

13th Edition

The Invictus
CA Simplified

DT-Simplified

[Amended as per Finance Act 2023]

CA - INTER
May/Sep-2024 & Jan-25



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CA Dhaval Patanvadia

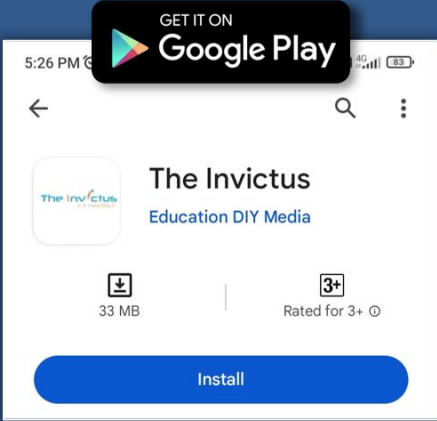
DT-Simplified

1st Edition: February 2018

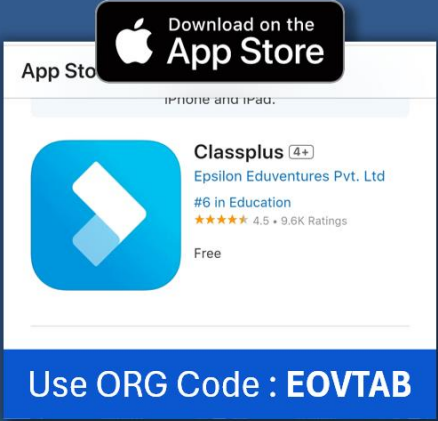
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About “DT-Simplified”

13th Edition (May 2024)

I believe that students learn best when they read with enjoyment.

With intent to developing the interest of students in reading and enable them to cover the entire syllabus with multiple revision in very short span of time, I have brought out an abridged version of Income Tax. I hope It will prove to be a significant preparation resource for the students

1st Edition was introduced in February 2018 and It gives immense pleasure to introduce **13th Edition** of “*DT – Simplified*” to the students of CA-INTER Level. In order to make it more simplified and smarter and benefit of student at large, I am introducing this as E-Book, so students can easily store on digital devices and read the same at any time anywhere. It is not just summary book but Smart Book.

I will urge all students to take maximum benefit out of it. Multiple revisions will develop better understanding of the concepts and provide stronger grip on the subject, for which “*DT – Simplified*” will certainly serve as a means.

I would like express my sincere gratitude to CA Prarthana Bhatt, Students and other academic and technical members of the team for the constant support & motivation. It would never have been possible for me to take this work to completion without their incredible support and encouragement

Features of this E-Book

- Covers the recent amendments [Written with **RED** colour]
- Section wise approach.
- No need to carry physical book, Read anytime anywhere.

Enjoy Reading...

My best wishes to you all...!

*We are committed to Simplify your **CA**reer*

CA Dhaval Patanvadia

Thanks for your love and support...

| INDEX | | |
|----------------|--|-----------------|
| CHAPTER | PARTICULARS | PAGE NO. |
| 1 | Basic Concepts | 1.1 |
| 2 | Income from House Property | 2.1 |
| 3 | Exempt Income | 3.1 |
| 4 | Income From Salary | 4.1 |
| 5 | Profit & Gains from Business or Profession | 5.1 |
| 6 | Capital Gain | 6.1 |
| 7 | Income from Other Sources | 7.1 |
| 8 | Clubbing of Income | 8.1 |
| 9 | Set Off and Carry Forward of Losses | 9.1 |
| 10 | Exempt Income | 10.1 |
| 11 | Deductions from Gross Total Income | 11.1 |
| 12 | Tax Deduction and Tax Collection at Source | 12.1 |
| 13 | Computation of Total Income | 13.1 |
| 14 | Filing of ITR | 14.1 |

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INCOME TAX LAW

Constitutional Power to levy tax

- The Parliament and State Legislatures are **empowered** to make laws on the matters enumerated in the **Seventh Schedule** by virtue of **Article 246** of the Constitution of India

Seventh Schedule to Article 246

- Contains three lists which enumerate the matters under which the Parliament and the State Legislatures have the authority to make laws for the **purpose of levy** of taxes.
 - **Union List - Parliament** has the exclusive power to make laws on the matters contained in Union List.
 - **State List** - The **Legislatures of any State** has the exclusive power to make laws on the matters contained in the State List.
 - **Concurrent List - Both** the Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.

