without any qualification in accountancy. Mr. B also receives ₹ 30,000 as interest on securities. Mrs. B owns a house property which she has let out. Rent received from tenants is ₹ 6,000 p.m. Compute the gross total income of Mr. B and Mrs. B.

Solution Since Mrs. B is not professionally qualified for the job, the clubbing provisions shall be applicable.

Computation of Gross total income of Mr. B

Particulars	₹
Income under the head salary of Mrs. B (Computed)	3,44,000
Income from other sources	
- Interest on securities	30,000
	3,74,000

Computation of Gross total income of Mrs. B

Particulars	₹	₹
Income from Salary		Nil
[clubbed in the hands of Mr. B]		
Income from house property		
Gross Annual Value [₹ 6,000 × 12]	72,000	
Less: Municipal taxes paid	-	
Net Annual Value (NAV)	72,000	
Less: Deductions under section 24		
- 30% of NAV i.e., 30% of ₹ 72,000	21,600	
- Interest on loan	-	50,400
Gross total income		50,400

Asset held by Minor Child Section 64(1A)

- In computing the total income of any parent, it shall include all such income which accrues to his minor child and shall be clubbed in the hands of that parent whose total income (excluding the income to be clubbed) is greater.
- Where the marriage of the parent does not subsist, the income of the minor child shall be included in the hands of that parent who maintains the minor child in the relevant previous year.
- Where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent unless the AO is satisfied that it is necessary to do so.
- As per Section 10(32), If income of minor child is so included, that parent shall be entitled to an exemption of maximum of ₹ 1,500 in respect of each minor child.
- If parents of the minor child is not alive then the income of minor child cannot be clubbed and guardian of the minor child shall file the return of such income on behalf of the minor child.
- If any minor child has income from manual labour or through activity involving application of his skill, talent or specialized knowledge and experience, such income shall not be clubbed but if such income has been invested further, any new income shall be clubbed in the income of mother or father.
- Also no clubbing of income shall be done if the minor child suffering from a disability mentioned under section 80U.
- Child includes step child, adopted child and minor married daughter.

Conversion of self acquired property into common property of HUF

If any member of HUF has gifted any asset to the HUF, income from such asset shall be clubbed in the income of such member but if partition has been taken place, in that case clubbing provision shall not be applicable however income from that part of asset which has been received by the spouse and minor child of such person, shall be clubbed in the income of such member.

Illustration 3: Mr. Ram is an employee of X Ltd. and he has 25% shares of that company. His salary is ₹ 50,000 p.m. MR. Ram is working as a computer software programmer in X Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. Compute the gross total income of Mr. Ram and MR. Ram, assuming that they do not have any other income.

Illustration 4: Will your answer be different if MR. A was qualified for the job?

Illustration 5: Mr. Ram is an employee of Y Ltd. and has substantial interest in the company. His salary is ₹ 20,000 p.m. MR. Ram is also working in Y Ltd. at a salary of ₹ 12,000 p.m. without any qualifications. Mr. Ram also receives ₹ 30,000 as interest on securities. MR. Ram owns a house property which she has let out. Rent received from tenants is ₹ 6000 p.m. Compute the gross total income of Mr. Ram and MR. Ram.

Illustration 6: Mr. Ram has three minor children – two twin daughters and one son. Income of the twin daughters is ₹ 2,000 p.a. each and that of the son is ₹ 1,200 p.a. Compute the income, in respect of minor children, to be clubbed in the hands of Mr. Ram.

Illustration 7: Mr. Ram, a mentally retarded minor, has a total income of ₹ 1,20,000. The total income of his father Mr. Shyam and of his mother MR. Shyam for the relevant assessment year is ₹ 2,40,000 and ₹ 1,80,000 respectively. Discuss the treatment to be accorded to the total income of Mr. Ram for the relevant assessment year

Illustration 8: Mr. Ram gifts ₹ 1 lakh to his wife MR. Ram on April 1, 2023 which she invests in a firm on interest rate of 14% per annum. On January 1, 2024, MR. Ram withdraws the money and gift it to her son's wife. She claims that interest which has accrued to the daughter-in-law, from January 1, 2024 to March 31, 2024 on investment made by her is not assessable in her hands but in the hands of Mr. Ram. Is this correct? What would be the position, if MR. Ram has gifted the money to minor grandson, instead of the daughter-in-law?

Illustration 9: Mr. Ram, entered into the following transactions during the previous year 2023–24:

- (a) Mr. Ram had a fixed deposit of ₹ 4,00,000 with Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 01.04.2023 to 31.03.2024 to the savings bank account of Ms. Y, his niece, to help her in her higher education.
- (b) Mr. Ram holds 51% share in a partnership firm. MR. Ram (wife of Mr. Ram) received a remuneration of ₹ 90,000 from the firm for writing its books of accounts. MR. Ram, being a fashion designer, does not possess any qualification or training in the accountancy field.
- (c) Mr. Ram gifted a flat to Mrs. Ram on April 1, 2021. During the previous year 2023–24, she received rent of ₹ 18,500 p.m. from letting out of the flat.
- (d) Mr. Ram gifted ₹ 4,00,000 to his minor son who invested the same in a business and he derived income of ₹ 80,000 from the investment.
- (e) Mr. Ram's minor daughter derived an income of ₹ 25,000 from participation in music shows.

During the year, Mr. Ram got a monthly pension of ₹ 18,000. He had no other income. Mrs. Ram received salary of ₹ 25,000 per month from a part time job as a fashion designer. Discuss the tax implications of each transaction and compute the total income of Mr. R and MR. Ram.

■ CROSS TRANSFERS

In the case of cross transfers also (e.g., A making gift of ₹ 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 ₹ 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] 66 ITR 142, observed that if two transactions are inter-connected 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.

Example

Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14.06.2023. On 12.07.2023, his brother gifted a sum of ₹ 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 01.08.2021 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 ₹ 6 lakhs to his brother's wife on 14.06.2023 and simultaneously, his brother gifted a sum of ₹ 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. It was so held by the Apex Court in *CIT vs. Keshavji Morarji* (1967) 66 ITR 142.

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 i.e., ₹ 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.

However, the interest income earned by his spouse on fixed deposit of ₹ 5 lakhs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of ₹ 6 lakhs, since the cross transfer is only to the extent of ₹ 5 lakhs.

■ INCOME INCLUDES LOSS

As per the Explanation 2 to section 64, 'income' would include 'loss'. Accordingly, where the specified income to be included in the total income of the individual is a loss, such loss will be taken into account while computing the total income of the individual. It is significant to note that this Explanation applies to clubbing provisions under both sections 64(1) and 64(2).

■ DISTINCTION BETWEEN SECTION 61 AND SECTION 64

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.

Set off and Carry Forward of Losses

“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.

■ INTER SOURCE ADJUSTMENT [SECTION 70]

Set off of loss from one source against income from another source under the same head of income. Also known as Inter source adjustment or Intra-head adjustment.

Suppose Income from first house is ₹ 18,000 and loss from second house is ₹ 15,000. In this case loss of ₹ 15,000 shall be set off with ₹ 8,000. Income from House Property shall be ₹ 3,000.

■ INTER HEAD ADJUSTMENT [SECTION 71]

Loss under one head of income can be adjusted or set off against income under another head. Also known as Inter-head adjustment.

Suppose Loss from house property is ₹ 18,000 and Income from Salary is ₹ 12,000. In this case loss of ₹ 18,000 shall be set off against an income of ₹ 12,000. Gross Total Income shall be nil. The remaining house property loss of ₹ 6,000 shall be carried forward to next year.

Loss	Intra Head Adjustment [S.70]	Inter Head Adjustment [S.71]	Carry Forward
Income under Head House Property			
House Property	Available	Available But Maximum 2,00,000	8 Assessment Years [Sec 71B]
Profits & Gains From Business & Profession			
Specified Business Loss u/s 35AD	Specified Business income only	Not available	Till Loss get fully set off [Sec 72]
Speculative business loss	Speculative Business Income	Not Available	4 Assessment Years [Sec 73]
Non-Speculative Business loss	Available with any income under the head PGBP i.e. Non-Speculative Business loss Specified Business income Speculative Business Income	Available with income under any other head except Income under head Salaries	8 Assessment Years [Sec 72]

Income Under Head Capital Gain			
Short Term Capital Loss	Available with LTCG and STCG	Not Available	8 Assessment Years [Sec 74]
Long Term Capital Loss	Available with LTCG only	Not Available	8 Assessment Years [Sec 74]
Income Under Head Other Sources			
Loss from Owning & Maintaining Race Horses	Income from Owning & Maintaining Race Horses	Not Available	4 Assessment Years [Sec 74A]
Any other loss under the head other sources	From any income under the head other sources except casual income	Available with income under any other head	Not Allowed

1. Meaning of speculative business Section 43(5)

“Speculative Transaction” means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is settled otherwise than by the actual delivery or transfer of the commodity or scrips i.e. the transactions are set off against each other instead of actually materializing them.

2. Loss from Agriculture

Loss from Agriculture cannot be set off from incomes of other heads. Similarly loss of other heads cannot be set off from Agriculture Income. Loss from agriculture can be set off only from agricultural income and carry forward is allowed for 8 years and in subsequent years also it can be set off from agriculture income.

3. No loss can be set off against the profit from winnings from races, lotteries, crossword puzzles, etc

4. Rules for set off of unabsorbed depreciation

- The unabsorbed depreciation can be set off with any head's of income except casual income and salary income. But it shall be first set off with Business Income.
- The unabsorbed depreciation can be carried forward for indefinite period.
- The return of loss even if not filed in time, unabsorbed depreciation is allowed to be carried forward.
- The business in respect of which there is unabsorbed depreciation need not be continued.

5. The sequence of claiming losses and depreciation under the head business/profession shall be as given below:

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(1)];
- (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 expenditure on family planning [Section 36(1)(ix)].

Illustration 1

Mr. Rajeev submits the following information:

Particulars	Amount (₹)
(i) Income under the head salary	6,50,000
(ii) Income from House-I	55,000
(iii) Loss from house-II (self-occupied property)	1,25,000
(iv) Loss from house-III	1,90,000
(v) Loss from leather business	68,000
(vi) Profit from cloth business	1,70,000
(vii) Business loss of chemical business acquired by Inheritance	45,000
(viii) Brought forward loss of discontinued business of textile relating to financial year 2016-17	50,000
(ix) Long term capital gain on transfer of listed equity shares on which STT was paid	75,000
(x) Short term capital loss in equity-oriented funds on which STT was paid	35,000
(xi) Income from crossword puzzles	12,000
(xii) Dividend from foreign company	8,500
(xiii) Loss on owning and maintenance of race horses	7,500
(xiv) Income from owning and maintenance of race bulls	9,000

Compute the gross total income and losses to be carried forward of Mr. Rajeev.

Illustration 2

Mr. Shyam, a resident of Chandigarh, provides the following information for the financial year 2023-24:

Particulars	Amount (₹)
Income from textile business	4,60,000
Income from speculation business	25,000
Loss from gambling	12,000
Loss on maintenance of race horse	15,000
Eligible current year depreciation of textile business not adjusted in the income given above.	5,000
Unabsorbed depreciation of Assessment year 2021-22 brought forward	10,000
Speculation business loss of Assessment year 2021-22	30,000

Compute the Gross total Income of Mr. Shyam and any other item of expense or loss eligible for carry forward.

Illustration 3

Mr. X provides the following details for the previous year ending 31.03.2024.

- (i) Income under the head salary from XYZ Ltd. ₹ 6,00,000
- (ii) Interest on FD with SBI for the Financial Year ₹ 72,000 (Net of TDS @10%)
- (iii) Determined long term capital loss ₹ 96,000
- (iv) Long term Capital gain ₹ 75,000
- (v) Loss of minor son ₹ 90,000 computed in accordance with the provisions of Income Tax Act. Mr. X transferred his own house to his minor son without adequate consideration few years back and minor son let it out and suffered loss.
- (vi) Loss of his wife's business ₹ (2,00,000). She carried business with funds which Mr. X gifted to her. You are required to compute taxable income.

Illustration 4

Mr. X, a resident individual, furnishes the following particulars of his income and other details for the previous year 2023-24.

Particulars	Amount (₹)
(1) Income under the head salary	15,000
(2) Income from Business	66,000
(3) Long term capital gain on sale of Land	10,800
(4) Loss on maintenance of Race Horses	15,000
(5) Loss from Gambling	9,100

The other details of unabsorbed depreciation and brought forward losses pertaining to Assessment Year 2023-24 are as follows:

- (1) Unabsorbed depreciation 11,000
- (2) Loss from Speculative business 22,000
- (3) Short term capital loss 9,800

Compute the Gross total income of Mr. X for the Assessment Year 2024-25 and the Amount of loss, if any, that can be carried forward, or not.

Illustration 5

Mr. X an assessee aged 61 years gives the following information for the previous year 31.03.2024:

Particulars	Amount (₹)
(a) Loss from profession	1,05,000
(b) Capital loss on the sale of property-short term	55,000
(c) Capital gains on sale of shares-long term	2,05,000
(d) Loss in respect of self occupied property	15,000
(e) Loss in respect of let out property	30,000
(f) Share of loss from firm	1,60,000

(g) Income from card games	55,000
(h) Winnings from lotteries	1,00,000
(i) Loss from horse races in Mumbai	40,000
(j) Medical insurance premium paid by cheque	18,000

Compute the total income of Mr X.

Illustration 6

Mr. X furnishes the following details for year ended 31.03.2024.

Particulars	Amount (₹)
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 shares (STT not paid)	1,00,000
Income from business of textile (after allowing C.Y. depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000
Income under the head salary	1,00,000
Loss from house property	(40,000)

Following are the carry forward losses:

- (i) Losses from activity of owning and maintaining race horses-pertaining to A.Y. 2019-20 ₹ 25,000.
- (ii) Carry forward loss from business of textile ₹ 60,000-Loss pertains to A.Y. 2015-16.

6A

Deduction from Gross Total Income Chapter VI-A Section 80C to 80U

CHAPTER

- (i) Deductions under section 80C to 80U are allowed from gross total income to compute total income however such deduction is allowed only from normal income.
- (ii) No deduction under chapter VI-A shall be allowed from LTCG u/s 112, LTCG u/s 112A, STCG u/s 111A and Casual income
- (iii) The aggregate amount of the deductions under this chapter shall not, in any case, exceed the gross total income of the assessee.

Thus, an assessee cannot have a loss as a result of the deduction under Chapter VI-A and claim to carry forward the same for the purpose of set-off against his income in the subsequent year.

Deduction in respect of investment in specified assets [Section 80C]

- √ Allowed only to an individual and Hindu Undivided Family.
- √ Deduction shall be allowed to the extent of the following investments but as per section 80CCE, maximum deduction allowed shall be ₹ 1,50,000 including deduction under section 80CCC and section 80CCD.

- (a) **Life Insurance Policy:** Contribution made by individual or HUF towards life insurance premium on the life of self, spouse and any child or any member of HUF — Subject to a maximum of 10% of the actual capital sum assured.

In respect of policy issued before 01.04.2012, 10% shall be taken as 20%.

The limit of 10% shall be taken as 15% for person who is a person with disability as referred to in section 80U or suffering from disease as specified in section 80DDB.

- (b) **Unit Linked Insurance Plan (ULIP):** Contribution made by individual or HUF in Unit Linked Insurance Plan (ULIP) of UTI or mutual fund registered in India. (self, spouse and any child or any member of HUF)

- Investment made in units of ULIP deduction u/s 80C is available.
- Lock in period 3 years after which Lumpsum withdrawal is exempt u/s 10(10D).

Additional condition in respect of unit linked insurance policies issued on or after 01.02.2021 for claim of exemption u/s 10(10D)

- Exemption u/s 10(10D) would not be available with respect to any ULIP issued on or after 01.02.2021, if the amount of premium payable exceeds ₹ 2,50,000 for any of the previous years during the term of such ULIP.
- Moreover, in a case where premium is payable by a person for more than one ULIP issued on or after 01.02.2021, exemption u/s 10(10D) would not be available where the aggregate amount of premium exceeds ₹ 2,50,000 in any of the previous years during the term of any such ULIP(s) issued on or after 01.02.2021.

- However, in case any sum is received on the death of a person, exemption u/s 10(10D) would be available, even if the premium/aggregate premium for any year during the term of such ULIP/any such ULIP issued on or after 01.02.2021 exceeds ₹ 2,50,000.
- (c) Investment in **fixed deposit for a period of 5 years** or more with scheduled banks, provided the term deposit are issued in accordance with a scheme notified by the Central Government. Individual can deposit the Amount only in his own name and HUF can deposit the Amount in the name of any of its member.
- (d) Contribution to approved annuity plan of LIC.
- (e) An assessee is allowed to invest the Amount in five year post office time deposit account and deduction shall be allowed equal to the Amount invested. Interest shall be paid on annual basis and it will be taxable and deduction under section 80C is not allowed. Amount received on maturity shall be exempt. Individual can invest the Amount in his name and HUF can invest the Amount in the name of any of its member.
- (f) Contribution made by individual to Statutory Provident Fund (SPF) or Recognised Provident Fund (RPF).
- (g) Contribution made by individual or HUF to 15-year Public Provident Fund (PPF)(self, spouse and any child or any member of HUF)
- (h) Contribution by an individual towards an approved superannuation fund.
- (i) Deduction shall be allowed if Amount has been invested in National Saving Certificate (NSC). Amount can be invested in the name of self, spouse or minor children and HUF can invest the Amount in the name of any of its member. Deduction shall be allowed equal to the Amount invested and Amount received on maturity shall be exempt from income tax but interest shall be taxable every year on accrual basis but payment of interest shall be received on maturity. Deduction under section 80C shall also be allowed for such accrued interest but no deduction shall be allowed for accrued interest of the year in which assessee has received payment.
- (f) **Housing Loan:**
 - If an assessee has taken a loan from a notified organization like banks or financial institution etc. for purchase or construction of a residential house, in such cases deduction shall be allowed equal to the Amount re-paid by the assessee towards principal (not towards interest).
 - If loan has been taken for Addition, Alteration, or Repairs etc. of the house property, no deduction is allowed.
 - If the assessee has transferred the house property before the expiry of 5 years from the end of the financial year in which possession of such properties was taken by him, no deduction shall be allowable in the previous year in which the house property has been transferred. The deduction allowed in the past years shall be considered to be income of the assessee of the previous year in which the house property is transferred.
- (k) Stamp duty, registration fee and other expenses for the purposes of transfer of such house property to the assessee.
- (l) **Payment of tuition fees** to School, College, University or any other Educational Institution in India provided the fees has been paid in connection with the children of the assessee and further for maximum two children and it should be whole time education.
If payment is made outside India, deduction is not allowed. Similarly if payment is given for part time education or correspondence course, deduction is not allowed.
- (m) Investment in notified bonds issued by the National Bank for Agriculture and Rural Development.