COMPONENTS OF DIRECT TAX LAWS

Entry 82 of the **Union List** i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income **other than agricultural income**.

Following are the components of the Direct Tax Laws

Income Tax Act – 1961

This Act may be called the Income-tax Act, 1961. It **extends to the whole of India**.

- Save as otherwise provided in this Act, it shall come into force on the **1st day of April, 1962**.
- It undergoes **change** every year with additions and deletions brought out by the **Annual Finance Act** passed by Parliament.
- It contains 298 Sections & 14 Schedules
- In pursuance of the power given by the Income-tax Act, 1961 **rules** have been framed to facilitate **proper administration** of the Income-tax Act, 1961.

Annual Finance Act

Every year, the **Finance Minister** of the Government of India introduces the **Finance Bill** in the Parliament's **Budget** Session. When the Finance Bill is passed by both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act.

Amendments are made every year to the Income-tax Act, 1961 and other tax laws by the Finance Act.

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

- **Part I** of the First Schedule to the Finance Act specifies the **rates of tax applicable** for the current Assessment Year.
- **Part II** specifies the rates at which tax is deductible at source (**Rate of TDS**) for the current Financial Year.
- **Part III** gives the rates for calculating income-tax for deducting tax from income chargeable under the head **“Salaries”** and computation of **advance tax**.
- **Part IV** gives the rules for computing **net agricultural income**

Income Tax Rules – 1962

The **administration** of direct taxes is looked after by the Central Board of Direct Taxes (CBDT).

- The **CBDT is empowered** to make rules for carrying out the purposes of the Act.
- For the **proper administration** of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules are collectively called Income-tax Rules, 1962.
- E.g. Rule 4 prescribes condition for Unrealised Rent in case of Income from House Property

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 circulars. While such circulars are **not binding on the assesseees**, they can take advantage of beneficial circulars

Notifications

Notifications issued by the central government in order to **make provision effective**

- The **CBDT is also empowered** to make and amend rules for the purposes of the Act by issue of notifications.
- E.g. Income Tax has amended the Rule 47 and amended the Form 36 (Appeal to Appellate Tribunal) vide Notification No. 72/2018 Dated. 23rd October 2018

Case Laws

It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act.

- Hence the judiciary will hear the disputes between the assesseees and the department and give decisions on various issues.
- The Supreme Court is the Apex Court of the Country and the law laid down by the Supreme Court is the law of the land.
- The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.

SECTION 4 – BASIS OF CHARGE (CHARGING SECTION)

Section 4 of the Act is the charging section. It lays down the basis on which tax is imposed. Section 4 of Income tax act is the **most effective and operative** of the various provisions in the Act since, it is because of this section alone all other sections become enforceable.

The charging section is the **backbone of the act**, it lays down the provisions as to what are taxable and at what rates; income of which period is taxable and in whose hands. The **tax liability of a person springs** from this section

Accordingly, the section provides that:

- Income tax shall be charged at the **rate or rates prescribed in the finance act** for the relevant **previous year**,
- the charge of tax is on various **persons** specified u/s 2(31);
- the **income** sought to be taxed is that of the **previous year** and not of the of assessment year
- the levy of tax on the assessee is on his **total or taxable income computed** in accordance with and subject to the appropriate provisions of the income tax Act, including provisions for the levy of additional income-tax

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

IMPORTANT DEFINITIONS

Person [Section 2(31)]

Income-tax is charged in respect of the **total income** of the previous year of **every person**. Hence, it is important to know the definition of the word person. As per section 2(31),

Person includes

- Individual
- Hindu Undivided Family
- Firm / Limited Liability Partnership
- Company
- Association of Person / Body of Individual
- Local Authority
- Artificial Juridical Person

Assessee [Section 2(7)]

As per Section 2(7) of Income Tax Act, assessee is A **person**

- by whom any **tax** or
- any **other sum** of money
- is **payable** under Income Tax Act.