- (n) Senior Citizens Savings Scheme.
- (o) Investment in Sukanya Samridhi Account and Amount can be invested by an individual as guardian in the name of girl child who is of the age of 10 years or less. Interest received is exempt. Amount received on maturity is exempt.

Exemption on payment from Sukanya Samridhi Account [Section 10(11A)]

Section 10(11A) provides that any payment from an account opened in accordance with the Sukanya Samridhi Account Rules, 2014, made under the Government Savings Bank Act, 1873, 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.

- (p) Contribution to any notified pension fund set up by the National Housing Bank or Mutual fund or UTI.
- (q) Subscription to certain units of mutual fund
- (r) Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
- (s) Contribution to approved annuity plan of LIC
- (t) Subscription towards notified units of mutual fund or UTI
- (u) Contribution to additional account under NPS
- Contribution by a Central Government employee to additional account under NPS (specified account) referred to in section 80CCD for a fixed period of not less than 3 years and which is in accordance with the scheme notified by the Central Government for this purpose qualifies for deduction under section 80C. It may be noted that only the contribution to the additional account under NPS will qualify for deduction under section 80C.
 - There are two types of NPS account i.e., Tier I and Tier II, to which an individual can contribute. Section 80CCD provides deduction in respect of contribution to individual pension account [Tier I account] under the NPS whereas deduction under section 80C is allowable in respect of contribution by Central Government employee to additional account [Tier II account] of NPS, which does not qualify for deduction under section 80CCD. Thus, Tier II account is the additional account under NPS, contribution to which would qualify for deduction under section 80C only in the hands of a Central Government employee.
 - Deduction shall be allowed only if the Amount has been actually paid by the assessee i.e. if the Amount is due but not paid deduction is not allowed.

Illustration 1

Compute deduction u/s 80C available to X from the following informations:

1. Own contribution towards the statutory provident fund.
2. Life insurance premium paid on self life — to American life insurance company in USA.
3. Fixed deposit in Canara Bank for 5 year (Specified)
4. LIP paid by employer on behalf of employee.
5. Subscription to units of Mutual Fund to be invested in development of infrastructure.
6. Un-recognised Provident Fund.
7. Tuition Fees for three children (₹ 10,000/- per child).
8. Interest of ₹ 7,000 has accrued to him on old National Savings Certificate purchased in past year
9. Purchased equity linked saving scheme of UTI.
10. Repayment of loan to LIC for purchase of new residential house property.
11. Subscription to equity shares of power company.

12. Contribution to National relief bond.
13. Purchased Kisan Vikas Patra.
14. Deposits in Post Office (CTD) Scheme.
15. Mr. Z has paid a sum of ₹ 65,000 as tuition fees to a university in Australia.

Ans. (1) allowed (2) not allowed (3) allowed (4) first added to gross salary and then deduction allowed (5) allowed (6) not allowed (7) ₹ 20,000 allowed (8) first added to other sources and then deduction allowed u/s 80C. (9) allowed (10) allowed (11) allowed (12) not allowed (13) not allowed (14) allowed. (15) Nil

Illustration 2

Mr. X has income under the head Business/Profession ₹ 19,90,000. His investments are as given below:

1. Investment in NSC ₹ 50,000
2. Investment in PPF in name of MR. X ₹ 5,000
3. Payment of premium for LIC policy taken in the name of dependent father on 16.06.2021 and its premium paid is ₹ 11,000
4. Payment of premium for LIC policy taken in the name of independent son on 15.04.2022 and its premium paid is ₹ 6,000 (sum assured ₹ 1,00,000)
5. Payment of premium for LIC policy taken in the name of independent married daughter on 11.01.2023 and its premium paid is ₹ 21,000 (sum assured ₹ 1,00,000)

Compute Income Tax liability.

Illustration 3

Date of Issue of Policy	Person Insured	Actual Capital Sum Assured (₹)	Insurance Premium Paid during Year
01.06.2011	Mr. X	4,00,000	75,000
01.05.2017	MR. X	1,00,000	25,000
01.07.2018	Ms. Y, his handicapped daughter (section 80U disability)	5,00,000	60,000
01.07.2018	Mr. Z, his son	1,00,000	25,000

Deduction in respect of contribution to certain pension Funds [Section 80CCC]

1. Deduction is available to an individual
2. Deposit is to be made in any
 - (a) Pension plan of Life Insurance Corporation (LIC) also known as annuity scheme; or
 - (b) Pension Plan of any other Private Insurer as approved by Controller of Insurance. for receiving pension from the fund set up by the said corporation.
3. Maximum Deduction allowed under this section is ₹ 1,50,000.
 - The payment or deposit should be made out of income chargeable to tax. (Taxable Income)
 - Lumpsum withdrawal and monthly withdrawal fully taxable both in the hands of assessee or nominee.

Illustration 4

Mr. X has income under the head business/profession ₹ 3,35,000. He has made the following investments:-

- (a) NSC ₹ 10,000
- (b) Investment in post office 5 year time deposit account ₹ 15,000
- (c) Payment of premium for life policy in the name of major married independent son on 10.10.2021 ₹ 30,000 (sum assured ₹ 90,000)
- (d) Paid premium of ₹ 11,000 for Jeevan Suraksha policy (Pension Scheme U/s 80CCC) taken in name of Mr. X on 11.11.2021.

Compute income tax liability

Deduction in respect of contribution to Pension Scheme of Central Government [Section 80CCD]

1. Deduction is allowed only to an INDIVIDUAL.
2. In case of an employee, deduction u/s 80 CCD(1) shall be allowed equal to the Amount contributed by the employee towards the Pension Scheme (also called New Pension System) but maximum to the extent of 10% of retirement benefit salary.
3. If the employer has contributed any Amount towards Pension Scheme, it will be added to the gross salary of the employee and also as per section 80 CCD(2) deduction shall be allowed for such contribution but maximum to the extent of:
 - (a) 14%, where such contribution is made by the Central Government;
 - (b) 10%, where such contribution is made by any other employer, of his salary in the previous year.
4. If the individual is not an employee and he has contributed to the Pension Scheme, deduction shall be allowed for such contribution but maximum to the extent of 20% of gross total income as per section 80 CCD(1).
5. Any pension received under this scheme shall be taxable.
6. Lumpsum payment received upto 60% of total Amount payable shall be exempt from income tax.
7. Amount received by the nominee on the death of the assessee shall be exempt from income tax.
 - o Maximum deduction allowed under section 80C + 80CCC + 80CCD (1) shall be ₹ 1,50,000.
 - o An additional deduction of upto ₹ 50,000 under Section 80CCD(1B) shall be allowed over and above ₹ 1,50,000 to an individual .

Illustration 5

MR. X is employed in Central Government since 01.01.2023 and is getting basic pay of ₹ 1,00,000 p.m. She has contributed ₹ 10,000 p.m. to the notified pension scheme of Central Government and employer has also contributed an equal Amount. She has paid premium of Jeevan Suraksha Policy ₹ 3,000 and invested ₹ 1,00,000 in NSC. Compute her tax liability.

Ans. Total Income 9,50,000; Tax Liability 1,06,600.

Illustration 6

The basic salary of Mr. X is ₹ 80,000 p.m. Both Mr. A and his employer contribute 10% of basic salary to the pension scheme referred to in section 80CCD. Explain the tax treatment in respect of such contribution in the hands of Mr. X.

Ans. Total Income 8,14,000; Tax Liability 78,310

Deduction in respect of contribution to Agnipath Scheme [Section 80CCH]

- (i) Meaning of Agnipath scheme:** Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.
- (ii) Meaning of Agniveer Corpus Fund:** The Agniveer Corpus Fund means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.
- (iii) Features of the Agnipath Scheme:** 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.
- (iv) Deduction:** 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.
- (v) Quantum of deduction:**
 - (a)** 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.

Deduction u/s 80CCH(1) would be available to an individual only if he has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A).

- (b)** 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.
- (c)** 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.

Deduction u/s 80CCH(2) would be available to an individual irrespective of the regime under which he pays tax.

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.

Deduction in respect of Medical Insurance Premia [Section 80D]

1. Deduction shall be allowed only to an individual or Hindu Undivided Family.
2. Deduction shall be allowed if the assessee has made payment towards
 - (i)** Medical Insurance or
 - (ii)** Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf
 - (iii)** Preventive Health Check-up

3. Individual can make payment for wife or husband or dependent children and deduction shall be allowed equal to the Amount paid but subject to a maximum of ₹ 25,000 but in case of senior citizen deduction shall be allowed upto ₹ 50,000.

If the individual has taken policy in the name of parents (dependent or independent), additional deduction shall be allowed to the extent of the premium paid but maximum ₹ 25,000, however, if the policy has been taken in the name of senior citizen, deduction shall be allowed to the extent of ₹ 50,000.

Deduction for Preventive Health Check up shall be maximum ₹ 5,000 in aggregate for self, spouse, dependant children and parents.

Hindu Undivided Family can take the policy in the name of any of its members and deduction shall be allowed in the similar manner.

Payment should be made otherwise than in cash but payment for preventive health check-up can be made in any manner.

In case of a senior citizen, in general medi-claim policy is not issued hence expenditure can be incurred on their medical treatment and deduction for such expenditure shall also be allowed but limit shall be the same as given above.

4. Deduction where premium for health insurance is paid in lump sum [Section 80D(4A)]

Appropriate fraction of lump sum premium allowable as deduction: In a case where mediclaim premium is paid in lumpsum for more than one year by:

- (a) an individual, to effect or keep in force an insurance on his health or health of his spouse, dependent children or parents; or
- (b) 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.

Illustration 7

Mr. X, aged 40 years, paid medical insurance premium of ₹ 18,000 by cheque during the P.Y. 2023-24 to insure his health as well as the health of his spouse. He also paid medical insurance premium of ₹ 26,000 by cheque during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed ₹ 5,000 by cheque to Central Government Health Scheme during the year. He has incurred ₹ 3,000 in cash on preventive health check-up of himself and his spouse and ₹ 4,000 by cheque on preventive health check-up of his father.

Compute the deduction allowable under section 80D for the A.Y. 2024-25.

Illustration 8

Mr. X, aged 40 years, paid medical insurance premium of ₹ 20,000 by cheque during the P.Y. 2023-24 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of ₹ 51,000 by cheque during the year to insure the health of his father, aged 67 years, who is not dependent on him. He contributed ₹ 6,000 by cheque to Central Government Health Scheme during the year.

Compute the deduction allowable under section 80D for the A.Y. 2024-25.

Illustration 9

Mr. Arjun (52 years old) furnishes the following particulars in respect of the following payments:

Particulars	Amount (₹)
Premium paid for insuring the health of -	
□ Self	10,000
□ Spouse	8,000
□ Dependent son	4,000
□ Mother	18,000
Paid for Preventive Health Check-up of	
□ Himself	2,000
□ spouse	1,500
□ mother	4,000
Incurred medical expenditure of ₹ 25,000 and ₹ 15,000 for his mother, aged 80 years and father, aged 85 year Both mother and father are resident in India.	

Compute the deduction available to Mr. Arjun under section 80D for the A.Y. 2024-25.

Ans. Total deduction under section 80D 60,000

Illustration 10

Compute the eligible deduction under Chapter VI-A for the Assessment year 2024-25 of Ms. Roma, who has a gross total income of ₹ 15,00,000 for the previous year 2023-24 and provide the following informations about his investments/payments during the financial year:

Particulars	Amount
Life Insurance premium paid (Policy taken on 01.01.2012 and sum assured is ₹ 1,50,000)	35,000
Public Provident Fund contribution.	90,000
Repayment of Housing loan to Bhartiya Mahila Bank, Bangalore.	20,000
Payment to L.I.C. Pension Fund	25,000
Mediclaime Policy taken for self, spouse and dependent children, premium paid by cheque	20,000
Medical Insurance premium paid for parents (Senior Citizen), premium paid by cheque	25,000

Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability [Section 80DD]

1. Deduction is allowed only to a resident individual and a resident Hindu Undivided Family.
2. Deduction is allowed if the assessee has incurred any expenditure for the medical treatment, training and rehabilitation etc. of a dependent disabled person, or has deposited any Amount with LIC or any other insurer for the benefit of such dependent.
3. "Dependent" in the case of an individual, means the spouse, children, parents, brothers and sisters who are dependent on the individual and in the case of Hindu Undivided Family means any member of the Hindu Undivided Family who is dependent on such Hindu Undivided Family.

4. Deduction allowed shall be ₹ 75,000 irrespective of the expenditure incurred by the assessee and in case of severe disability, deduction allowed shall be ₹ 1,25,000.
5. The assessee should enclose a certificate with the return from prescribed medical authority.
6. Meaning of "Dependent":

	Assessee	Dependent
(1)	Individual	the spouse, children, parents, brother or sister of the individual who is wholly or mainly dependent on such individual and not claimed deduction under section 80U in the computation of his income.
(2)	HUF	a member of the HUF, wholly or mainly dependent on such HUF and not claimed deduction under section 80U in the computation of his income.

Illustration 11

Mr. X is a resident individual. He deposits a sum of ₹ 25,000 with Life Insurance Corporation every year for the maintenance of his handicapped grandfather. A copy of the certificate from the medical authority is submitted. Compute the Amount of deduction available under section 80DD.

Deduction in case of handicapped person [Section 80U]

1. In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of ₹ 75,000.

Provided that where such individual is a person with severe disability, the provisions shall have effect as if for the words "₹ 75,000", the words "₹ 1,25,000" had been substituted.

2. The assessee should enclose a certificate with the return from prescribed medical authority.
3. E.g. Mr. X is suffering from a disability and has income under the head salary ₹ 10,00,000 and he has invested ₹ 1,00,000 in NSC, in this case deduction allowed under section 80C shall be ₹ 1,00,000 and under section 80U shall be ₹ 75,000.

Deduction in respect of medical treatment, etc. of specified disease [Section 80DDB]

1. Deduction is allowed only to a resident individual or resident Hindu Undivided Family.
2. Deduction is allowed if the assessee has incurred any Amount (₹) for treatment of such disease as are specified in the rule 11DD.
3. The expenditure can be incurred for himself or a dependent person, and in case of an individual, such person may be spouse, children, parents, brothers or sisters who are dependent on such individual and in case of Hindu Undivided Family such person may be any member of the Hindu Undivided Family who is dependent on the Hindu Undivided Family.
4. Deduction allowed shall be the Amount incurred or ₹ 40,000 whichever is less and if the Amount has been paid with regard to a Senior Citizen, deduction allowed shall be upto ₹ 1,00,000.
5. Deduction allowed shall be reduced by the Amount received under medi-claim insurance and also by the Amount which has been paid by the employer.
6. The assessee should enclose a certificate with the return from prescribed medical authority.
7. Meaning of "Dependent"

	Assessee	Dependent
(1)	Individual	the spouse, children, parents, brother or sister of the individual or any of them, wholly or mainly dependent on such individual for his support and maintenance.
(2)	HUF	a member of the HUF, wholly or mainly dependent on such HUF for his support and maintenance.

Deduction in case of payment of interest on loan taken for pursuing Higher Education [Section 80E]

1. Deduction is allowed only to an individual.
 2. Deduction is allowed if the assessee has paid interest on loan taken by him from any financial institutions or any approved charitable institution.
 3. The loan should have taken for pursuing higher education which means any course of study pursued after passing the Senior Secondary Examination or its equivalent.
 4. Education can be either of self or spouse or children or any person for whom the assessee is legal guardian
 5. The entire Amount (₹) of interest paid by an individual is allowed as deduction.
 6. No deduction shall be allowed for repayment of the principal loan Amount (₹).
 7. Deduction is allowed for a maximum period of 8 years starting from the year in which first payment of interest was given.
 8. Approved charitable institution means the institution notified by the Central Government. Financial institution means banking company or other financial institution notified by the Government.
 9. No deduction is allowed after the period of 8 years
- E.g. Mr. X has taken a loan of ₹ 2,00,000 from State Bank on 01.10.2012 for pursuing MBBS course & after becoming a doctor he has given payment of interest of ₹ 45,000 on 01.10.2021, in this case deduction allowed shall be ₹ 45,000.

Deduction for interest on loan borrowed for acquisition of house property by an individual [Section 80EE]

1. **Eligible assessee:** An individual who has taken a loan for acquisition of residential house property from any financial institution. Interest payable on such loan would qualify for deduction under this section.
2. **Conditions:** The conditions to be satisfied for availing this deduction are as follows -
 - The assessee should not own any residential house on the date of sanction of loan
 - Value of house \leq ₹ 50 lakhs
 - Loan should be sanctioned during the P.Y. 2016-17
 - Loan sanctioned \leq ₹ 35 lakhs
3. **Period of benefit:** The benefit of deduction under this section would be available till the repayment of loan continues.
4. **Quantum of deduction:** The maximum deduction allowable is 50,000. This deduction is in addition to deduction u/s 24(b) of ₹ 2,00,000.

Illustration 12

Mr. A purchased a residential house property for self-occupation at a cost of ₹ 45 lakh on 01.04.2018, in respect of which he took a housing loan of ₹ 35 lakh from Bank of India@11% p.a. on the same date.

The loan was sanctioned on 28th March, 2018. Compute the eligible deduction in respect of interest on housing loan for A.Y. 2024-25 under the provisions of the Income-tax Act, 1961, assuming that the entire loan was outstanding as on 31.03.2024 and he does not own any other house property.