It **includes** every person

- a) In respect of **whom any proceeding** under Income Tax Act has been taken **for assessment** of
 - his **income** or
 - **fringe benefits** or
 - the income of **any other person** in respect of which he is assessable or
 - the **loss sustained** by him or by such other person or
 - the amount of **refund due** to him or to such other person
- b) who is **deemed to be an assessee** under any provision of Income Tax Act;
- c) who is deemed to be an **assessee in default** under any provision of Income Tax Act;

Accordingly, assessee is a person by whom tax or any other sum is payable under the Act. The expression "**other sum of money**" includes

- fine, interest, penalty and tax or
- person to whom any refund of tax etc. is due under the Act or
- if any proceeding under the Act has been taken against any person, he is also an assessee.

Previous Year [Section 3]

For the purposes of this Act, "previous year" means the financial year **immediately preceding** the assessment year:

- Provided that, in the case of a business or profession **newly set** up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period
 - **beginning** with the **date of setting up** of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and
 - **ending** with the said financial year (i.e. 31st March)

Assessment Year [Section 2(g)]

“Assessment year” means the period of **twelve months** commencing on **1st April** every year.

- Therefore, the period beginning on 1st April of one year and ending on 31st March of the next year.
- Income of **previous year** of an assessee is taxed
- during the **following assessment year** at the rates prescribed by the relevant Finance Act.
- Current Assessment Year is 2023-24 & Applicable Finance Act 2022

Exception to the General Rule: In the following situation, the Income of previous year of an assessee is **assessed** in the **previous year** itself:

1) Income of Non-Resident from Shipping: [Section 172]-

- A **non-resident** who is carrying on a **shipping business** and earns income any port in India, shall be charged to tax **before** the ship is allowed to **leave** Indian Port.
- Hence income is deemed and computed at a **presumptive rate of 7.5%** of the amount of the fare/freight charged by the non-resident ship from the Indian port.

2) Income of persons leaving India either permanently or for long duration: [Section 174]

- When it appears to the Assessing Officer (A.O.) that an individual **may leave India** and has **no intentions** of returning back during an assessment year,
- then the income is charged to tax during the same Assessment year.

3) AOP/ BOI/ AJP 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 AO 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.

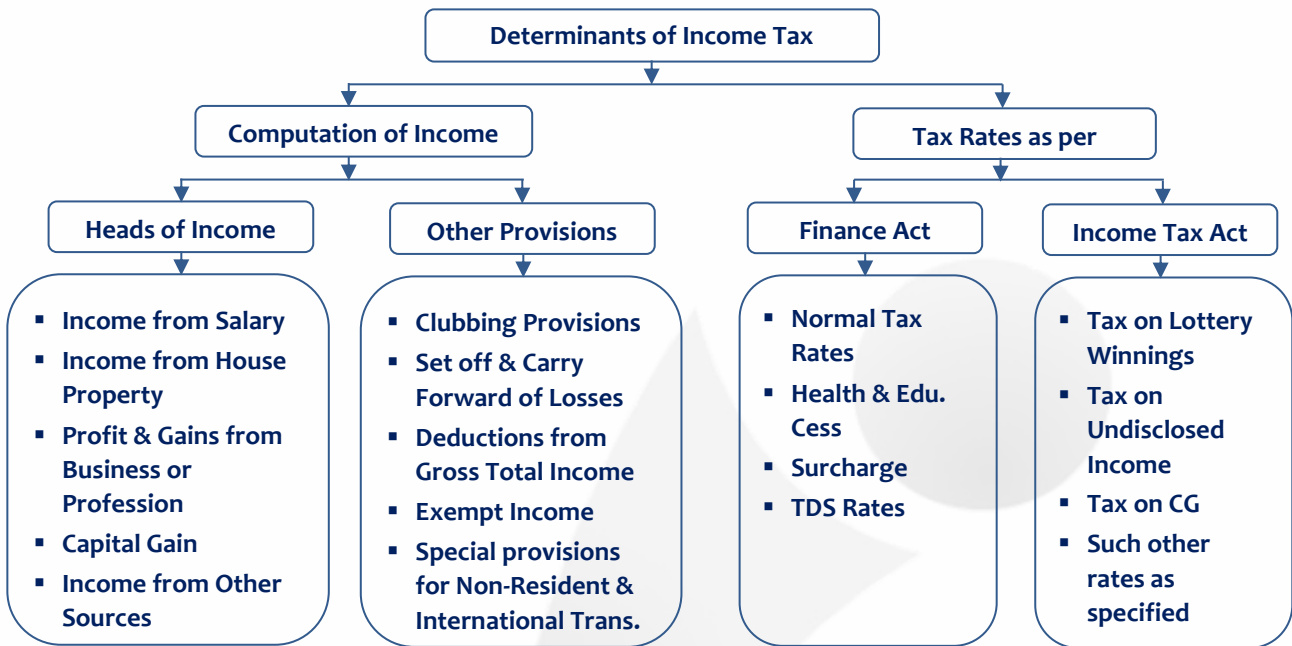
4) Income of person trying to transfer his assets with a view to avoid tax: [Section 175]