Solution

Particulars		₹
Interest deduction for A.Y. 2024-25		
(i)	Deduction allowable while computing income under the head "Income from house property"	
	Deduction under section 24(b) ₹ 3,85,000 [₹ 35,00,000 × 11%]	
	Restricted to	2,00,000
(ii)	Deduction under Chapter VI-A from Gross Total Income	
	Deduction under section 80EE ₹ 1,85,000 (₹ 3,85,000 - ₹ 2,00,000)	
	Restricted to	50,000

Deduction in respect of interest on loan taken for certain house property [Section 80EEA]

- In computing the total income of an assessee, being an individual not eligible to claim deduction under section 80EE, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property.
- The deduction under sub-section (1) shall not exceed one lakh and fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2020 and subsequent assessment years.
- The deduction under sub-section (1) shall be subject to the following conditions, namely:—
 - 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, 2022;
 - the stamp duty value of residential house property does not exceed forty-five lakh rupees;
 - the assessee does not own any residential house property on the date of sanction of loan.
- Where a deduction under this section is allowed for any interest referred to in sub-section (1), 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.

Illustration 13

Mr X has taken a loan on 01.05.2023 from State Bank of India ₹ 40,00,000 @ 10% p.a. and purchased one house which is self-occupied. He has submitted a certificate confirming the Amount of interest. He repaid ₹ 2,00,000 on 01.03.2024 he don't have any other house. He paid municipal tax ₹ 30,000. He has income under the head salary ₹ 10,00,000. Compute his total income and tax liability. What Will be your answer if it is let out @ ₹ 10,000 per month from 01.05.2023.

Deduction in respect of purchase of electric vehicle [Section 80EEB]

- In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of purchase of an electric vehicle.

- The deduction under sub-section (1) shall not exceed one lakh and fifty thousand rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on the 1st day of April, 2020 and subsequent assessment year.
- The deduction under sub-section (1) shall be subject to the condition that 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 referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provision of this Act for the same or any other assessment year.

“electric vehicle” means a vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

Illustration 14

The following are the particulars relating to Mr. A, Mr. B, Mr. C and Mr. D, salaried individuals for A.Y. 2024-25-

Particulars	Mr. A	Mr. B	Mr. C	Mr. D
Amount (₹) of loan taken	₹ 43 lakhs	₹ 45 lakhs	₹ 20 lakhs	₹ 15 lakhs
Loan taken from	HFC	Deposit taking NBFC	Deposit taking NBFC	Public sector bank
Date of sanction of loan	01.04.2022	01.04.2021	01.04.2021	30.03.2020
Date of disbursement of loan	01.05.2022	01.05.2021	01.05.2021	01.05.2020
Purpose of loan	Acquisition of residential house property for self occupation	Acquisition of residential house property for self occupation	Purchase of electric vehicle for personal use	Purchase of electric vehicle for personal use
Stamp duty value of house property	₹ 45 lakhs	₹ 48 lakhs	—	—
Cost of electric vehicle	—	—	₹ 22 lakhs	₹ 18 lakhs
Rate of interest	9%	9%	10% p.a	10% p.a

Compute the Amount of deduction, if any, allowable under the provisions of the Income-tax Act, 1961 for A.Y. 2024-25 in the hands of Mr. A, Mr. B, Mr. C and Mr. D. Assume that there has been no principal repayment upto 31/3/2024.

Deduction in respect of royalty income, etc., of authors of certain books other than text books [Section 80QQB]

- Deduction is allowed only to a resident individual who is an author.
- He should have income through his copyright in a book which is a work of literary, artistic or scientific nature but such should not be text-books for schools/colleges etc. and also it should not be any help book or guide etc. or any newspaper or magazine etc.

3. Deduction allowed shall be equal to the Amount (₹) of royalty income or ₹ 3,00,000 whichever is less.
4. Royalty received by the author in excess of 15% of the value of such books sold during the previous year shall be ignored.
5. Where the income is earned from any source outside India, then the deduction shall be limited to so much of the income which is brought into India 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.

Illustration 15

Mr. X, a writer and a professional furnishes the following particulars for the previous year ended 31.03.2024:

- (a) Royalty on books (eligible for deduction u/s 80QQB) 42,000
- (b) Expenditure on books 8,000
- (c) Income from profession 3,80,000
- (d) Deposited in public provident fund (15.03.2021) 70,000

You are required to compute (i) Taxable income, (ii) Tax payable for assessment year 2024-25.

Deduction in respect of royalty on patents [Section 80RRB]

1. Deduction is allowed only to resident individual.
2. His gross total income should include royalty in respect of a patent.
3. Deduction allowed shall be equal to the Amount (₹) of royalty or ₹ 3,00,000 whichever is less.
4. In respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by the assessee in convertible foreign exchange within a period of six 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.

Deduction in respect of interest on deposits in savings account [Section 80TTA]

1. Deduction is allowed only to an individual or HUF. (Other than those covered in 80TTB)
2. Deduction is allowed if the assessee has interest income on saving bank accounts with any bank/ Post Office.
3. No deduction is allowed from interest on time deposit/fixed deposit.
4. Deduction is allowed to the extent of ₹ 10,000.

As per section 10(15), Interest on Post Office Savings Bank Account to the extent of ₹ 3,500 per year shall be exempt from income tax and in the case of joint account, exemption shall be allowed upto ₹ 7,000 per year.

E.g. Mr. X has Income under the head salary ₹ 7,00,000 and interest on post office savings bank account ₹ 7,000 and interest on savings bank account with State Bank ₹ 9,000, in this case tax liability of Mr. X shall be?

Deduction in respect of interest on deposits in savings account [Section 80TTB]

1. Deduction shall be allowed only to a senior citizen with regard to interest income from banks/ cooperative bank/ cooperative society/post office and further it may be in connection with time deposits/saving bank account or any other deposits.
2. Deduction shall be allowed upto such income but maximum ₹ 50,000.

Illustration 16

Mr. X, aged 62 years, earned professional income (computed) of ₹ 5,50,000 during the year ended 31.03.2024. He has earned interest of ₹ 14,500 on the saving bank account with State Bank of India during the year. Compute the total income of Mr. X for the assessment year 2024-25 from the following particulars:

- (i) Life insurance premium paid to Birla Sun life Insurance in cash Amounting to ₹ 25,000 for insurance of life of his dependent parents. The insurance policy was taken on 15.07.2022 and the sum assured on life of his dependent parents is ₹ 1,25,000.
- (ii) Life insurance premium of ₹ 25,000 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is ₹ 1,75,000 and the life insurance policy was taken on 18.04.2011.
- (iii) Life insurance premium paid by cheque of ₹ 22,500 for insurance of his life. The insurance policy was taken on 08.09.2022 and the sum assured is ₹ 2,00,000.
- (iv) Premium of ₹ 16,000 paid by cheque for health insurance of self and his wife (₹ 8,000 for self and ₹ 8,000 for spouse).
- (v) ₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid in cheque for health checkup for his parents.
- (vi) Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.
- (vii) A sum of ₹ 15,000 donated in cash to an institution approved for purpose of section 80G for promoting family planning.
- (viii) Contribution ₹ 10,500 made in cheque to an electoral trust.

Deduction in respect of donations to certain funds, charitable institutions etc. [Section 80G]

1. Deduction is available to all the assesses for donation made to eligible funds or institutions.
2. Donations in kind shall not qualify for deduction.
3. No deduction shall be allowed in respect of donation of any sum exceeding ₹ 2,000 unless such sum is paid by any mode other than cash.
4. Quantum of deduction:

There are four categories of deductions:

Category 1: Donation qualifying for 100% deduction, without any qualifying limit

- (a) The National Defence Fund set up by the Central Government.
- (b) Prime Minister's National Relief Fund.
- (c) Prime Minister's Armenia Earthquake Relief Fund.
- (d) The Africa (Public Contributions-India) Fund.
- (e) The National Children's Fund.
- (f) The National Foundation for Communal Harmony.
- (g) Approved University or educational institution of national eminence.
- (h) Chief Minister's Earthquake Relief Fund, Maharashtra.
- (i) Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of the Gujarat earthquake.
- (j) Any Zila Saksharta Samiti constituted in any district for improvement of primary education in villages and towns and for literacy and postliteracy activities.
- (k) National Blood Transfusion Council or any State Blood Transfusion Council whose sole objective is the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks.

- (l) Any State Government Fund set up to provide medical relief to the poor.
- (m) The Army Central Welfare Fund or Indian Naval Benevolent Fund or Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of past and present members of such forces or their dependents.
- (n) The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996.
- (o) The National Illness Assistance Fund.
- (p) The Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund in respect of any State or Union Territory.
- (q) The National Sports Fund set up by the Central Government.
- (r) The National Cultural Fund set up by the Central Government.
- (s) The Fund for Technology Development and Application set up by the Central Government.
- (t) National Trust for welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.
- (u) The Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of CSR u/s 135(5) of the Companies Act, 2013.
- (v) The Clean Ganga Fund, set up by the Central Government, where such assessee is a resident, other than the sum spent in pursuance of CSR u/s 135(5) of the Companies Act, 2013.
- (w) The National Fund for Control of Drug Abuse.

Category 2: Donation qualifying for 50% deduction, without any qualifying limit

- (a) Rajiv Gandhi Foundation

Category 3: Donation qualifying for 100% deduction, subject to qualifying limit

- (a) The Government or to any approved local authority, institution or association for promotion of family planning
- (b) Sum paid by a company as donation to the Indian Olympic Association or any other association/institution established in India, as may be notified by the Government for the development of infrastructure for sports or games, or the sponsorship of sports and games in India.

Category 4: Donation qualifying for 50% deduction, subject to qualifying limit.

- (a) Any Institution or Fund established in India for charitable purposes fulfilling prescribed conditions
- (b) The Government or any local authority for utilisation for any charitable purpose other than the purpose of promoting family planning.
- (c) An authority constituted in India by or under any other law enacted either for dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or both.
- (d) Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.
- (e) For renovation or repair of Notified temple, mosque, gurudwara, church or other place of historic, archaeological or artistic importance or which is a place of public worship of renown throughout any State or States.

5. Qualifying limit: The eligible donations referred to in III and IV should be aggregated and the sum total should be limited to 10% of the adjusted gross total income. This would be the maximum permissible deduction.

The donations qualifying for 100% deduction would be first adjusted from the maximum permissible deduction and thereafter 50% deduction of the balance would be allowed.

6. Meaning of Adjusted GTI

The GTI as reduced by the following:

- (a) Deductions under Chapter VI-A, except under section 80G
- (b) Short-term capital gain taxable under section 111A
- (c) Long-term capital gains taxable under sections 112 & 112A
- (d) Any income on which income-tax is not payable

Illustration 17

Mr. Shiva aged 58 years, has gross total income of ₹ 7,75,000 comprising of income from salary and house property. He has made the following payments and investments:

- (i) Premium paid to insure the life of her major daughter (policy taken on 01.04.2018) (Assured value ₹ 1,80,000) - ₹ 20,000.
- (ii) Medical Insurance premium for self - ₹ 12,000; Spouse - ₹ 14,000.
- (iii) Donation to a public charitable institution registered under 80G ₹ 50,000 by way of cheque.
- (iv) LIC Pension Fund - ₹ 60,000.
- (v) Donation to National Children's Fund - ₹ 25,000 by way of cheque
- (vi) Donation to Jawaharlal Nehru Memorial Fund - ₹ 25,000 by way of cheque
- (vii) Donation to approved institution for promotion of family planning - ₹ 40,000 by way of cheque
- (viii) Deposit in PPF - ₹ 1,00,000

Compute the total income of Mr. Shiva for A.Y. 2024-25.

Illustration 18

Mr. X declares gross total income ₹ 4,00,000 for the assessment year 2024-25. The gross total income includes taxable long term capital gain ₹ 65,000 and short term capital gain ₹ 35,000 which is taxable @ 15% under section 111A of the Income-tax Act, 1961. The details of fund investment made during the year 2023-24 are:

- (i) Medical insurance premium paid by cheque - (a) in the name of Mr X 4,000 (b) in name of MR. X 5,000
- (ii) Contribution made to -
 - (a) Indira Gandhi Memorial Trust by cheque 7,000
 - (b) Delhi University (declared as an institution of national eminence) by cheque 3,000
 - (c) Zila Saksharta Samiti by cheque 5,000
 - (d) An approved charitable institute by cheque 30,000
 - (e) Government by cheque for the purpose of promoting family planning 10,000
 - (f) Hanuman Temple in Mohalla by cheque 20,000

Compute the total income of Mr. X chargeable to tax for the Assessment year 2024-25.

Illustration 19

Mr. Rohan, a resident individual has Gross Total Income of ₹ 7,50,000 comprising of Income from Salary and income from house property for the assessment year 2024-25. He provides the following information:

- (a) Paid ₹ 70,000 towards premium on life insurance policy of his Handicapped Son (Section 80U disability). Sum assured ₹ 4,00,000; and date of issue of policy 01.08.2019.
- (b) Deposited ₹ 90,000 in tax saver deposit in the name of his major son in State Bank of India.
- (c) Contributed by cheque ₹ 25,000 to The Clean Ganga Fund, set up by the Central Government.

Compute the Total Income and deduction under Chapter VI-A for the Assessment year 2024-25.

Hint: Tax Saver deposits in the name of major son does not qualify for deduction u/s 80C since such deposits has to be made in the name of assessee himself.

Deduction in case of payment of rent [Section 80GG]

1. Deduction is allowed only to an individual.
2. He should not be getting any house rent allowance and also he is not being provided with Rent Free Accommodation by his employer.
3. He should not have any house in his name or in the name of the spouse or in the name of minor child or in the name of Hindu Undivided Family of which he is a member, at a place where he ordinarily resides or performs duties of his office or carries on his business or profession.
4. The assessee may have house at any other place but it should not be self occupied i.e. it may be let out or vacant.
5. He has paid rent for the accommodation taken by him for his residence.
6. Deduction shall be allowed to such individual in case of payment of rent and deduction shall be allowed to the extent of the least of the following:
 - (i) Rent paid over 10% of the adjusted gross total income
 - (ii) ₹ 5,000 p.m.
 - (iii) 25% of the adjusted gross total income
7. Meaning of adjusted GTI:
 - The GTI as reduced by the following:
 - (a) Deductions under Chapter VI-A, except under section 80GG
 - (b) Short-term capital gain taxable under section 111A
 - (c) Long-term capital gains taxable under sections 112 & 112A
 - (d) Any income on which income-tax is not payable.

Illustration 20

Mr. X has income under the head Business/Profession ₹ 5,00,000 and LTCG of ₹ 2,00,000, STCG u/s 111A ₹ 3,00,000 and casual income of ₹ 1,00,000. He is paying rent for a house of ₹ 40,000 p.m. He has deposited ₹ 30,000 in home loan account scheme of National Housing Bank. He has complied with all the condition of section 80GG. Compute income tax liability

Deduction in respect of contributions given by companies to political parties [Section 80GGB]

In computing the total income of an assessee, being an Indian company, there shall be deducted any sum contributed by it, in the previous year to any political party or an electoral trust. No deduction shall be allowed under this section in respect of any sum contributed by way of cash.

Deduction in respect of contributions given by any person to political parties [Section 80GGC]

In computing the total income of an assessee, there shall be deducted any Amount of contribution made by him, in the previous year, to a political party or an electoral trust. No deduction shall be allowed under this section in respect of any sum contributed by way of cash.

Deduction in case of new employment [Section 80JJAA]

1. Deduction is allowed to all assessee whose accounts are required to be audited.
2. Deduction shall be allowed equal to 30% of additional employee cost incurred.
3. Deduction is allowed for 3 assessment years including the assessment year in which such employment is provided.
4. It should be a new business.
5. Emoluments should be paid through account payee cheque, an account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed. (Other electronic mode means Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay.
6. Additional employee cost” means total emoluments paid or payable to additional employees employed during the previous year. Provided that in the case of an existing business, the additional employee cost shall be nil, if there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year.
7. “Additional employee” means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include,—
 - (a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or
 - (b) an employee employed for a period of less than two hundred and forty days during the previous year.
 - (c) an employee who does not participate in the recognised provident fund.

In the case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, 240 days shall be taken as 150 days.

Where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly.

Illustration 21

Mr. Satya is a manufacturer of household goods in a factory located in Navi Mumbai and commenced his business on 1st April 2021 and he employed 120 new work men during the previous year 2023-24 which included:

- (a) 20 employee whose total emoluments paid @ ₹ 30,000 p.m. per employee;
- (b) 40 worker employed on 01st April, 2023
- (c) 35 worker employed on 1st May, 2023
- (d) 25 worker employed on 5th October, 2023

Compute the Deduction under Section 80JJAA, if available to Mr. Satya for Assessment year 2024-25, if wages are paid to each worker @ ₹ 3,000 per month. His profit from the manufacture of goods for Assessment year 2024-25 is ₹ 9.50 lakhs. The Assessee is liable to Audit his accounts.

What will be your answer if assessee is engaged in manufacturing of leather products business.

■ SPECIAL PROVISION IN RESPECT OF NEWLY ESTABLISHED UNITS IN SEZ [SEC. 10AA]

1. Applicable to: All assessee
2. Conditions to be satisfied
 - (a) The assessee is an entrepreneur as defined in Sec.2(j) of SEZ Act, 2005.
 - (b) The undertaking has begun or begins to manufacture or produce articles or things or provide services on or after 01/04/2005 but before 31/03/2020 in any SEZ.
 - (c) New Business: Business should not be formed by splitting up or reconstruction of an existing business.
3. **Exception:** However, this condition is not applicable when conditions given u/s 33B are satisfied, which are as follows –
 - (a) The business of an industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee being used for business purpose.
 - (b) Such damage was caused due to –
 - (i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
 - (ii) riot or civil disturbance; or
 - (iii) accidental fire or explosion; or
 - (iv) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),
 - (c) Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of previous year in which such damage was caused.
4. **New Plant and Machinery:** Such undertaking should not be formed by transfer of machinery or plant previously used for any purpose.

Exception:

- (a) A plant or machinery is deemed as a new asset if the following conditions are satisfied
 - (i) Such plant or machinery is imported into India;
 - (ii) Depreciation on such asset has not been allowed under this Act to any person; and
 - (iii) The assessee was the first user of such asset in India.
- (b) Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.

Taxpoint: Usage of old plant and machinery upto 20% of total value of plant and machinery is allowed.

5. A report of a chartered accountant in Form 56F must be filed with the return of income certifying that the deduction has been correctly claimed.

6. Quantum of Deduction

1. For first 5 years from the commencement of operation - 100% of export profits

$$\frac{\text{Profits of the business of the undertaking} \times \text{Export turnover}}{\text{Total turnover of the business carried on by the undertaking}}$$

2. For next 5 years - 50% of export profits

$$\frac{\text{Profits of the business of the undertaking} \times \text{Export turnover} \times 50\%}{\text{Total turnover of the business carried on by the undertaking}}$$

3. For next 5 years - 50% of export profit provided such profits have been credited to the Special Economic Zone Re-investment Reserve Account.

$$\frac{\text{Profits of the business of the undertaking} \times \text{Export turnover} \times 50\%}{\text{Total turnover of the business carried on by the undertaking}}$$

7. Export turnover means –

It means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in or brought into, India but does not include:

- (a) Freight, telecommunication charges and insurance attributable to the delivery of the articles or things outside India;
- (b) Expenses incurred in foreign exchange in providing technical services outside India.

8. Note:

- (i) Export means taking goods or providing services out of India from a SEZ by land, sea, air, or by any other mode, whether physical or otherwise.
- (ii) Profits and gains derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be profits and gains derived from the export of computer software outside India.
- (iii) Business loss or loss under the head 'Capital Gains' relates to such unit shall be allowed to be carried forward.
- (iv) The deduction shall be allowed from the total income of the assessee, computed before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.

PRACTICE QUESTIONS

1. Krishna furnishes the following particulars for the previous year 2019-20 and 2020-21 in respect of an industrial undertaking established in "Special Economic Zone" during the financial year 2018-19.

Particulars	2023-24 (₹)
Total sales	85,00,000
Export sales	55,00,000
Domestic sales	30,00,000
Money received in or brought to India in convertible foreign exchange up to 30-09-2020/30-09-2021	40,00,000
Profit from the above undertaking	10,00,000

Total Sales of F.Y. of 2023-24 includes freight of ₹5 lacs for delivery of goods outside India. Compute the amount of deduction available to Mr. Krishna under section 10AA for PY 2023-24

Sol. Computation of the amount of deduction available to Mr. Krishna u/s 10AA

Exemption shall be allowed to the units in the Special Economic Zone for a continuous period of 15 years in the manner given below:

For first 5 Assessment Years 100% of export profits

For next 5 Assessment Years 50% of export profits

For next 5 Assessment Years 50% of export profit provided such profits have been credited to the Special Economic Zone Re-investment Reserve Account

Export profit means = Profit of business/Total Turnover × Export turnover

In the given case, deduction is calculating for P.Y. 23-24 and the business was established in P.Y. 2018-19 which is 6th year hence assessee is eligible for 50% of export profits.

Export turnover = 55,00,000 - 5,00,000 = 50,00,000

Total Turnover = 85,00,000 - 5,00,000 = 80,00,000

Export profit = 10,00,000/80,00,000 × 50,00,000 = 6,25,000

Deduction allowed = 6,25,000 × 50% = 3,12,500

Note: Freight shall not be included in export turnover

2. Mrs. Vibha Gupta, a resident individual is running a SEZ unit, as well as a unit in Domestic Tariff Area (DTA). She furnishes the following details relating to the year ended 31-3-2024, pertaining to these two units (₹in lakhs)

	DTA Unit	SEZ Unit
Export turnover	100	1000
Total turnover	400	1100
Net profit	50	220

Compute the deduction available u/s 10AA:

- (a) When the SEZ unit had been set up on 12-3-2019, and
 (b) When the SEZ unit had been set up on 12-3-2020

Sol. (a) 50% of the profit derived from export of articles or things or services is eligible for deduction under section 10AA, F.Y.2023-24 falls in the next five year period commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. As per section 10AA, the profit derived from export of articles or things or services shall be

$$= \text{Profit of the business of Unit in SEZ} \times \frac{\text{Export Turnover of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}}$$

$$= 50\% \text{ of ₹ 220 lakhs} \times \frac{1000 \text{ Lakhs}}{1100 \text{ Lakhs}}$$

$$= 50\% \times ₹200 \text{ lakhs}$$

$$= ₹100 \text{ lakhs}$$

(b) 100% of the profit derived from export of articles or things or services is eligible for deduction under section 10AA, F.Y.2023-24 falls in the first five year period commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. As per section 10AA, the profit derived from export of articles or things or services shall be

$$= \text{Profit of the business of Unit in SEZ} \times \frac{\text{Export Turnover of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}}$$

$$= 50\% \text{ of ₹ 220 lakhs} \times \frac{1000 \text{ Lakhs}}{1100 \text{ Lakhs}}$$

$$= 100\% \times ₹200 \text{ lakhs}$$

$$= ₹200 \text{ lakhs}$$

7A

CHAPTER

Advance Payment of Tax

Section 208 Advance tax shall be payable during a financial year in every case where the Amount of such tax payable by the assessee during that year, is ten thousand rupees or more.

An assessee has to estimate his current income and pay advance tax thereon. He need not submit any estimate or statement of income to the Assessing Officer.

Section 207 Every person shall pay tax in advance as per the provisions of advance tax i.e. in general every person should estimate his income and pay tax however exact Amount of income tax shall be calculated at the end of the year. A senior citizen who do not have income under the head business/ profession shall be exempt from payment of advance tax.

As per **section 211**, all assessee have to pay advance tax in the manner given below: Due date of installment Amount (₹) payable.

Date	Tax
Upto 15 th June of P.Y.	15% of Tax Payable
Upto 15 th September of P.Y.	45% of Tax Payable
Upto 15 th December of P.Y.	75% of Tax Payable
Upto 15 th March of P.Y.	100% of Tax Payable

Section 234C If any person has defaulted in payment of advance tax, interest shall be charged @ 1% per month for a period of 3 months on the Amount (₹) of default in each installment, but for the last installment, interest shall be charged only for one month. Income tax paid upto 31st March of previous year is also called advance tax.

Circumstances in which Interest is Payable under Section 234C	Amount (₹) On which Interest is to be Paid
Where advance tax paid on or before June 15 th is less than 12% of the tax due on returned income	15% of tax due on returned income minus advance tax paid upto June 15 th .
Where advance tax paid on or before September 15 th is less than 36% of the tax due on returned income	45% of tax due on returned income minus advance tax paid upto September 15 th .
Where advance tax paid on or before December 15 th is less than 75% of the tax due on returned income	75% of tax due on returned income minus advance tax paid upto December 15 th .
Where advance tax paid on or before March 15 th is less than 100% of the tax due on returned income	100% of tax due on returned income minus advance tax paid upto March 15 th .

Section 234B if advance tax paid is less than 90% of actual tax liability, assessee shall be required to pay interest @ 1% per month or part of a month from 1st April of assessment year upto the date of payment. If advance tax paid is 90% or more of actual tax liability, no interest is payable.

Section 234A if any person has paid income tax after expiry of the last date of filing of return of income, interest shall be payable @ 1% p.m. or part of the month for the period subsequent to the last date of filing of return of income.

Payment of advance tax in case of capital gains/casual income/newly setup business/ profession

As per Section 234C, In case of capital gains and casual income, no advance tax is payable on estimated basis but if there is actual accrual of casual income or capital gains, advance tax is to be paid in the subsequent installments and if such accrual is after 15th March, advance tax is to be paid upto 31st March of previous year otherwise interest shall be charged under section 234C.

Rounding off for the purpose of calculating Interest Rule 119A As per rule 119A, the principal Amount (₹) shall be rounded off in the multiples of ₹ 100 and for this purpose any fraction of ₹ 100 shall be ignored.

Illustration 1

Mr. X has paid advance tax as given below:

- | | |
|----------------------------|------------------------------|
| □ Upto 15.06.2023 ₹ 15,000 | □ Upto 15.12.2023 ₹ 95,000 |
| □ Upto 15.09.2023 ₹ 45,000 | □ Upto 15.03.2024 ₹ 1,70,000 |

He had long term capital gains of ₹ 3,00,000 on 01.01.2024 and his income under the head business/ Profession is ₹ 11,00,000. He has filed return of income on 10.12.2024 and has paid difference of the tax on 10.12.2024. Last date for filing of return is 31.07.2024. Compute interest payable under section 234A, 234B and 234C.

Illustration 2

C Ltd. has estimated its tax liability for assessment year 2024-25 ₹ 4,40,000 and has paid advance tax accordingly but actual tax liability was found to be ₹ 10,00,000. The company has paid balance Amount on 02.01.2025 and filed return of income on the same date. Compute interest payable under section 234A, 234B, and 234C.

Illustration 3

C Ltd. has paid advance tax for the previous year 2022-23 as given below:

- | | |
|-------------------------------|-------------------------------|
| 1. Upto 15.06.2023 ₹ 50,000 | 3. Upto 15.12.2023 ₹ 3,00,000 |
| 2. Upto 15.09.2023 ₹ 1,50,000 | 4. Upto 15.03.2024 ₹ 6,00,000 |

Actual tax liability was found to be ₹ 7,00,000 and balance tax was paid on 10.12.2023. Compute interest payable under section 234A, 234B, 234C.

Illustration 4

MR. Ram has income under the head house property ₹ 18,00,000 and she has received gift of ₹ 3,00,000 in cash from her husband's sister and ₹ 1,00,000 from her sister's husband and ₹ 1,20,000 from sister of her mother in law. She has agricultural income of ₹ 4,00,000. She has paid advance tax as given below:

- Upto 15th June 2023 ₹ 15,000
- Upto 15th Dec 2023 ₹ 75,000
- Upto 15th Sept 2023 ₹ 45,000
- Upto 15th March 2024 ₹ 1,00,000

Balance Amount of tax was paid on 10th Dec 2024 and return of income filed on the same date and due date for filing return of income is 31.07.2024. Compute her tax liability for the Assessment Year 2024-25 and also interest under section 234A, 234B and 234C.

1. Direct payment of tax [Section 191(1)]

Section 191 provides that in the following cases, tax is payable by the assessee directly -
(i) in the case of income in respect of which tax is not required to be deducted at source; and
(ii) income in respect of which tax is liable to be deducted but is not actually deducted.

In view of this provision, 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 -

(i) who is required to deduct tax at source; or

(ii) an employer paying tax on non-monetary perquisites under section 192(1A),

does not deduct, or after deducting fails to pay such tax, or does not pay, the whole or part of the tax, 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.

2. Direct payment of tax, where income of the assessee includes value of specified security or sweat equity shares allotted or transferred free of cost or at a concessional rate to the assessee by an employer being an eligible startup¹ [Section 191(2)]

In a case where the income of the assessee includes the value of any specified security or sweat equity shares allotted or transferred by the current employer, being an eligible start-up, free of cost or at concessional rate to the assessee, the income-tax on such income has to be paid by the assessee within 14 days from the earliest of the following dates -

- after the expiry of 48 months from the end of the relevant assessment year; or
- from the date of the sale of such specified security or sweat equity share by the assessee; or
- from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity shares.

■ TDS ON SALARY [SECTION 192]**1. Applicability of TDS under section 192**

(a) This section casts an obligation on every person responsible for paying any income chargeable to tax under the head 'Salaries' to deduct income-tax on the amount payable.

(b) Such income-tax has to be calculated at the average rate of income-tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee.

(c) However, in case an employee intends to opt for concessional rate of tax under section 115BAC and he intimates to the deductor, being his employer, of such intention, then, the employer

shall compute his total income, and deduct tax thereon in accordance with the provisions of section 115BAC. If such intimation is not made by the employee, the employer shall deduct tax at source without considering the provision of section 115BAC of the Act.

(d) In cases where an assessee is simultaneously employed under more than one employer or the assessee takes up a job with another employer during the financial year after his resignation or retirement from the services of the former employer, he may furnish the details of the income under the head "Salaries" due or received by him from the other employer, the tax deducted therefrom and such other particulars to his current employer. Thereupon, the subsequent employer should take such information into consideration and then deduct the tax remaining payable in respect of the employee's remuneration from both the employers put together for the relevant financial year.

(e) A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following particulars of:

(i) such other income and of any tax deducted under any other provision;

(ii) loss, if any, under the head 'Income from house property'.

The employer shall take the above particulars into account while calculating tax deductible at source.

2. Requirement to obtain evidence/proof/particulars of claims from the employee by the employer

Sub-section (2D) casts responsibility on employer to obtain from the assessee, the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner, for the purposes of -

(1) Estimating income of the assessee; or

(2) Computing tax deductible under section 192(1).

Rule 26C requires furnishing of evidence of the following claims by an employee to the person responsible for making payment under section 192(1) in Form No.12BB for the purpose of estimating his income or computing the tax deduction of tax at source:

S. No.	Nature of Claim	Evidence or Particulars
1.	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹1 lakh .
2.	Leave Travel Concession or Assistance	Evidence of expenditure
3.	Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
4.	Deduction under Chapter VI-A	Evidence of investment or expenditure.

Premature withdrawal from employees provident fund [Section 192A]

(a) For the purpose of discouraging pre-mature withdrawal and promoting long term savings, if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) and does not opt for transfer of accumulated balance to the new employer, the withdrawal would be subject to tax.

- (b) Section 192A provides that the trustees of the Employees Provident Fund Scheme, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees are required to deduct income-tax @ 10% on premature taxable withdrawal.
- (c) No tax deduction is to be made under this section, if the amount of such payment or aggregate amount of such payment to the payee is less than ₹ 5,000.
- (d) Any person entitled to receive any amount on which tax is deductible under this section has to furnish his PAN to the person responsible for deducting such tax. In case he fails to do so, tax would be deductible at the maximum marginal rate.

■ TDS ON INTEREST ON SECURITIES [SECTION 193]

1. Person responsible for deduction of tax at source

This section casts responsibility on every person responsible for paying to a resident any income by way of interest on securities.

2. Rate of TDS

Such person is vested with the responsibility to deduct income-tax at the rates in force from the amount of interest payable.

The rate at which tax is deductible under section 193 is 10%.

3. Time of tax deduction at source

Tax should be deducted at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

4. Non-applicability of TDS under section 193

No tax deduction is to be made from any interest payable:

- (i) on 4¼% National Defence Bonds 1972, where the bonds are held by an individual not being a non-resident;
- (ii) on 4¼% National Defence Loan, 1968 or 4¾% National Defence Loan, 1972, where the interest is payable to an individual;
- (iii) on National Development Bonds;
- (iv) on 7-year National Savings Certificates (IV Issue);
- (v) on debentures issued by any institution or authority or any public sector company or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as notified by the Central Government;
- (vi) on 6½% Gold Bonds, 1977 or 7% Gold Bonds, 1980, where the bonds are held by an individual (other than a non-resident), provided that the holders of the bonds make a written declaration that the total nominal value of the bonds held by him or on his behalf did not in either case exceed ₹ 10,000 at any time during the period to which the interest relates;
- (vii) on any security of the Central Government or a State Government

Note: It may be noted that tax has to be deducted at source in respect of interest payable on 8% Savings (Taxable) Bonds, 2003, or 7.75% Savings (Taxable) Bonds, 2018, only if such interest payable exceeds ₹ 10,000 during the financial year.

- (viii) on any debentures (whether listed or not listed on a recognized stock exchange) issued by the company in which the public are substantially interested to a resident individual or HUF. However,
 - (a) The interest should be paid by the company by an account payee cheque;
 - (b) The amount of such interest or the aggregate thereof paid or likely to be paid during the financial year by the company to such resident individual or HUF should not exceed ₹ 5,000.
- (ix) on securities to LIC, GIC, subsidiaries of GIC or any other insurer, provided -
 - (a) The securities are owned by them or
 - (b) They have full beneficial interest in such securities.
- (x) on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder.

■ TDS ON DIVIDENDS [SECTION 194]

1. Applicability of TDS under section 194

The principal officer of a domestic company is required to deduct tax on dividend distributed or paid by it to its resident shareholders.

The provisions of tax deduction at source under section 194, therefore, applies only to dividend distributed or paid to resident shareholders.

2. Rate of TDS

The rate of deduction of tax in respect of such dividend is 10%

3. Time of tax deduction at source

The deduction of tax has to be made before making any payment by any mode in respect of any dividend or before making any distribution or payment to a resident shareholder of any amount deemed as dividend under section 2(22)(a)/(b)/(c)/(d)/(e).

4. Non-applicability of TDS under section 194

(i) No tax is to be deducted in case of a shareholder, being an individual, where -

- (a) the dividend is paid by any mode other than cash; and
- (b) the amount of such dividend or aggregate of dividend distributed or paid or likely to be distributed or paid during the financial year by the company to such shareholder does not exceed ₹5,000.

(ii) The TDS provisions will not apply to such dividend credited or paid to -

- (a) LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares
- (b) any other person as may be notified by the Central Government.

■ TDS ON INTEREST OTHER THAN INTEREST ON SECURITIES [SECTION 194A]

This section deals with the scheme of deduction of tax at source from interest other than interest on securities. The main provisions are the following:

1. Applicability of TDS under section 194A

This section applies only to interest, other than "interest on securities", credited or paid by assessee other than individuals or Hindu undivided family. However, an individual or Hindu undivided family

whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year is liable to deduct tax at source under this section.

These provisions apply only to interest paid or credited to residents.

2. Time of tax deduction at source

The deduction of tax must be made at the time of crediting such interest to the account of the payee or at the time of its payment in cash or by any other mode, whichever is earlier.

3. Rate of TDS

The rate at which tax is to be deducted is 10%

4. Non-applicability of TDS under section 194A

Following interests are not subject to TDS -

(A) Interest payable to -

(a) Banking company; or

(b) Co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank); or

(c) Financial corporation established by or under a Central, State or Provincial Act; or

(d) The Life Insurance Corporation of India; or

(e) The Unit Trust of India; or

(f) Any company or co-operative society carrying on the business of insurance; or

(g) Such other notified institution, association or body [No notification shall be issued after 31-03-2020].

(B) Interest credited or paid by a firm to a partner of the firm;

(C) Interest credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society

(D) Interest on deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(E) Interest on deposits (other than time deposits) with a co-operative society, other than a co-operative society or bank referred above, engaged in carrying on the business of banking
Exception [in case of co-operative society] Aforesaid co-operative society shall be liable to deduct tax, if:

(a) the total sales, gross receipts or turnover of the co-operative society exceeds ₹ 50 crore during the financial year immediately preceding the financial year in which the interest is credited or paid; and

(b) the aggregate of the amounts of such interest, credited or paid, during the financial year is more than ₹ 50,000 in case of payee being a senior citizen (₹ 40,000 in other cases).