- During the current assessment year, if it appears to the AO 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 PY to the date**,
- When the AO commences proceedings under this section is chargeable to tax in that AO

5) Discontinued Business [Section 176]

- Where any business or profession is **discontinued** in any AY,
- The income of the period from the **expiry of the PY up to the date** of such **discontinuance** may,
- At the discretion of the AO, be charged to tax in that assessment year.
- Any person discontinuing any business or profession shall give to the AO notice of such discontinuance within 15 days thereof

DETERMINANTS OF INCOME TAX



INCOME [SECTION 2(24)]

In general terms, Income is a **periodical monetary return** with some sort of **regularity**. However, certain income which **does not arise regularly** are also treated as income for tax purpose under Income Tax Act. Such as winnings lottery, puzzle etc.

The definition of Income as given in Section 2(24) of the Act starts with the word **includes** therefore the list is inclusive **not exhaustive**. The definition enumerates certain items, including those which cannot ordinarily be considered as income but are treated statutorily as such.

As per section 2(24), the term income includes:

| Sub Clause | Income | Heads of Income |
|------------|--|---------------------------|
| (i) | Profit & Gains | PGBP |
| (ii) | Dividend | IFOS |
| (iia) | Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by certain research association or universities and other educational institutions or hospitals and other medical institutions or an electoral trust. | Generally, Exempt |
| (iii) | The value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17 ; | Salary |
| (iiia) | Any special allowance or benefit specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit | Salary (Generally Exempt) |
| (iiib) | City Compensatory Allowance/ Dearness allowance: Any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living | Salary |

| | | |
|----------------|---|--|
| (iv) | Benefit or Perquisite to a Director: the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid | Salary (If as per employment agreement) Else under IFOS |
| (iva) | Any Benefit or perquisite to a Representative Assessee : The value of any benefit or perquisite (whether convertible into money or not) obtained by any representative assessee under Section 160(1) (iii)/(iv) or beneficiary, or any amount paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary; | IFOS |
| (v) | Deemed profits chargeable to tax under section 28 or section 41 or section 59 | PGBP / IFOS |
| (vi) | Capital Gain: Any capital gains chargeable to tax under Section 45; since the definition of income in Section 2(24) is inclusive and not exhaustive capital gains chargeable under Section 46(2) are also assessable as income | CG |
| (vii) | Insurance Profit: The profits and gains of any Insurance business carried on by a mutual insurance company or by a co-operative society computed in accordance with the provisions of Section 44 or any surplus taken to be such profits and gains by virtue of the profits contained in the First Schedule to the Income-tax Act | PGBP |
| (viiia) | Banking income of a Co-operative Society: The profits and gains of any business of banking (including) providing credit facilities carried on by a cooperative society with its members. | PGBP |
| (ix) | Winnings from Lottery: Any winnings from lotteries, crossword puzzles, races, including horse-races, card-games and games of any sort or from gambling or betting of any form. | IFOS |
| (x) | Employees Contribution Towards PF: Any sum received by the assessee from his employees as contributions to any PF or superannuation fund or any fund set-up under the provisions of the ESIC Act, 1948 or any other fund for the welfare of such employees. | PGBP if not deposited by the assessee to the specified fund |
| (xi) | Amount Received under Keyman Insurance Policy: Any sum received under a Keyman Insurance Policy including the sum allocated by way of bonus on such policy. Keyman Insurance Policy means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected with the business of the first mentioned person in any manner whatsoever | PGBP |
| (xii) | Amount received for not carrying out any activity (Non-Compete Fees): Any sum referred to in Section 28(va), i.e. any sum, whether received or receivable in cash or kind, under an agreement for - (i) not carrying out any activity in relation to any business or profession (ii) not sharing any know-how, patent, copyright, trade-mark, license, 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 | PGBP |