(c) "Mahila Samman Savings Certificate, 2023" (a maximum deposit facility of upto ₹ 2 lakh in the name of women or a girl for 2 years at a fixed interest rate of 7.5% p.a., compounded quarterly.) Consequently, no tax under section 194A would be deductible by the post office on interest paid or credited under this scheme since the amount of interest would not exceed ₹ 40,000.

(F) Interest credited or paid in respect of deposits under any notified scheme like NSC, Indira Vikas Patra, Kisan Vikas Patra and Post Office Monthly Income Account.

(G) Interest credited or paid in respect of deposits with a banking company.

- (H) Interest credited on the compensation amount awarded by the Motor Accidents Claims Tribunal;
- (I) Interest paid on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed ₹ 50,000.
- (J) Interest credited or paid by the Central Government under any provision of the Income Tax Act or the Wealth tax Act, 1957
- (K) Income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company or scheduled bank in relation to a Zero Coupon Bond issued on or after 1-6-2005 by such company or fund.
- (L) Income by way of interest referred to in sec. 10(23FC)
- (M) Interest on FDRs, made in the name of the Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.

Illustration 1

Examine the TDS implications under section 194A in the cases mentioned hereunder-

- (a) On 1.10.2023, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh @ 9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2024.
- (b) On 1.6.2023, Mr. Ganesh made three nine months fixed deposits of ₹ 3 lakh each, carrying interest @ 9% p.a. with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2024.
- (c) On 1.10.2023, Mr. Rajesh started a six months recurring deposit of ₹ 2,00,000 per month @ 8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2024.

Sol.

- (a) ABC Co-operative Bank has to deduct tax at source @ 10% on the interest of ₹ 45,000 ($9\% \times ₹ 10 \text{ lakh} \times \frac{1}{2}$) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹ 4,500.
- (b) XYZ Bank has to deduct tax at source @ 10% u/s 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [$3,00,000 \times 3 \times 9\% \times 9/12$], which exceeds the threshold limit of ₹ 40,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of ₹ 60,750 exceeds the threshold limit of ₹ 40,000, tax has to be deducted @ 10% u/s 194A
- (c) No tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2023 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 40,000.

■ TDS ON WINNING FROM LOTTERIES OR CROSS WORD PUZZLES, ETC. [SEC. 194B]

1. Who is responsible to deduct tax:

Any person responsible for paying to any person any income by way of winning from any lottery or crossword puzzle or card game and other game of any sort, exceeding ₹ 10,000.

2. Rate of TDS

30% (in case of non-resident payee, applicable surcharge, health and education cess shall also be considered)

3. When tax shall be deducted

At the time of payment.

4. Other Points

- If prize is given partly in cash and partly in kind then tax on whole prize (i.e. aggregate of cash and value of prize in kind) shall be deducted from the cash prize.
- If prize is given in kind only (or cash prize is not sufficient), then payer should ensure that tax has been paid on such income before releasing such prize.
- Where a certain percentage has to be forgone either in favour of Government or an agency conducting lotteries, then such portion is not subject to deduction of tax at source.
- Where an agent receives the prize money on unsold ticket or becomes entitled to an unclaimed prize, it shall form part of his business income and therefore not liable for tax deduction u/s 194B.
- If prize money is paid in instalments, then tax shall be deducted at the time of payment of each instalment.
- Tax shall be deducted on payment of commission, etc. to the lottery agent u/s 194G and not u/s 194B.

■ DEDUCTION OF TAX AT SOURCE ON WINNINGS FROM ONLINE GAMES [SECTION 194BA]

1. Applicability and rate of TDS

Section 194BA requires any person who is responsible for paying any sum by way of winnings from online games to any person, deduct tax on the net winnings in a person's user account as computed in a prescribed manner.

2. Rate of TDS : 30%

3. Time of deduction

At the end of the financial year. In case, there is withdrawal from user account during the financial year, tax would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal.

In addition tax would also be deducted on the remaining amount of net winnings in the user account as computed in the prescribed manner at the end of FY.

4. Other Points

- (a) If prize is given partly in cash and partly in kind then tax on whole prize (i.e. aggregate of cash and value of prize in kind) shall be deducted from the cash prize.
- (b) If prize is given in kind only (or cash prize is not sufficient), then payer should ensure that tax has been paid on such net winnings before releasing such winnings.

5. Meaning of Certain Terms

Online gaming intermediary – An intermediary that offers one or more online games.

User – Any person who access or avail any computer resource of an online gaming intermediary.

User Account – Account of a user registered with an online gaming intermediary.

New section 194BA has been inserted by the Finance Act, 2023 requiring to deduct tax at source by a ny person responsible for paying to any person (whether resident or non-resident) any income by way of winnings from any online game during the financial year on the net winnings in his user account, computed in the manner as may be prescribed, at the end of the financial year at the rates in force i.e., 30%.

Such net winnings from online games during the previous year would be chargeable to tax @30% under section 115BBJ. The tax would be calculated on net winnings from such online games computed in the prescribed manner.

If any difficulty arises in giving effect to the provisions of section 194BA, the CBDT may, with the previous approval of the Central Government, issue guidelines for the purposes of removing the difficulty.

Accordingly, the CBDT has, vide this circular, issued the following guidelines:

Illustration 1

There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 194BA for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Sol. Tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:

- (i) net winnings comprised in the amount withdrawn does not exceed ₹ 100 in a month;
- (ii) tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds ₹ 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the financial year; and
- (iii) the deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 194BA is not sufficient to discharge the tax deduction liability.

Illustration 2

When the net winnings is in kind how will tax deduction under section 194BA operate?

Sol. At the outset, it may be clarified that where money in user account is used to buy an item in kind and given to user then it is net winnings in cash only and the deductor is required to deduct tax at source under section 194BA accordingly.

However, there could be a situation where the winning of the game is a prize in kind. In that situation provision of section 194BA(2) will operate.

According to this where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings. In these situations, the person responsible for paying, shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g., Challan details etc.).

In the alternative, as an option to remove difficulty if any, the deductor may deduct the tax under section 194BA and pay to the Government.

Illustration 3

How will the valuation of winnings in kind required to be carried out?

Sol. The valuation would be based on fair market value of the winnings in kind except in following cases:-

- (i) The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value for winnings.
- (ii) The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value for such winnings.

It is further clarified that GST will not be included for the purposes of valuation of winnings for TDS under section 194BA.

■ TDS ON WINNING FROM HORSE RACES [SECTION 194BB]

1. Who is responsible to deduct tax

Any person responsible for paying to any person any income by way of winning from horse races, exceeding ₹ 10,000.

2. Rate of TDS

30% (in case of non-resident payee, applicable surcharge, health and education cess shall also be considered)

3. When tax shall be deducted

At the time of payment.

4. Other Points

- (i) Any person, here means a book-maker or a person to whom a licence has been granted by the Government for horse racing or arranging for wagering, betting in any race course.
- (ii) Race-income other than horse races like camel races etc is not covered by this section.

■ TDS ON PAYMENT TO CONTRACTOR [SECTION 194C]

1. Who is responsible to deduct tax

Any person responsible for paying any sum to any resident-contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract.

However, Individual or a HUF or an association of persons or a body of individuals shall deduct tax if total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

Note: However, no individual or a HUF shall be liable to deduct income-tax where amount is credited or paid exclusively for personal purposes of such individual or any member of HUF.

2. When tax cannot be deducted

Case 1

When following conditions are satisfied then tax cannot be deducted:

- (a) Any sum credited or paid in pursuance of any contract, the consideration for which does not exceed ₹ 30,000; and
- (b) Where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year does not exceed ₹ 1,00,000

Case 2

When following conditions are satisfied then tax cannot be deducted:

- (a) Amount is paid or payable to a resident contractor during the course of plying, hiring or leasing goods carriage (here-in-after referred to as transport operator)
- (b) Such operator furnishes his Permanent Account Number (PAN) to the payer.
- (c) Where such contractor owns 10 or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with his PAN to the person paying or crediting such sum.

Note: In case 2, Tax is not required to be deducted even if amount of payment exceeds ₹ 1,00,000/-

3. When tax shall be deducted

At the time of payment or crediting the party, whichever is earlier.

4. Rate of TDS

Payee	Rate as a % of amount paid or payable
Individual or HUF	1%
Other Payee	2%

5. Other Points

(i) Contract shall include sub-contract.

(ii) "Work" shall include -

(a) advertising

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods and passengers by any mode of transport other than by railways;

(d) catering.

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee u/s 40A(2)(b),

(f) but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer.

(g) Where any sum is paid or credited for carrying out any work mentioned in (e), tax shall be deducted at source:

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

6. Payment for transportation of gas

If seller sells as well as transports the gas to the buyer till the point of delivery, nature of such contract remains "contract of sale" and not a works contract. It is irrelevant whether transportation charges are included in cost of gas or it is shown separately.

However, if transportation facility is availed from third person, then transport charges are liable for tds u/s 194c.

Illustration 2

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y. 2023-24-

₹ 20,000 on 01-05-2023

₹ 25,000 on 01-08-2023

₹ 28,000 on 1.12.2023

On 1.3.2024, a payment of ₹ 30,000 is due to Mr. X on account of a contract work.

Tax Deducted at Source

Discuss whether ABC Ltd. is liable to deduct tax at source under section 194C from payments made to Mr. X.

Sol. In this case, the individual contract payments made to Mr. X does not exceed ₹ 30,000. However, since the aggregate amount paid to Mr. X during the P.Y. 2023-24 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2024, taking the total from ₹ 73,000 to ₹ 1,03,000), the TDS provisions under section 194C would get attracted. Tax has to be deducted @1% on the entire amount of ₹ 1,03,000 from the last payment of ₹ 30,000 and the balance of ₹ 28,970 (i.e., ₹ 30,000 – ₹ 1,030) has to be paid to Mr. X.

■ TDS ON INSURANCE COMMISSION [SECTION 194D]

1. Who is responsible to deduct tax

Any person responsible for paying to a resident person any income by way of remuneration or reward (i.e. commission etc.) for soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance.

Note: Tax shall not be deducted if the aggregate amounts of remuneration or reward credited or paid during the financial year to the payee does not exceed ₹ 15,000.

2. When tax shall be deducted

At the time of payment or crediting the party whichever is earlier.

3. Rate of TDS

Payee	TDS Rate
Domestic Company	10%
Other Payee	5%

■ TDS ON PAYMENT IN RESPECT OF LIFE INSURANCE POLICY [SECTION 194DA]

1. Who is responsible to deduct tax

Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy other than the amount not includible in the total income u/s 10(10D).

2. TDS is not required to be deducted

(a) on any payment which is exempt u/s 10(10D).

(b) if the aggregate amounts of payments to the payee during the financial year is less than ₹ 1,00,000.

3. When tax shall be deducted

At the time of payment

4. Rate of TDS

5% on the income comprised therein (i.e. Amount Received – Premium Paid)

Illustration 3

Examine the applicability of the provisions for tax deduction at source under section 194DA in the following cases -

- (a) Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 31.3.2023, towards maturity proceeds of LIC policy taken on 1.4.2019, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.
- (b) Mr. Y, a resident, is due to receive ₹ 3.95 lakhs on 31.3.2023 on LIC policy taken on 31.3.2012, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹ 30,100.
- (c) Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2022 towards maturity proceeds of LIC policy taken on 1.8.2015 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 10,000.

Sol.

- (i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 4.50 lakhs due on 31.3.2023 are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @5% under section 194DA on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the aggregate amount of insurance premium paid).
- (ii) Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 3.95 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.
- (iii) Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 95,000 due on 1.8.2022 would not be exempt under section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

■ TDS ON PAYMENT TO NON-RESIDENT SPORTSMAN OR SPORTS ASSOCIATIONS [SECTION 194E]

1. Who is responsible to deduct tax

Any person who is responsible to pay the following income –

Payee	Income by way of
Sportsman (including an athlete) or an entertainer being non-resident foreign citizen	(a) Participation in India in any game (excluding card game or gambling) or sport (b) Advertising (c) Contribution of articles relating to any game or sports in any newspaper, magazine or journal.
Sports association being non-resident	Any game (other than card game) or sports organised in India

2. Rate of TDS

20% (+ Surcharge + health and education cess)

3. When tax shall be deducted

At the time of payment or crediting the party whichever is earlier.

Illustration 4

Calculate the amount of tax to be deducted at source (TDS) on payment made to Ricky Ponting, an Australian cricketer non-resident in India, by a newspaper for contribution of articles ₹ 25,000.

Sol. Under section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @20%. Further, since Ricky Ponting is a non-resident, health and education cess @4% on TDS would also be added. Therefore, tax to be deducted = ₹ 25,000 × 20.8% = ₹ 5,200.

■ PAYMENTS IN RESPECT OF DEPOSITS UNDER NATIONAL SAVINGS SCHEME, ETC. [SECTION 194EE]

1. Who is responsible to deduct tax

Any person [i.e. post office] responsible for paying an amount (either principal or interest) referred to in sec. 80CCA(2)(a) [i.e. National Saving Scheme, 1987]

Note: Tax shall not be deducted at source if the aggregate amount of such payments to the payee during the financial year is less than ₹ 2,500.

2. When tax shall be deducted

At the time of payment.

3. Rate of TDS

Payee	Rate of TDS as a % of amount paid or payable
Resident	10%
Non-Resident	10% (+ Surcharge + Health and Education cess)

4. Exemption or relaxation from the provision

(a) Where the payment is made to the heirs of the deceased assessee

(b) When a declaration in Form 15-G (in duplicate) is furnished by the assessee to the payer.

■ TDS ON REPURCHASE OF UNITS OF MUTUAL FUND OR UNIT TRUST OF INDIA [SECTION 194F]

1. Who is responsible to deduct tax

The person responsible for paying to any person any amount referred to in section 80CCB(2) [i.e. mutual fund or UTI]

2. When tax shall be deducted

At the time of payment

3. Rate of TDS 20%

■ TDS ON COMMISSION ON SALE OF LOTTERY TICKETS [SECTION 194G]

1. Who is responsible to deduct tax

Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets to any person, who is stocking, distributing, purchasing or selling such tickets.

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier:

3. Rate of TDS

Payee	Rate of TDS as a % of amount paid or payable
Resident	5%
Non-Resident	5% (+ Surcharge + Health and Education cess)

4. When TDS cannot be made

Where amount of commission, etc. on such tickets does not exceed ₹ 15,000

■ TDS ON COMMISSION, ETC. OTHER THAN INSURANCE COMMISSION [SEC. 194H]

1. Who is responsible to deduct tax

Following persons are responsible to deduct tax at source on commission or brokerage (other than commission on insurance) to a resident person –

- Any person, other than individual or HUF; &
- Individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid.

Note:

- (a) No tax shall be deducted if the aggregate amounts of commission or brokerage credited or paid during the financial year to the payee does not exceed ₹ 15,000.
- (b) No deduction shall be made on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier:

3. Rate of TDS: 5%

4. When commission is retained by an agent

Where commission or brokerage is retained by the consignee/agent while remitting the sale consideration, the consignor/principal will have to deposit the tax deductible on the amount of such retained commission.

5. Other Points:

Commission or brokerage includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities.

Illustration 5

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source under section 194C? Discuss.

Also, examine whether the provisions of tax deduction at source under section 194C would be attracted if the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house.

Sol. In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, and the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' under section 194C. Therefore, the payment of ₹ 50 lakhs made by Moon TV to the production house would be subject to tax deduction at source under section 194C.

If, however, the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house, there is no contract for "carrying out any work", as required in section 194C(1). Therefore, such payment would not be liable for tax deduction at source under section 194C.

■ TDS ON RENT [SECTION 194-I]

1. Who is responsible to deduct tax

Following persons are responsible to deduct tax at source on rent to a resident person -

- Any person, other than individual or HUF; &
- Individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid.

Note: Tax shall not be deducted if the aggregate amounts of rent credited or paid during the financial year to the payee does not exceed ₹ 2,40,000.

"Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any, -

- (a) Land
- (b) Building (including factory building)
- (c) Land appurtenant to a building (including factory building)
- (d) Machinery
- (e) Plant
- (f) Furniture
- (g) Fittings
- (h) Equipment

whether or not any or all of the above are owned by the payee.

2. When tax shall be deducted

At the time of payment or crediting the account of payee, whichever is earlier.

3. Rate of TDS:

Nature of Assets	Rate
Machinery or plant or equipment	2%
Other Asset	10%

4. When TDS cannot be made

- Where the payee is the Government, local authorities u/s 10(20) and statutory authorities u/s 10(20A), then TDS cannot be made - [Circular No. 699, dated 30.1.1995].
- Where rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in sec. 10(23FCA), owned directly by such business trust.

5. Other Points

- Payment by an individual reimbursed by the company: Where an employee or an individual representing a company (like a consultant, auditor, etc.) makes a payment for hotel accommodation directly to the hotel, the question of tax deduction at source would not normally arise (except where he is covered u/s 44AB). This is because, it is the employee or such individual who makes the payment and the company merely reimburses the expenditure. [Circular No. 5/2002, dated 30.7.2002]
- Lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of sec. 194-I. Therefore, such payments are not liable for TDS u/s 194-I [Circular 35/2016 dated 13.10.2016]

■ TDS ON TRANSFER OF CERTAIN IMMOVABLE PROPERTY OTHER THAN AGRICULTURAL LAND [SECTION 194-IA]

1. Who is responsible to deduct tax

Any person, being a transferee, responsible for paying (other than the person referred to in sec. 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than rural agricultural land)

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier.

3. Rate of TDS: 1% of consideration or SDV whichever is higher

4. When TDS cannot be made

Where the consideration for the transfer of an immovable property is less than ₹ 50 lakh.

Note: Consideration for transfer of any immovable property shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property;

5. Other Points:

The deductor is not required to obtain Tax Deduction Account Number as required u/s 203A.

Illustration 6

Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Y on 1.8.2023. He has purchased the house property and the land in the year 2021 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2023, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Examine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

Sol. Tax implications in the hands of Mr. X

As per section 50C, the stamp duty value of house property (i.e. ₹ 85 lakh) would be deemed to be the full value of consideration arising on transfer of property, since the stamp duty value exceeds 110% of the consideration received. Therefore, ₹ 45 lakh (i.e., ₹ 85 lakh – ₹ 40 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y.2024-25.

Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. X.