| | | |
|----------|--|------|
| (xiia) | the FMV of inventory converted into capital asset referred to in clause (via) of section 28 | PGBP |
| (xvi) | Any consideration received for issue of shares as exceeds the fair market value of the shares referred in section 56(2)(viib). | IFOS |
| (xvii) | Amount received as an advance or otherwise in the course of negotiation for transfer of a capital asset & forfeited as referred to in clause (ix) of section 56(2). | IFOS |
| (xviiia) | Gift exceeding ₹ 50,000 any sum of money or value of property referred to in clause (x) of sub-section (2) of section 56 | IFOS |
| (xviiib) | any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto. | IFOS |
| (xviii) | Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43. | PGBP |

Principles to understand concept of Income

Cash or Kind

- Income may be received in cash or kind,
- when income receive in kind, its **valuation** will be made in accordance with rules prescribed in Income Tax Rules - 1962

Legality of Income

- Income tax law **does not make any distinction** between income accrue or arise from the legal source or income tainted with illegality
- However, **Expenditure** incurred in respect of activities which are in nature of **offence** or **prohibited** by law shall **not be allowed** as deduction [Section 37],

Receipt or Accrual Basis

- Income arises on either receipt or accrual basis. It may **accrue** to the taxpayer **without its actual receipt**.
- In some cases, income is **deemed to accrue or arise** to a person without its actual accrual or receipt. Income accrues where **right to receive** established.

Net Receipt v/s Gross Receipts

- Income means **net receipts** and not gross receipts. Net receipts are arrived at after **deducting the expenditure** incurred in connection with earning such receipts.
- The expenditure which can be deducted while computing income under each head is prescribed under the Income-tax Act, 1961.
- Income from certain eligible businesses/ professions is also determined on **presumptive basis** i.e., as a certain percentage of gross receipts. [e.g. Section 44AD, 44ADA, 44AE]

REVENUE RECEIPTS V/S CAPITAL RECEIPTS

The Act contemplates a levy of **tax on income** and **not on capital** and hence it is very essential to distinguish between capital and revenue receipts.

- Capital receipts **cannot** be taxed, **unless** they fall within the **scope** of the definition of “income” and so the distinction between capital and revenue receipts is material for tax purposes.
- Certain capital receipts which have been **specifically included** in the definition of income are compensation for modification or termination of services, income by way of **capital gains** etc.
- It is not possible to lay down any single test as infallible or any single criterion as decisive, final and universal in application to determine whether a particular receipt is capital or revenue in nature. Hence, the capital or revenue nature of the receipt must be determined with reference to the facts and circumstances of each case.

Criteria for determining whether a receipt is capital or revenue in nature

Fixed capital or Circulating capital

- Fixed Capital is that which is **not involved directly** in the **process of business** but remains **unaffected** by the process
- A receipt referable to fixed capital would be a capital receipt such as sale of building, machinery or plant will be capital receipt
- The **circulating capital** is one which is **turned over** and yields income or loss in the process.
- A receipt referable to circulating capital would be a revenue receipt such as sale of **stock-in-trade**

Income from transfer of capital asset or trading asset

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

Tests to be applied for Capital Receipts vis-a-vis Revenue Receipts

Transaction entered into the course of business

- Profits arising from transactions which are entered into in the course of the business **regularly** carried on by the assessee, or are **incidental** to, or **associated** with the business of the assessee would be revenue receipts chargeable to tax.
e.g. In case of Builder or Property Dealer, Sale of Building and land would constitute transactions entered and yielding income in the ordinary course of their business.