Tax implications in the hands of Mr. Y

In case immovable property is received for inadequate consideration, the difference between the stamp value and actual consideration would be taxable under section 56(2)(x), if such difference exceeds the higher of ₹ 50,000 and 10% of the consideration.

Therefore, in this case ₹ 25 lakh (₹ 85 lakh – ₹ 60 lakh) would be taxable in the hands of Mr. Y under section 56(2)(x).

Since agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of “property” under section 56(2)(x) includes only capital assets specified thereunder.

TDS implications in the hands of Mr. Y

Since the sale consideration of house property exceeds ₹ 50 lakh, Mr. Y is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be ₹ 60,000, being 1% of ₹ 60 lakh.

TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

■ TDS ON PAYMENT OF RENT BY CERTAIN INDIVIDUAL / HUF [SECTION 194-IB]

1. Who is responsible to deduct tax

Any person, being an individual or a Hindu undivided family (other than those referred to in sec. 194-I), responsible for paying to a resident any rent.

2. When tax shall be deducted

At the time of credit of rent for the last month of the previous year (or the last month of tenancy, if the property is vacated during the year) to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier

3. Rate of TDS: 5%

4. When TDS cannot be made

Where rent for a month or part thereof does not exceed ₹ 50,000

5. Other Points:

- The deductor is not required to obtain Tax Deduction Account Number as required u/s 203A.
- As per provision of sec. 206AA, if payee fails to provide his PAN, TDS is required to be deducted @ 20%. However, deduction under this section shall not exceed the amount of rent payable for the last month of the previous year (or the last month of the tenancy).

■ TDS ON PAYMENT UNDER JOINT DEVELOPMENT AGREEMENT [SECTION 194-IC]

1. Who is responsible to deduct tax

Any person, responsible for paying any consideration referred to in sec. 45(5A) [i.e., Joint Development Agreement] to a resident person.

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier.

3. Rate of TDS: 10%

Illustration 7

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2023. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax to be deducted at source.

Would your answer change if Mr. X vacated the premises on 31st December, 2023? Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

Sol. Since Mr. X pays rent exceeding ₹ 50,000 per month in the F.Y. 2023-24, he is liable to deduct tax at source @5% of such rent for F.Y. 2023-24 under section 194-IB. Thus, ₹ 27,500 [₹ 55,000 × 5% × 10] has to be deducted from rent payable for March, 2022.

If Mr. X vacated the premises in December, 2023, then tax of ₹ 19,250 [₹ 55,000 × 5% × 7] has to be deducted from rent payable for December, 2023.

In case Mr. Y does not provide his PAN to Mr. X, tax would be deductible @20%, instead of 5%.

In case 1 above, this would amount to ₹ 1,10,000 [₹ 55,000 × 20% × 10], but the same has to be restricted to ₹ 55,000, being rent for March, 2024.

In case 2 above, this would amount to ₹ 77,000 [₹ 55,000 × 20% × 7], but the same has to be restricted to ₹ 55,000, being rent for December, 2023.

■ FEES FOR PROFESSIONAL OR TECHNICAL SERVICES [SECTION 194J]

1. Who is responsible to deduct tax

Following persons are responsible to deduct tax at source for paying fees for professional or for technical service or royalty or any sum referred to in sec. 28(va) (i.e., fees for non-competence) or director fees (which is not covered u/s 192) to a resident person -

- Any person, other than individual or HUF; &
- Individual or HUF, whose total sales, gross receipts or turnover from business or profession carried on by him exceeding ₹ 1 crore in case of business or ₹ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid.

Note: Tax cannot be deducted if the aggregate amount of such fees credited or paid during the financial year to the payee does not exceed ₹ 30,000 each in the case of Professional fees, Fees for technical service, Royalty, Any sum referred to in sec.28(va) (i.e., fees for non-competence)

Note: ₹ 30,000 limit is not on individual transaction. If several professional bills in a year together exceed the amount of ₹ 30,000, tax shall be deducted, even though any individual bill amount does not exceed ₹ 30,000.

Note: No threshold limit is provided for director fees. i.e., TDS is applicable even amount is less than ₹ 30,000.

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier:

Case	Rate
<input type="checkbox"/> Payee is engaged only in the business of operation of call centre	2%
<input type="checkbox"/> Fees for technical services (other than professional services)	
<input type="checkbox"/> Royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films	
Other	10%

3. When TDS cannot be made

- (i) Individual or HUF shall not be liable to deduct income-tax on fees which is credited or paid exclusively for personal purposes of such individual or any member of HUF.
- (ii) Fees paid by non-resident: Any fees paid through regular banking channels to any professional who is resident in India by the non-resident who does not have any agent or business connection or permanent business establishment in India, may not be subject to this provision [Circular No.726 dated 16.10.1995].

4. Other Points

“**Professional services**” means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising (i.e. Model, photographer, artist providing service to advertising agency) or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

“**Fees for technical services**” means any consideration (including any lump sum consideration) for rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head “Salaries”.

Illustration 8

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2023 towards fees for professional services and another payment of ₹ 25,000 to him on the same date towards fees for technical services. Discuss whether TDS provisions under section 194J are attracted.

Sol. TDS provisions under section 194J would not get attracted, since the limit of ₹ 30,000 is applicable for fees for professional services and fees for technical services, separately. It is assumed that there is no other payment to Mr. Ganesh towards fees for professional services and fees for technical services during the P.Y.2022-23.

■ TDS ON INCOME IN RESPECT OF UNITS [SECTION 194K]

1. Who is responsible to deduct tax

Any person responsible for paying to a resident 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

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier.

3. Rate of TDS: 10%

4. When TDS cannot be made:

In the following cases tax shall not be deducted:

- (a) If the aggregate amounts of income credited or paid during the financial year to the payee does not exceed ₹ 5,000.
- (b) If the income is of the nature of capital gains.

■ TDS ON PAYMENT OF COMPENSATION ON ACQUISITION OF CERTAIN IMMOVABLE PROPERTY [SECTION 194LA]

1. Who is responsible to deduct tax

Any person responsible for paying to a resident any sum, being compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition of any immovable property (other than agricultural land)

2. When tax shall be deducted

At the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

3. Rate of TDS: 10%

4. When TDS cannot be made

Where the amount of such payment or the aggregate amount of such payments to a resident during the financial year does not exceed ₹ 2,50,000.

5. Other points

- (a) Agricultural land means agricultural land in India.
- (b) Immovable property means any land (other than agricultural land) or any building or part of a building.
- (c) Deduction shall not be made where payment is made in respect of any award or agreement which has been exempted from levy of income-tax u/s 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

■ PAYMENT OF CERTAIN SUMS BY CERTAIN INDIVIDUALS OR HINDU UNDIVIDED FAMILY [SECTION 194M]

1. Who is responsible to deduct tax

An individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of sec. 194C, 194H or 194J) responsible for paying following sum during the financial year:

- (i) any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract,
- (ii) any sum to any resident by way of commission (not being insurance commission referred to in section 194D) or brokerage or
- (iii) any sum to any resident by way of fees for professional services

Note: Tax cannot be deducted if the aggregate amount of such sum credited or paid to a resident during the financial year does not exceed ₹ 50 lakh.

2. When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

3. Rate of TDS: 5%

4. Other Point: The payer is not required to obtain TAN. He shall deposit the tax deducted under this section by using his PAN.

Illustration 9

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

S.No.	Particulars of the payer	Nature of payment	Aggregate of payments made in the F.Y.2022-23
1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y. 2023-24	Contract Payment for repair of residential house	₹ 5 lakhs
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y. 2023-24.	Contract Payment for reconstruction of residential house (made during the period January-March, 2023)	₹ 20 lakhs in January, 2024, ₹ 15 lakhs in Feb 2023 and ₹ 20 lakhs in March 2024.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2024	₹ 51 lakhs
4.	Mr. Dheeraj, a pensioner	Contract payment made during October-November 2023 for reconstruction of residential house	₹ 48 lakhs

■ PAYMENT OF CERTAIN AMOUNTS IN CASH [SECTION 194N]

1. Who is responsible to deduct tax

Every person, being,-

- (i) a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);
- (ii) a co-operative society engaged in carrying on the business of banking; or
- (iii) a post office,

who is responsible for paying cash (in aggregate) in excess of ₹ 1 crore (₹ 20 lakh in case of defaulter) during the previous year, to any person from one or more accounts maintained by the recipient with it.

2. When tax shall be deducted

At the time of payment

3. Rate of TDS:

Case	Rate
In case of defaulter	
□ Aggregate payment exceeds ₹ 20 lakh but does not exceed ₹ 1 crore	2%
□ Aggregate payment exceeds ₹ 1 crore	5%
In any other case	2%

Defaulter means the recipient who has not filed the returns of income for all of the 3 assessment years relevant to the 3 previous years, for which the time limit to file return of income u/s 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made to him.

4. Exception

The provision is not applicable if payment is made to:

- (i) the Government;
- (ii) any banking company or co-operative society engaged in carrying on the business of banking or a post office;
- (iii) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934;
- (iv) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007;
- (v) such other person or class of persons, which the Central Government may, by notification in the Official Gazette, specify in consultation with the Reserve Bank of India.
- (vi) Other notified person

5. **Other Point:** Tax deducted u/s 194N is not considered as deemed receipt of income.

■ TDS ON PAYMENT OF CERTAIN SUMS BY E-COMMERCE OPERATOR TO E-COMMERCE PARTICIPANT [194-O]

1. Who is responsible to deduct tax

Where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called), such e-commerce operator shall deduct tax.

Note: If following conditions are satisfied, TDS shall not be deducted:

- (a) e-commerce participant is an individual or Hindu undivided family.
- (b) The gross amount of such sale or services or both during the previous year does not exceed ₹ 5,00,000
- (c) Such e-commerce participant has furnished his Permanent Account Number or Aadhaar number to the e-commerce operator.

2. When tax shall be deducted

At the time of payment or crediting the payee, whichever is earlier:

3. Rate of TDS

1% of the gross amount of such sales or services or both [if e-commerce participant does not intimate his PAN to e-commerce operator, then rate of TDS is 5%]

4. Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sale or services for the purpose of deduction of tax.

5. Other Points

- A transaction in respect of which tax has been deducted by the e-commerce operator (or which is not liable to deduction due to threshold limit), shall not be liable to TDS under any other provisions. However, any amount received is or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale or services, other provision relating to TDS, if any, is applicable.
- "Electronic commerce" means the supply of goods or services or both, including digital products, over digital or electronic network;
- "e-Commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
- "e-Commerce participant" means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;
- "Services" includes "fees for technical services" and fees for "professional services", as defined in sec. 194].

■ DEDUCTION OF TAX BY A SPECIFIED BANK IN CASE OF SPECIFIED SENIOR CITIZEN [SECTION 194P]

1. Applicability and rate of TDS

Section 194P requires deduction of tax at source on the basis of rates in force by a specified bank, being a notified banking company, on the total income of specified senior citizen for the relevant assessment year, computed after giving effect to:

- deduction allowable under Chapter VI-A; and
- rebate allowable under section 87A

2. Exemption from filing return of income

The specified senior citizen is exempted from filing his return of income for the assessment year relevant to the previous year in which the tax has been deducted under this section.

3. Meaning of certain terms

"Specified bank" means A banking company as notified by the Central Government

"Specified senior citizen" means An individual, being a resident in India, who:

- (a) is of the age of 75 years or more at any time during the previous year;

- (b) is having pension income [Also, he should have 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
- (c) has furnished a declaration to the specified bank containing such particulars, in the prescribed form and verified in the prescribed manner.

Illustration 10

Mr. Sharma, a resident Indian aged 77 years, gets pension of ₹ 52,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest @8% on fixed deposit of ₹20 lakh with the said bank. Out of the deposit of ₹ 20 lakh, ₹ 2 lakh represents five year term deposit made by him on 1.4.2023. Interest on savings bank credited to his SBI savings account for the P.Y.2023-24 is ₹ 9,500.

1. From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2024-25, assuming that he has not opted for section 115BAC.
2. What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for A.Y.2024-25, if tax deductible at source has been fully deducted? Examine.
3. Would your answer to Q.2 be different if the fixed deposit of ₹ 20 lakh was with Canara Bank instead of SBI, other facts remaining the same?

Sol.

1. Computation of total income of Mr. Sharma for A.Y. 2024-25

Particulars	₹	₹
Salaries		
Pension (52,000 × 12)	6,24,000	
Less: Standard deduction u/s 16(ia)	50,000	5,74,000
Income from Other Sources		
Interest on fixed deposit (₹ 20 lakh × 8%)	1,60,000	
Interest on savings account	9,500	1,69,500
Gross total income		7,43,500
Deductions under Chapter VI-A		
Under Section 80C		
Five year term deposit (2 lakh, restricted to ₹ 1.5 lakh)	1,50,000	
Under section 80TTB		
Interest on fixed deposit and savings account, restricted to 50,000, since Mr. Sharma is a resident Indian of the age of 77 years.	50,000	2,00,000
Total Income		5,43,500

Computation of tax liability for A.Y. 2023-24	₹
Tax payable [$₹ 43,500 \times 20\% + ₹ 10,000$]	18,700
Add: Health and Education Cess@4%	748
Tax liability	19448
Tax liability (rounded off)	19450

- SBI, being a specified bank, is required to deduct tax at source u/s 194P (after considering the tax, if any, deducted on pension u/s 192) and remit the same to the Central Government. In such a case, Mr. Sharma would not be required to file his return of income u/s 139.
- If the fixed deposit of ₹ 20 lakh is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a “specified senior citizen”, consequent to which SBI would not be liable to deduct tax under section 194P. In this case, Mr. Sharma would have to file his return of income u/s 139, since his total income (without giving effect to deduction under Chapter VI- A) exceeds the basic exemption limit.

It may be noted that in this case, TDS provisions u/s 192 would, in any case, be attracted in respect of pension income. Further, Canara Bank would, be liable to deduct tax@10% under section 194-A on interest on fixed deposit, since the same exceeds ₹ 50,000.

■ DEDUCTION OF TAX AT SOURCE ON PURCHASE OF GOODS [SECTION 194Q] [W.E.F. 1.7.2021]

1. Applicability and rate of TDS

Section 194Q requires any person, being a buyer who is responsible for paying any sum to any resident-seller for purchase of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year, to deduct tax at source @0.1% of such sum exceeding 50 lakhs.

2. Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier.

3. Non-applicability of TDS under section 194Q

Tax is not required to be deducted under this section in respect of a transaction on which -

- tax is deductible under any of the provisions of this Act; and
- tax is collectible under the provisions of section 206C, other than section 206C(1H).

In case of a transaction to which both section 206C(1H) and section 194Q applies, tax is required to be deducted under section 194Q.

Meaning of Buyer

Buyer Means a person whose total sales, gross receipts or turnover from the business carried on by him exceeds ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

However, buyer does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions.

Illustration 11

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2022-23 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2023-24 was ₹ 95 lakh (₹ 20 lakh on 1.6.2023, ₹ 25 lakh on 12.8.2023, ₹ 22 lakh on 23.11.2023 and ₹ 28 lakh on 25.3.2024). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y. 2023-24 was ₹ 15 crores.

- (1) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.
- (2) Would your answer be different if Mr. Gupta's turnover for F.Y.2020-21 was ₹ 8 crores, all other facts remaining the same?
- (3) Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?

Sol.

- (1) Since Mr. Gupta's turnover for F.Y.2023-24 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2022-23, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner –
- No tax is to be deducted u/s 194Q on the payments made on 1.6.2023 and 12.8.2023, since the aggregate payments till that date i.e. 45 lakhs, has not exceeded the threshold of ₹50 lakhs. Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 194Q from the payment/credit of ₹ 22 lakh on 23.11.2022 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit]. Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/credit of ₹ 28 lakhs on 25.3.2024.

Note: In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

- (2) If Mr. Gupta's turnover for the F.Y.2021-22 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y. 2023-24 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.

No tax is to be collected u/s 206C(1H) on 1.6.2023 and 12.8.2023, since the aggregate receipts till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2023 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit).

Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be collected u/s 206C(1H) on 25.3.2024.

- (3) In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2023 and 25.3.2024, respectively.

In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax @ 1% instead of 0.1%. Accordingly, tax of ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2023 and 25.3.2024, respectively.

■ DEDUCTION OF TAX AT SOURCE ON BENEFIT OR PERQUISITE IN RESPECT OF BUSINESS OR PROFESSION [SECTION 194R] [W.E.F. 1.7.2022]

1. Applicability and rate of TDS

Section 194R requires any person who is responsible for providing, to a resident, any benefit or perquisite whether convertible into money or not, arising from business or the exercise of a profession, by such resident, to ensure before providing such benefit or perquisite, as the case may be, to such resident, that tax has been deducted in respect of such benefit or perquisite @10% of the value or aggregate of value of such benefit.

2. Cases where benefit or perquisite is wholly in kind or partly in kind and partly in cash

In a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.

3. Non-applicability of TDS under section 194R

No tax is required to be deducted under section 194R in the following cases-

- (a) In case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed ₹ 20,000; or
- (b) In case of an individual or HUF, whose total sales, gross receipts or turnover from business or profession does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

4. Meaning of "Person responsible for providing" Person responsible for providing means the person providing such benefit or perquisite. In case of a company, it means the company itself including the principal officer thereof.

Guidelines under section 194R of the Income-tax Act, 1961 [Circular no. 12/2022 dated 16.6.2022 and Circular no. 18/2022 dated 13.9.2022]

The Finance Act, 2022 has inserted new section 194R in the Income-tax Act 1961 which is effective from 1.7.2022.

It mandates a person, who is responsible for providing any benefit or perquisite to a resident, to deduct tax at source @ 10% of the value or aggregate of value of such benefit or perquisite, before providing such benefit or perquisite. The benefit or perquisite may or may not be convertible into money but should arise either from carrying out of business, or from exercising a profession, by such resident.

This deduction is not required to be made, if the value or aggregate of value of the benefit or perquisite provided or likely to be provided to the resident during the financial year does not ₹20,000.

The responsibility of tax deduction also does not apply to a person, being an Individual/ HUF, whose total sales/ gross receipts/ gross turnover from business does not exceed ₹1 crore, or from profession does not exceed ₹50 lakhs, during the financial year immediately preceding the financial year in which such benefit or perquisite is provided by him.