Profit arising from sale of shares and securities

- In the case of profit arising from the sale of **shares** and **securities** the nature of the profit has to be ascertained from the **motive, intention** or **purpose** with which they were bought.
- If the shares were acquired as an investor or with a view to **acquiring a controlling interest**, profit or loss on their sale would be of a **capital nature**;
- But if the shares were acquired in the ordinary course of business **as a dealer in shares**, it would constitute his stock-in-trade and would **constitute business income**
- If the shares were acquired with **speculative motive** the profit or loss (although of a revenue nature) would have to be dealt with separately from other business as **Speculative Business**

A single transaction - Can it constitute business?

- Even a **single transaction** may constitute a business or an adventure in the nature of trade even if it is outside the normal course of the assessee's business. **Repetition** of such transactions is **not necessary**.
- Thus, a bulk purchase followed by a bulk sale or a series of retail sales or bulk sale followed by a series of retail purchases would constitute an adventure in the nature of trade and consequently the income arising therefrom would be taxable.
- However, purchase of any article with **no intention to resell** it, but resold **under changed circumstances** would be a transaction of a **capital nature** and capital gains arise.
- Where an asset is purchased with the intention to resell it, the question whether the profit on sale is capital or revenue in nature depends upon
 - The **conduct** of the assessee,
 - The **nature** and **quantity** of the article purchased,
 - The nature of the **operations** involved,
 - Whether the venture is on **capital** or **revenue** account, and
 - Other related circumstances of the case

Liquidated damages

- Receipt of **liquidated damages** directly and intimately linked with the **procurement of a capital asset**, which lead to delay in coming into existence of the profit-making apparatus, is a capital receipt.
[CIT v/s Saurashtra Cement Ltd. (SC)]
- The amount received by the assessee towards **compensation** for **sterilization** of the **profit earning source** is not in the ordinary course of business.
- Hence, it is a capital receipt in the hands of the assessee.

Compensation on termination of agency

- Where an assessee receives **compensation** on **termination of the agency business** being the only source of income, the receipt is a capital nature, but taxable u/s 28(ii)(c) as Business Income.
- However, where the assessee has a **number of agencies** and one of them is terminated and compensation received therefore, the receipt would be of a **revenue nature** since **taking agencies and exploiting** the same for earning income is the **ordinary course of business** and the loss of one agency would be made good by taking another.
- Compensation received from the **employer** or from **any person** for **premature termination** of the service contract is a **capital receipt**, but is taxable as profit in lieu of **salary u/s 17(3)** or as income from **other sources u/s 56(2)(xi)**, respectively.
- Compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.

Gifts

- Normally, gifts constitute **capital receipts** in the hands of the recipient.
- However, certain gifts are brought within the purview of income-tax, for example, receipt of property without consideration is brought to tax u/s 56.
- Gifts/Perquisites received **in connection with business** will be taxable as **business income u/s 28**

| Computation of Total Income & Tax Liability | | |
|---|---|--------|
| | Particulars | Amount |
| | Income from Salary | XXXX |
| | Income from House Property | XXXX |
| | Profit & Gain from Business or Profession | XXXX |
| | Capital Gains | XXXX |
| | Income from Other Sources | XXXX |
| | Set Off & Carry Forward of Losses | XXXX |
| | Clubbing of Income | XXXX |
| | GROSS TOTAL INCOME | XXXX |
| Less : | Deductions under Chapter VI-A | XXXX |
| | TOTAL INCOME | XXXX |
| | Tax on Income Taxable at Special Rates | XXXX |
| | Tax on Income Taxable at Normal Rates | XXXX |
| | TOTAL TAX PAYABLE | XXXX |
| Less : | Rebate u/s 87A | XXXX |
| | TAX PAYABLE AFTER REBATE | XXXX |
| Add : | Surcharge | XXXX |
| | TAX + SURCHARGE | XXXX |
| Add : | Health & Education Cess @ 4% | XXXX |
| | GROSS TAX LIABILITY | XXXX |
| Add : | Interest & Fees | XXXX |
| | AGGREGATE LIABILITY | XXXX |
| Less : | TDS | XXXX |
| Less : | TCS | XXXX |
| Less : | Advance Tax | XXXX |
| | NET TAX PAYABLE [Paid as Self-Assessment Tax] | XXXX |

[Tax Rates – Discussed Later]

The Invictus

RESIDENTIAL STATUS OF INDIVIDUALS

The residential status of an assessee must be ascertained with reference to **each previous year**.

- A person who is **resident** and ordinarily resident in **one year** may become non-resident or
- resident but **not ordinarily resident** in **another year** or
- **vice versa**.

To determine the residential status of an individual,

- the first step is to ascertain whether he is Resident or Non-Resident. (R / NR)
- If he **turns to be a Resident**, then the next step is to ascertain whether
 - he is Resident and Ordinarily Resident (R & OR) or
 - he is a Resident but not Ordinarily Resident (R & NOR).

Determining whether Resident or Non-Resident**Basic Conditions (Any One Condition)**

An individual is said to be **resident** in India in any previous year, if he satisfies **any one** of the following conditions

- 1) Stay in India **during the previous year** for a total period of **182 days or more**,
- or**
- 2) Stay in India for **at least 60 days** in the relevant **previous year** **and**
Stay in India for a total period of **365 days or more** during the **4 years immediately preceding** the previous year

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

If **both** the above conditions are **not satisfied**, the individual is a **non-resident**.

Exceptions**1) Indian Citizen or Person of Indian Origin**

Indian citizen or person of **Indian origin** who, being outside India comes on a visit to India during the relevant previous year is

- Required to satisfy **only First Basic** Condition (Min. 182 Days)
- Even if he satisfies second basic condition, he will **not be treated** as Resident

The Finance Act, 2020, w.e.f., Assessment Year 2021-22 has amended the above exception to provide that if an **Indian citizen** or a person of **Indian origin**

- having total income, **other than** the income from **FOREIGN SOURCES** exceeding **₹ 15 lakhs** during the previous year will be **treated as resident** in India if -
 - 1) Stay in India during the **previous year** for a total period of **182 days** or more,

or

 - 2) Stay in India for **at least 120 days** in the relevant previous year **and**
Stay in India for a **total period of 365 days** or more during the **4 years** immediately preceding the previous year

Foreign Source Income

For this provision, income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

Indian Origin

A person is said to be of Indian origin if **he or either of his parents or either of his grandparents** was born in undivided India.

2) Indian Citizen leaving India as a crew member OR for Employment (Indian Citizen Only, Not Person of India Origin) during PY

Indian citizen leaving India as a crew member OR for Employment during PY

- Required to satisfy **only First Basic** Condition
- Even if he satisfies second basic condition, he will not be treated as Resident

To Calculate crew member's stay in India, following **period** shall be **EXCLUDED**

- Period commencing from date of **Joining** the ship to
- Period ending on **signing** off from the ship

Deemed Resident (New Provision)

The Finance Act, 2020 has introduced new section 6(1A) to the Income-tax Act, 1961.

- The new provision provides that an Indian citizen shall be **deemed to be resident** in India only
- if his total income,
- **OTHER THAN** income from **foreign sources**,
- exceeds **Rs. 15 lakhs** during the previous year.

However, such individual shall be **deemed** to be **Indian resident** only when he is **Not Liable to tax** in any country or jurisdiction by reason of his domicile or residence or any other criteria of similar nature.

Thus, from Assessment Year 2021-22, an Indian Citizen earning total income in excess of Rs. 15 lakhs (other than from foreign sources) shall be deemed to be resident in India if he is not liable to pay tax in any country.