Section 194R(2) empowers the CBDT (with the previous approval of the Central Government) to issue guidelines for the purpose of removing difficulties.

Accordingly, in exercise of the power contained under section 194R(2), the CBDT has, with the prior approval of the Central Government, issued the following guidelines.

1. Is it necessary that the person providing benefit or perquisite needs to check if the amount is taxable under section 28(iv), before deducting tax under section 194R?

Sol. The deductor is not required to check whether the amount of benefit or perquisite that he is providing would be taxable in the hands of the recipient under section 28(iv). The amount could be taxable under any other section like section 41(1) etc. Section 194R casts an obligation on the person responsible for providing any benefit or perquisite to a resident, to deduct tax at source @10%. There is no further requirement to check whether the amount is taxable in the hands of the recipient or under which section it is taxable.

2. Is it necessary that the benefit or perquisite must be in kind for section 194R to operate?

Sol. Tax under section 194R is required to be deducted whether the benefit or perquisite is in cash or in kind. First proviso to section 194R(1) clearly indicates the intent of legislature that there could also be situations where benefit or perquisite is in cash or the benefit or perquisite is in kind or partly in cash and partly in kind. Thus, section 194R clearly brings in its scope the situation where the benefit or perquisite is in cash or in kind or partly in cash or partly in kind.

3. Is there any requirement to deduct tax under section 194R, when the benefit or perquisite is in the form of capital asset?

Sol. As has been stated in answer to question no 1, there is no requirement to check whether the perquisite or benefit is taxable in the hands of the recipient and the section under which it is taxable.

The asset given as benefit or perquisite may be capital asset in general sense of the term like car, land etc. but in the hands of the recipient it is benefit or perquisite and has accordingly been held to be taxable. In any case, the deductor is not required to check if the benefit or perquisite is taxable in the hands of recipient. Thus, the deductor is required to deduct tax under section 194R in all cases where benefit or perquisite (of whatever nature) is provided.

If loan settlement/ waiver by a bank is to be treated as benefit/ perquisite, it would lead to hardship as the bank would need to incur the additional cost of tax deduction in addition to the haircut that he has taken. Will section 194R apply in such a situation?

The amount representing principal loan waived by bank under one time settlement scheme would constitute income falling under section 28(iv) relating to value of any benefit or perquisite, arising from business or exercise of profession.

However, it has been clarified, vide Circular No. 18/2022 dated 13.9.2022, that one-time loan settlement with borrowers or waiver of loan granted on reaching settlement with the borrowers by the following would not be subjected to tax deduction at source under section 194R:

- (i) Public Financial Institution
- (ii) Scheduled Bank
- (iii) Cooperative bank (other than a primary agricultural credit society)
- (iv) Primary co-operative Agricultural and Rural Development Bank
- (v) State Financial Corporation
- (vi) State Industrial Investment Corporation being a Government company, engaged in the business of providing long-term finance for industrial projects:
- (vii) Deposit taking Non-Banking Financial Company

- (viii) Systemically Important Non-deposit Taking Non-Banking Financial Company
- (ix) Public company engaged in providing long term finance for construction or purchase of houses in India for residential purpose and which is registered in accordance with the guidelines/ direction issued by the National Housing Bank formed under National Housing Bank Act 1987;
- (x) Registered Asset Reconstruction Companies

This clarification is only for the purposes of section 194R. The treatment of such settlement/ waiver in the hands of the person who had got benefitted by such waiver would not be impacted by this clarification. Taxability of such settlement/ waiver in the hands of the beneficiary will be governed by the relevant provisions of the Act.

4. How is the valuation of benefit/perquisite required to be carried out?

Sol. The valuation would be based on fair market value of the benefit or perquisite except in following cases:

	Situation	Value for such benefit/perquisite
(i)	The benefit/perquisite provider has purchased the benefit/perquisite before providing it to the recipient	purchase price
(ii)	The benefit/perquisite provider manufactures such items given as benefit/perquisite	the price that it charges to its customers for such items

It has been further clarified that GST would not be included for the purposes of valuation of benefit/perquisite for TDS under section 194R.

5. Many a times, a social media influencer is given a product of a manufacturing company so that he can use that product and make audio/video to speak about that product in social media. Is this product given to such influencer a benefit or perquisite?

Sol. Whether this is benefit or perquisite will depend upon the facts of the case.

In case of benefit or perquisite being a product like car, mobile, outfit, cosmetics etc. and if the product is returned to the manufacturing company after using for the purpose of rendering service, then it will not be treated as a benefit/perquisite for the purposes of section 194R.

However, if the product is retained then it would be in the nature of benefit/perquisite and tax is required to be deducted accordingly under section 194R.

6. Section 194R provides that if the benefit/ perquisite is in kind or partly in kind (and cash is not sufficient to meet TDS) then the person responsible for providing such benefit or perquisite is required to ensure that tax required to be deducted has been paid in respect of the benefit or perquisite, before releasing the benefit or perquisite. How can such person be satisfied that tax has been deposited?

Sol. The requirement of law is that if a person is providing benefit in kind to a recipient and tax is required to be deducted under section 194R, the person is required to ensure that tax required to be deducted has been paid by the recipient. Such recipient would pay tax in the form of advance tax. The tax deductor may rely on a declaration along with a copy of the advance tax payment challan provided by the recipient confirming that the tax required to be deducted on the benefit/ perquisite has been deposited. This would be then required to be reported in TDS return along with challan number. This year Form 26Q has included provisions for reporting such transactions.

In the alternative, as an option to remove difficulty if any, the benefit provider may deduct the tax under section 194R and pay to the Government. The tax should be deducted after taking into account the fact the tax paid by him as TDS is also a benefit under section 194R. In the Form 26Q he will need to show it as tax deducted on benefit provided.

Company "A" gifts a car to its dealer "B" and deducted tax on this benefit under section 194R. Dealer "B" uses this car in his business. Will he get deduction for depreciation in calculating his income under the head "profits and gains of business or profession"?

It has been clarified, vide circular no. 18/2022 dated 13.9.2022, that once Company "A" has deducted tax on gifting of car in accordance with section 194R (or released the car after dealer "B" showed him payment of tax on such benefit) and dealer "B" has included this benefit as income in his income tax return, it would be deemed that the "actual cost" of the car for the purposes of section 32 shall be the amount of benefit included by dealer "B" as income in his income-tax return. Hence, dealer "B" can get depreciation on fulfilment of other conditions for claiming depreciation.

7. Section 194R would come into effect from 1st July 2022. It provides that the provision of this section does not apply where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to a resident during the financial year does not exceed ₹20,000. It is not clear how this limit of ₹20,000 is to be computed for the Financial Year 2022-23?

Sol. It has been clarified that,-

- (i) Since the threshold of ₹20,000 is with respect to the financial year, calculation of value or aggregate of value of the benefit or perquisite triggering deduction under section 194R has to be counted from 1 April, 2022. Hence, if the value or aggregate value of the benefit or perquisite provided or likely to be provided to a resident exceeds ₹20,000 during the financial year 2022-23 (including the period up to 30th June 2022), the provision of section 194R shall apply on any benefit or perquisite provided on or after 1st July 2022.
- (ii) The benefit or perquisite which has been provided on or before 30 June 2022, would not be subjected to tax deduction under section 194R.

8. Whether issuance of bonus share/right share is a benefit or perquisite if issued by a company in which the public are substantially interested and whether tax is required to be deducted under section 194R?

Sol. In case of bonus shares which are issued to all shareholders by a company in which the public are substantially interested, it has been represented that this does not result in any benefit to shareholders as the overall value and ownership of their holding does not change. Further cost of acquisition of bonus share is taken as nil for capital gains computation when this share is sold. Similar representations have been received seeking clarity on issuance of right shares.

It has been clarified, vide circular no. 18/2022 dated 13.9.2022, that the tax under section 194R is not required to be deducted on issuance of bonus or right shares by a company in which the public are substantially interested, where bonus shares are issued to all shareholders by such a company or right shares are offered to all shareholders by such a company, as the case may be.

■ TDS RATE IF PAYEE FAILS TO FURNISH A PAN SECTION [206AA]

If payee doesn't furnish a PAN, then TDS shall be deducted:

- (a) Rate prescribed in the relevant section
- (b) 20%

Whichever is higher

Note: for section 194-O/194-Q maximum TDS rate is 5%

Tax Deducted at Source

Section 206AB- Higher rate of TDS in case of specified person

1. Meaning of Specified Person

A person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the 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 ₹ 50,000 or more in the said previous year.

However, the specified person would not include

- (a) a non-resident who does not have a permanent establishment in India; or
- (b) 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.

2. TDS shall be deducted at higher of following rates:

- (i) at twice the rate prescribed in the relevant provision of the Act;
- (ii) at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
- (iii) at 5%

However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194M11 or 194N.

3. 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

■ TDS ON SUMS PAYABLE TO GOVERNMENT, RESERVE BANK OR CERTAIN CORPORATIONS [SECTION 196]

No deduction of tax shall be made from any sums payable to following person:

- (i) the Government, or
- (ii) the Reserve Bank of India, or
- (iii) 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
- (iv) a Mutual Fund specified u/s 10(23D),

■ TAX DEDUCTED IS INCOME RECEIVED [SECTION 198]

- All sums deducted shall, for the purpose of computing the income of an assessee, be deemed to be income received. E.g., If Mr. X received interest of ₹ 18,000 (after deduction of tax ₹ 2,000), then interest income of Mr. shall be considered as ₹ 20,000/-. Exception: The sum being the tax paid, u/s 192(1A) [i.e., tax paid by employer on non-monetary perquisite] and u/s 194N for the purpose of computing the income of an assessee, shall not be deemed to be income received.
- Where any income is paid 'net of tax' (i.e., tax chargeable on such income shall be borne by the payer), then for the purpose of deducting tax, such income is required to be grossed up [Sec. 195A]. However, grossing up is not required in case of tax on non-monetary perquisite paid by the employer.

■ CREDIT FOR TAX DEDUCTED [SECTION 199]

- Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made. If such income is assessable in the hands of other person, credit shall be given to such other person.

- Any sum referred to in sec. 192(1A) and paid to the Central Government shall be treated as the tax paid on behalf of such employee.
- The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred above and also the assessment year for which such credit may be given.

■ CERTIFICATE FOR DEDUCTION AT LOWER RATE [SECTION 197]

- Where the Assessing Officer, on an application (Form 13) made by a person, is satisfied that existing and estimated tax liability of a person justifies the deduction of tax at lower rate or no deduction of tax, as the case may be, the Assessing Officer shall issue a certificate for deduction of tax at such lower rate or no deduction of tax.
- The certificate shall be valid for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.
- The certificate shall be valid only with regard to the person responsible for deducting the tax and named therein
- The certificate shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate.

■ DUTY OF PERSON RESPONSIBLE FOR DEDUCTING TAX AT SOURCE

Deposit of TDS within Time-Limit [Section 200 read with Rule 30]

Tax deducted by the deductor shall be deposited electronically through internet banking facility to the credit of the Central Government within following time limit -

TDS	Time Limit
(a) Tax is deducted on behalf of the Government	
Where the tax is paid without production of an income-tax challan	On the same day
Where the tax is paid with production of an income-tax challan	On or before 7 days from the end of the month in which tax is deducted
(b) When the Assessing Officer (after obtaining prior approval from Joint Commissioner) permits quarterly payment of tax:	
Where deduction is made u/s 192, 194A, 194D or 194H	Within July 7 (for Quarter ending on June 30), October 7 (for Quarter ending on September 30), January 7 (for Quarter ending on December 31) & April 30 (for Quarter ending on March 31)
(c) In any other case	
For the month of March	Within forthcoming 30 th April
For the months other than month of March	Within 7 days from the end of the month in which tax is deducted at source.

TDS	Time Limit
Exception: Where tax is deducted u/s 194-IA or 194-IB, tax shall be paid to the credit of the Central Government within a period of 30 days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QB (for section 194-IA) / 26QC (for section 194-IB)	

Issuance of certificate to payee Any person responsible for deducting tax, shall require to issue a certificate (electronically generated) to the payee -

Nature of Payment	Certificate	Time-limit
Salary	16	Annual certificate shall be issued on or before June 15 of the financial year following the financial year in which tax is deducted.
Others	16A	Quarterly certificate shall be issued within 15 days from the due date of furnishing quarterly TDS return

■ CONSEQUENCES OF FAILURE TO DEDUCT OR PAY [SECTION 201]

1. Deemed assessee-in-default

Any person including the principal officer of a company-

(i) who is required to deduct any sum in accordance with the provisions of the Act; or

(ii) an employer paying tax on non-monetary perquisites under section 192(1A).

shall be deemed to be an assessee-in-default, if he does not deduct, or does not pay or after deducting, fails to pay, the whole or any part of the tax, as required by or under the provisions of the Income-tax Act, 1961.

2. Non-applicability of deeming provision

Any person (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or paid to a payee 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 payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

3. Interest Liability

A person deemed to be an assessee-in-default under section 201(1), for failure to deduct tax or to pay the tax after deduction, is liable to pay simple interest @ 1% for every month or part of month on the amount of such tax from the date on which tax was deductible to the date on which such tax was actually deducted and simple interest for every month or part of month from the date on which tax was deducted to the date on which such tax is actually paid [Section 201(1A)].

Illustration 12

An amount of ₹ 40,000 was paid to Mr. X on 1.7.2023 towards fees for professional services without deduction of tax at source. Subsequently, another payment of ₹ 50,000 was due to Mr. X on 28.2.2024, from which tax @10% (amounting to ₹ 9,000) on the entire amount of ₹ 90,000 was deducted. However, this tax of ₹ 9,000 was deposited only on 22.6.2024. Compute the interest chargeable under section 201(1A).

Sol. Interest under section 201(1A) would be computed as follows –

Particulars	₹
1% on tax deductible but not deducted i.e., 1% on ₹ 4,000 for 8 months	320
1½% on tax deducted but not deposited i.e. 1½% on ₹ 9,000 for 4 months	540
	860

■ APPLICABILITY AND RATES

(i) Sale of certain goods

Under section 206C (1), sellers of certain goods are required to collect tax from the buyers at the specified rates. The specified percentage for collection of tax at source is as follows:

	Nature of Goods	Percentage
(a)	Alcoholic liquor for human consumption	1%
(b)	Tendu leaves	5%
(c)	Timber & other forest produce	2.5%
(d)	Scrap	1%
(e)	Minerals, being coal or lignite or iron ore	1%

No collection of tax shall be made under section 206C(1), in the case of a resident buyer, if such buyer furnishes to the a declaration that goods referred to in section 206C(1) above 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.

If buyer turnover is more than 10 crores in last year, then buyer required to deduct TDS u/s 194Q

(ii) Lease or a license of parking lot, toll plaza or mine or a quarry

Section 206(1C) provides for collection of tax by every person who grants a lease or a license or enters into a contract or otherwise transfers any right or interest in any

- parking lot or
- toll plaza or
- a mine or a quarry

to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such license, contract or lease of the specified nature, at the rate of 2%.

(iii) Sale of motor vehicle of value exceeding ₹ 10 lakhs

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 ₹ 10 lakhs, shall collect tax from the buyer@1% of the sale consideration.

(iv) Overseas remittance or an overseas tour package

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 overseas remittance from a buyer, being a person remitting such amount out of India;
- being a seller of an overseas tour programme package who receives any amount from the buyer who purchases the package at the rate of 5% of such amount.

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

Rate of TCS in case of collection by an authorized dealer

S. No.	Amount and purpose of remittance	Rate of TCS
(i)	Where the amount is remitted for a purpose other than purchase of overseas tour programme package; and the amount or aggregate of the amounts being remitted by a buyer is less than ₹ 7 lakhs in a financial year	Nil (No tax to be collected at source)
(ii)	(a) where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	5% of the amt or agg. of amts in excess of ₹ 7 lakh
(iii)	(a) where the amount being remitted out is a loan obtained from any financial institution, for the purpose of pursuing any education; and (b) the amount or aggregate of the amounts in excess of ₹ 7 lakhs is remitted by the buyer in a financial year	0.5% of the amt or agg. of amts in excess of ₹ 7 lakh

Cases where no tax is to be collected

(i)	No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller
(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax
(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority

Guidelines to remove difficulty in implementation of changes relating to Tax Collection at Source (TCS) on Liberalised Remittance Scheme (LRS) and on purchase of overseas tour program package [Circular No. 10/2023 dated 30.06.2023]

Section 206C(1G) provides for tax collection at source on foreign remittance through the Liberalised Remittance Scheme (LRS) and sale of overseas tour program package. Section 206C(1G) has been amended by the Finance Act, 2023 and the changes were to take effect from 1.7.2023. Vide press release dated 28.6.2023, Ministry of Finance has further amended the provisions of section 206C(1G) and defer the amendments made by the Finance Act, 2023 till 30.9.2023. Accordingly, the rate of TCS in case of collection by an authorized dealer/ seller of an overseas tour programme package is as follows:

S. No.	Particulars	Rate of TCS	
		Before 1.10.2023	On or after 1.10.2023
(i)	Remittances for the purpose of education [other than (ii) below] or medical treatment;	No TCS upto ₹ 7 lakhs 5% of the amt or agg. of amts in excess of ₹ 7 lakh	
(ii)	Remittances out of loan obtained from any financial institution as referred under section 80E, for the purpose of pursuing any education	No TCS upto ₹ 7 lakhs 0.5% of the amt or agg. of amts in excess of ₹ 7 lakh	
(iii)	Remittances for purposes other than mentioned in (i) to (ii)	No TCS upto ₹ 7 lakhs 5% on the amount or aggregate of amounts in excess of ₹ 7 lakhs	No TCS upto ₹ 7 lakhs 20% on the amount or aggregate of amounts in excess of ₹ 7 lakhs
(iv)	Overseas Tour Program Package	5% without any threshold limit	5% upto ₹ 7 lakhs and 20% above ₹ 7 lakhs

In case any difficulty arises to give effect to, inter alia, the provisions of section 206C(1G), the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide this circular, issued the following guidelines for removing certain difficulties.

1. Whether payment through overseas credit card would be counted in LRS?

Sol. No TCS shall be applicable on expenditure through international credit card while being overseas till further order.

2. Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for various purposes like education, health treatment and others? For example, if remittance of ₹ 7 lakh under LRS is made in a financial year for education purpose and other remittances in the same financial year of ₹ 7 lakh is made for medical treatment and ₹ 7 lakh for other purposes, whether the exemption limit of ₹ 7 lakh shall be given to each of the three separately?

Sol. It is clarified that the threshold of ₹ 7 lakh for LRS is combined threshold for applicability of the TCS on LRS irrespective of the purpose of the remittance.

Thus, in the given example, upto ₹ 7 lakh remittance under LRS during a financial year shall not be liable for TCS. However, subsequent ₹ 14 lakh remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance.

In the example, if the remittances under LRS are made in the current financial year at different point of time, TCS rates for the remaining ₹ 14 lakh remittances under LRS would depend on the time of remittance as TCS rates changes from 1st October 2023.

TCS rates would be applicable as under:-

Remittances	Rate of TCS
First ₹ 7 lakh remittance under LRS during the financial year 2023-24 for education purpose (or for that matter any purpose)	No TCS
Remittances beyond ₹ 7 lakh under LRS during the financial year 2023-24, if on or before 30th September 2023	TCS at 5% (irrespective of the purpose unless it is for education purpose financed by loan from a financial institution when the rate is 0.5%)
Remittances beyond ₹ 7 lakh under LRS during the financial year 2023-24, if on or after 1st October 2023.	TCS at 0.5% (if it is for education purpose financed by loan from a financial institution), 5% (if it is for education or medical treatment) and 20% (if it is for other purposes)

3. Since there are different TCS rates on LRS for the first six months and next six months of the financial year 2023-24, whether the threshold of ₹ 7 lakh, for the TCS to become applicable on LRS, applies separately for each six months?
- Sol.** No. The threshold of ₹ 7 lakh, for the TCS to become applicable on LRS, applies for the full financial year. If this threshold has already been exhausted; all subsequent remittances under LRS, whether in the first half or in the second half, would be liable for TCS at applicable rate.
4. Whether the threshold of ₹ 7 lakh, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?
- Sol.** It is clarified that the threshold of ₹ 7 lakh for LRS is qua remitter and not qua authorised dealer. Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBI, it is clarified that the details of earlier remittances under LRS by the remitter during the financial year may be taken by the authorised dealer through an undertaking at the time of remittance. If the authorised dealer correctly collects the tax at source based on information given in this undertaking, he will not be treated as "assessee in default". However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Act.
- It is further clarified that same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.
5. There is threshold of ₹ 7 lakh for remittance under LRS for TCS to become applicable while there is another threshold of ₹ 7 lakh for purchase of overseas tour program package where reduced rate of 5% of TCS applies. Whether these two thresholds apply independently?
- Sol.** Yes, these two thresholds apply independently. For LRS, the threshold of ₹ 7 lakh applies to make TCS applicable. For purchase of overseas tour program package, the threshold of ₹ 7 lakh applies to determine the applicable TCS rate as 5% or 20%.
6. A resident individual spends ₹ 3 lakh for purchase of overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of overseas tour program during the financial year. Whether TCS is applicable?
- Sol.** In case of purchase of overseas tour program package which is classified under LRS, TCS provision for purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS.

Since for purchase of overseas tour program package, the threshold of ₹ 7 lakh for applicability of TCS does not apply, TCS is applicable and tax is required to be collected by the seller. In this case the tax shall be required to be collected at 5% since the total amount spent on purchase of overseas tour program package during the financial year is less than ₹ 7 lakh. The TCS should be made by the seller.

7. There are different rates for remittance under LRS for medical treatment/education purposes and for other purposes. What is the scope of remittance under LRS for medical treatment/education purposes?

Sol. As per the clarification by the RBI, remittance for the purposes of medical treatment shall include,-

- (i) remittance for purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination;
- (ii) his medical expense; and
- (iii) other day to day expenses required for such purpose.

Education

Remittance for purpose of education shall include,-

- (i) remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination;
- (ii) the tuition and other fees to be paid to educational institute; and
- (iii) other day to day expenses required for undertaking such study.

8. Whether purchase of international travel ticket or hotel accommodation on standalone basis is purchase of overseas tour program package?

Sol. The term 'overseas tour program package' is defined as to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

It is clarified that purchase of **only** international travel ticket or purchase of **only** hotel accommodation, by in itself is not covered within the definition of 'overseas tour program package'. To qualify as 'overseas tour program package', the package should include **at least two** of the followings:-

- (i) international travel ticket,
- (ii) hotel accommodation (with or without food)/boarding/lodging,
- (iii) any other expenditure of similar nature or in relation thereto.

(v) Sale of goods of value exceeding ₹ 50 lakh

- (a) As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)].
- (b) Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs, at the time of receipt of consideration.
- (c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

Notes:

- (a) Seller means any person whose last year turnover is more than ₹10 crore.
- (b) if buyer fails to furnish PAN, then TCS rate shall be 1%
- (c) under this section TCS is collected only at the time of receiving consideration in excess of ₹ 50 lakhs in PY.

CBDT Clarification

1. In case of motor vehicle if section 206C(1F) not applicable (like manufacturer to distributor) then section 206C(1H) applicable if other condition.
2. In case of sale of fuel to NR Airlines companies at Indian airport not liable for TCS under this section.
3. GST adjustment or sale return adjustment is not required, as TCS is applicable on receipt of consideration

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, by any mode, whichever is earlier.

In case of sale of a motor vehicle of the value exceeding ₹10 lakhs or sale of goods exceeding ₹50 lakhs [other than exported goods and goods mentioned in section 206C(1)], tax shall be collected at the time of receipt of such amount under section 206C(1F) and 206C(1H), respectively.

Furnishing of copy of declaration within specified time [Section 206C(1B)]

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Chief Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before 7th of the month next following the month in which the declaration is furnished to him.

Note: TCS has to be collected at the time of debiting the party or receiving the consideration, whichever is earlier but in case of section 206C(1F) & (1H) it has to be collected only at the time of receiving the consideration

Interest on late collection/deposit TCS [Section 206C(7)]

In case of any delay, interest shall be levied @ 1% per month or part thereof from the date on which TCS was collectible to date on which TCS is actually paid

TCS Rate If Collectee Fails to furnish PAN or AADHAR to Collector [Section 206CC]

TCS rate shall be higher of:

- (a) Twice the rate
- (b) 5%

Note: Maximum rate of TCS under sub section (1H) shall be 1%

■ RETURN OF INCOME

- Return of income is the format in which the assessee furnishes information as to his total income and tax payable.
- 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 and the resultant tax by the assessee in the prescribed format.

■ COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]

1. As per section 139 (1), it is compulsory for companies and firms to file a return of income or loss for every previous year on or before the due date in the prescribed form
2. In case of a person other than a company or a firm, total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeds the basic exemption limit.
3. Every person, being a resident and ordinarily resident in India, would be required to file a return of income or loss for the previous year in the prescribed form and verified in the prescribed manner on or before the due date, if such person, at any time during the previous year, -
 - (a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India; or
 - (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

Meaning of “beneficial owner” and “beneficiary” in respect of an asset for the purpose of section 139:
 “Beneficial Owner” means An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.
 “Beneficiary” means An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.
4. Further, every person, being an individual or a HUF or an AOP/BOI, whether incorporated or not, or an artificial juridical person -
 - (a) whose total income or the total income of any other person in respect of which he is assessable under this Act during the previous year
 - (b) without giving effect to the provisions of Chapter VI–A or section 54/54B/54D/54EC/54F
 - (c) exceeded the basic exemption limit is required to file a return of his income or income of such other person on or before the due date.

5. Any person other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return, if during the previous year, such person -
- has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or
 - has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or
 - has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or

Rule 12AA

a person, other than a company or a firm, who is not required to furnish a return under section 139(1), and who fulfils any of the following conditions during the previous year has to file their return of income on or before the due date in the prescribed form and manner -

- if his total sales, turnover or gross receipts, as the case may be, in the business > ₹ 60 lakhs during the previous year; or
- if his total gross receipts in profession > ₹ 10 lakhs during the previous year; or
- if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more; or However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more
- the deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakhs or more during the previous year.

Meaning of due date

'Due date' means -

Assessee	Due Date
(a) A company	31 st October
(b) A person (other than a company) whose accounts are required to be audited under the income-tax act, 1961 or any other law for the time being in force; or	
(c) A partner of a firm whose accounts are required to be audited under the income-tax act, 1961 or any other law for the time being in force.	
An assessee including the partners of the firm being such assessee who is required to furnish a report referred to in section 92E	30 th November
In the case of any other assessee.	31 st July

■ FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234F]

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 ₹ 5,000.

However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000.

■ RETURN OF LOSS [SECTION 139(3)]

- This section requires the assessee to file a return of loss in the same manner as in the case of return of income within the time allowed u/s 139 (1).

2. Section 80 requires mandatory filing of return of loss u/s 139 (3) on or before the due date specified u/s 139 (1) for carry forward of the following losses –
 - (a) Business loss u/s 72 (1)
 - (b) Speculation business loss u/s 73 (2)
 - (c) Loss from specified business u/s 73A (2)
 - (d) Loss under the head “Capital Gains” u/s 74 (1)
 - (e) Loss from the activity of owning and maintaining race horses u/s 74A (3)
3. Consequently, section 139(3) requires filing of return of loss mandatorily within the time allowed u/s 139(1) for claiming carry forward of losses mentioned in (2) above.
4. However, loss under the head “Income from house property” u/s 71 B and unabsorbed depreciation u/s 32 can be carried forward for set-off even though return of loss has not been filed before the due date.
5. A return of loss has to be filed by the assessee in his own interest and the nonreceipt 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 –

- (i) before three months prior to the end of the relevant assessment year (i.e., 31.12.2022 for P.Y. 2021-22); or
- (ii) before the completion of the assessment, whichever is earlier.

■ 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 –

- (i) before three months prior to the end of the relevant assessment year (i.e., 31.12.2022 for P.Y. 2021-22); or
- (ii) before completion of assessment, whichever is earlier.

■ OPTION TO FILE UPDATED RETURN OF INCOME [SECTION 139(8A)]

1. Option to file updated return of income – 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. 2023-24 can be filed till 31.03.2026.
2. Non applicability of the provisions of updated return – The provisions of updated return would not apply, if the updated return of such person for that assessment year –
 - (i) is a loss return; or
 - (ii) 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
 - (iii) 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).

3. 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
4. Updated return can be filed if original return is a loss return and updated return is a return of income–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.
For example if Mr. X has furnished his return of loss for A.Y. 2022-23 on 31.05.2022 consisting of ₹ 5,00,000 as business loss, he can furnish an updated return for A.Y. 2022-23 upto 31.03.2025 if such updated return is a return of income.
5. Updated return to be furnished for subsequent previous year in case (4) above–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)]

1. 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.
2. 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.
3. 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.

■ VERIFICATION OF RETURN [SECTION 140]

Assessee	Case	Verified by
Individual	In General	Individual Himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf

	Where by any other reason it is not possible for the individual to verify the return	Any person duly authorised by him
HUF	In general	Karta
	Where the 'karta' is absent from India or is mentally incapacitated	Any adult member of the family
Firm	In general	Managing partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner
Limited liability partnership	In general	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such	Any partner or any other prescribed person
Local authority	Principal Officer	
Political party	Chief Executive Officer	
Company	In general	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director or any other prescribed person
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016	Insolvency professional appointed by such Adjudicating Authority
	Non-resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return.
	Company in process of winding up	Liquidator of the company
	Where the management of the company has been taken over by the Central or State Government.	Principal officer
Any other association	Any member or principal officer	
Any other person	Such person or any other person competent to act on its behalf.	

■ PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

Permanent Account Number (PAN) is an alpha-numeric (ten characters) code given to a person by income tax department for the purpose of identification of the assessee. A person can have only one PAN.

Compulsory application for allotment of PAN

As per section 139A & rule 114, following persons are under statutory obligation to apply for PAN within the time limit stated as under:

Who is to apply for PAN	When to apply for PAN
<ul style="list-style-type: none">❑ Any person whose total income exceeds maximum exempted limit.❑ Any resident person other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year❑ Any person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred above or any person competent to act on behalf of the person referred above or who intends to enter into prescribed transactions	On or before 31 st May of the relevant assessment year.
<ul style="list-style-type: none">❑ Any person whose sales or turnover or gross receipts are likely to exceed ₹ 5,00,000 in any previous year❑ Any person who is required to furnish return u/s 139(4A) i.e. trust and charitable institution❑ Any person who is entitled to receive any sum or income, on which tax is deductible under in any financial year	On or before the end of the relevant financial year
Any person who requires export-import code	Before making any export or import.
Assessee under the GST	Before making application for registration under GST.

Penalty for failure to apply for PAN

Failure to apply for PAN or to quote PAN in prescribed documents (discussed later in this chapter) attracts penalty of ₹ 10,000 u/s 272B.

■ VOLUNTARY APPLICATION FOR ALLOTMENT OF PAN [SECTION 139A(3)]

The section empowers a person to apply for a PAN, even though, the person does not fall under any of the categories as mentioned above. However, a person, who has been already allotted a PAN under new series, shall not apply for another PAN.

Interchangeability of PAN and Aadhar [Section 139A(5E)]

Every person who is required to furnish or intimate or quote his PAN, and who,--

- (a) has not been allotted PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the PAN, and such person shall be allotted a PAN in such manner as may be prescribed;
- (b) has been allotted a PAN, and who has intimated his Aadhaar number in accordance with provisions of sec. 139AA, may furnish or intimate or quote his Aadhaar number in lieu of the PAN.

Whom to apply (either compulsory or voluntary)

The application is to be made to the Assessing Officer or any other person who has been assigned the function of allotment of PAN. However, where no such Assessing Officer or other person has been assigned such function then application shall be made to the Assessing Officer having jurisdiction over the person.

Form of application – The prescribed forms are as under:

Case	Form
For Indian Citizen/Indian Company/Entities incorporated in India/ Unincorporated entities formed in India	49A
In other cases	49AA

Suo-moto allotment of PAN

- As per sec 139A (1B) for the purpose of collecting any information which may be useful for the purposes of the Act, the Central Government may, by way of notification, specify any class of person to apply within prescribed time to the AO for allotment of PAN.
- Section 139A (2) empowers the Assessing Officer to allot a PAN to any person other than the person falling under the categories mentioned above.

PAN or Aadhar Number must be quoted in documents pertaining to certain prescribed transactions [Section 139A(5)(c) & Rule 114B]

Every person shall quote its PAN in all documents pertaining to following transactions entered into by him:

1. Transactions relating to sale or purchase of a motor vehicle (other than two wheeled vehicles), which requires registration.
2. Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank.
3. Making application for issue of a credit card or debit card.
4. Opening of a demat account.
5. Payment in cash exceeding ₹ 50,000 to a hotel or restaurant against a bill or bills at any one time.
6. Payment in cash exceeding ₹ 50,000 in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.
7. Payment exceeding ₹ 50,000 to any mutual fund for purchase of its units.

8. Payment exceeding ₹ 50,000 to a company or an institution for acquiring debentures or bonds issued by it.
9. Payment exceeding ₹ 50,000 to RBI for acquiring bonds issued by it.
10. Deposit in cash exceeding ₹ 50,000 during any one day with a banking company or a co-operative bank.
11. Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank in cash for an amount exceeding ₹ 50,000 during any one day.
12. A time deposit of an amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year with: (i) a banking company or a co-operative bank; or (ii) a Post Office; or (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or (iv) a non-banking financial company.
13. Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India u/s 18 of the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank.
14. Payment aggregating to more than ₹ 50,000 in a financial year as life insurance premium to an insurer.
15. A contract for sale or purchase of securities (other than shares) where transaction value exceeds ₹ 1 lakh.
16. Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange where transaction value exceeds ₹ 1 lakh.
17. Sale or purchase of any immovable property where amount exceeds ₹ 10 lakh or stamp value exceeds ₹ 10 lakh.
18. Sale or purchase, by any person, of goods or services of any nature other than those specified above where transaction value exceeds ₹ 2 lakh.

Note:

- (i) Where a person, entering into any of the aforesaid transaction, is a minor and who does not have any income chargeable to 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
- (ii) Any person who does not have a PAN and who enters into any of the aforesaid transaction, he shall make a declaration in Form No. 60 giving therein the particulars of such transaction.
- (iii) The provisions of this rule shall not apply to the following class or classes of persons, namely:
 - (a) the Central Government, the State Governments and the Consular Offices;
 - (b) the non-residents referred to in section 2(30) in respect of the transactions other than a transaction referred to at Sl. No. 1 or 2 or 4 or 7 or 8 or 10 or 12 or 14 or 15 or 16 or 17.

■ QUOTING OF AADHAAR NUMBER [SECTION 139AA]

Every person who is eligible to obtain Aadhaar number shall quote Aadhaar number:

- (a) in the application form for allotment of permanent account number;
- (b) in the return of income.

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.
- ❑ Every person who has been allotted PAN before 01.07.2017 and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority on or before specified date (30.06.2020). In case of failure to intimate the Aadhaar number, the PAN allotted to the person shall be made inoperative after the notified date in such manner as may be prescribed.
- ❑ The provisions of this section shall not apply to notified persons or State.

9

CHAPTER

Computation of Total Income and Tax Payable

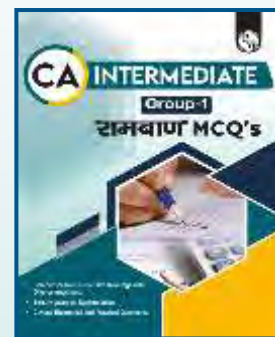
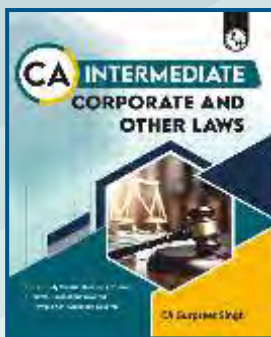
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About The Author

Sir, CA Jasmeet Singh is a renowned faculty for Taxation at PW with teaching experience of more than 10 years; he has mentored more than 70,000 students through online & offline medium. CA Jasmeet Singh qualified his CA Exam in the First attempt & has 5 Exemptions in CA final Exam. CA Jasmeet Singh believes in blended learning & has a learner- centric approach. With real life examples he tries to transform to the pedagogical processes in his field of instruction. CA Jasmeet Singh is known for imparting quality education for subjects like Taxation & Costing.

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