Determining whether resident and ordinarily resident or resident but not ordinarily resident

Additional Conditions (Both Condition)

A resident individual will be treated as **resident and ordinarily resident** in India during the year if he satisfies following **both** conditions:

- 1) He is **resident** in India **for at least 2 years** out of **10 years immediately preceding** the relevant year.
- and**
- 2) His **stay** in India is **for 730 days or more** during **7 years immediately preceding** the relevant year.

A resident individual who **does not satisfy any** of the additional conditions or satisfies only one of the aforesaid conditions will be treated as resident but not ordinarily resident.

However, w.e.f., Assessment Year 2021-22, the Finance Act, 2020 has inserted the following two more situations wherein a resident person is deemed to be '**Not Ordinarily Resident**' in India:

- 1) An Indian **Citizen** or a **person of Indian origin** whose total income (other than income from foreign sources) exceeds **Rs. 15 lakhs** during the previous year and

who has been in India for a period of **120 days or more** but **less than 182 days**;

- 2) An Indian Citizen who is deemed to be resident in India as per new section 6(1A) [Deemed resident shall always be **NOR**].

Stay in India

- a) The term “stay in India” includes stay in the territorial waters of India (i.e. **12 nautical miles** into the sea from the Indian coastline). Even the stay in a ship or boat moored in the territorial waters of India would be sufficient to make the individual resident in India.
- b) It is **not necessary** that the period of stay must be **continuous or active** nor is it essential that the stay should be at the usual place of residence, business or employment of the individual.
- c) For the purpose of counting the number of days stayed in India, both the **date of departure** as well as the **date of arrival** are considered to be in India.
- d) The residence of an individual for income-tax purpose has **nothing to do with** citizenship, place of birth or domicile. An individual can, therefore, be resident in more countries than one even though he can have only one domicile

RESIDENTIAL STATUS OF HUF / AOP / FIRM / AJP / LOCAL AUTHORITIES & COMPANIES

Residential Status of an HUF

- **Resident**, if **Control and Management** of affairs is situated **wholly or partly** in India
- If **Karta** is **OR**, **HUF** also **OR** and
- If **Karta** is **NOR**, **HUF** is also **NOR**

Residential Status of a Firm / AOP/AJP/Local Authorities

- **Resident**, if **Control and Management** of affairs is situated **wholly or partly** in India

Company shall be treated as Resident

- If it is an **Indian Company** or
- **Place of Effective Management** (POEM) of the company is **in India** in **that year** (if it is not an Indian Co.)
[At CA Final Level]

The Invictus

SCOPE OF TOTAL INCOME

Incidence of tax on any person depends upon his residential status. The scope of total income of an assessee depends upon the following three important considerations:

- the **residential status** of the assessee;
- the **place of accrual or receipt** of income, whether actual or deemed; and
- the **point of time** at which the income had accrued to or was received by or on behalf of the assessee.

The ambit of total income of the three classes of assessee would be as follows:

| Sr. | Scope of Total Income | R & OR | R & NOR | NR |
|-----|---|--------|---------|-----|
| 1 | Income received or deemed to be received in India during PY Whether earned in India or elsewhere | YES | YES | YES |
| 2 | Income accrue/arise or deemed to accrue/arise in India during PY Whether received in India or elsewhere | YES | YES | YES |
| 3 | Income which accrues / arise outside India and Received Outside India during PY from Business Controlled from India or Profession Setup in India | YES | YES | NO |
| 4 | Income which accrues / arise outside India and Received Outside India during PY | YES | NO | NO |
| 5 | Income which accrues or arises outside India and Received outside India during years preceding to the PY [Past Years] and remitted to India during PY | NO | NO | NO |

INCOME DEEMED TO BE RECEIVED IN INDIA

Following income shall be **deemed** to be received in India

- Contribution in **excess** of 12% of salary to Recognised provident fund or interest credited in **excess** of 9.5% p.a
- Contribution **by the Central Government** or **any other employer** in the P.Y. under a pension scheme referred u/s 80CCD
- 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

Following income shall be **deemed** to accrue / arise in India

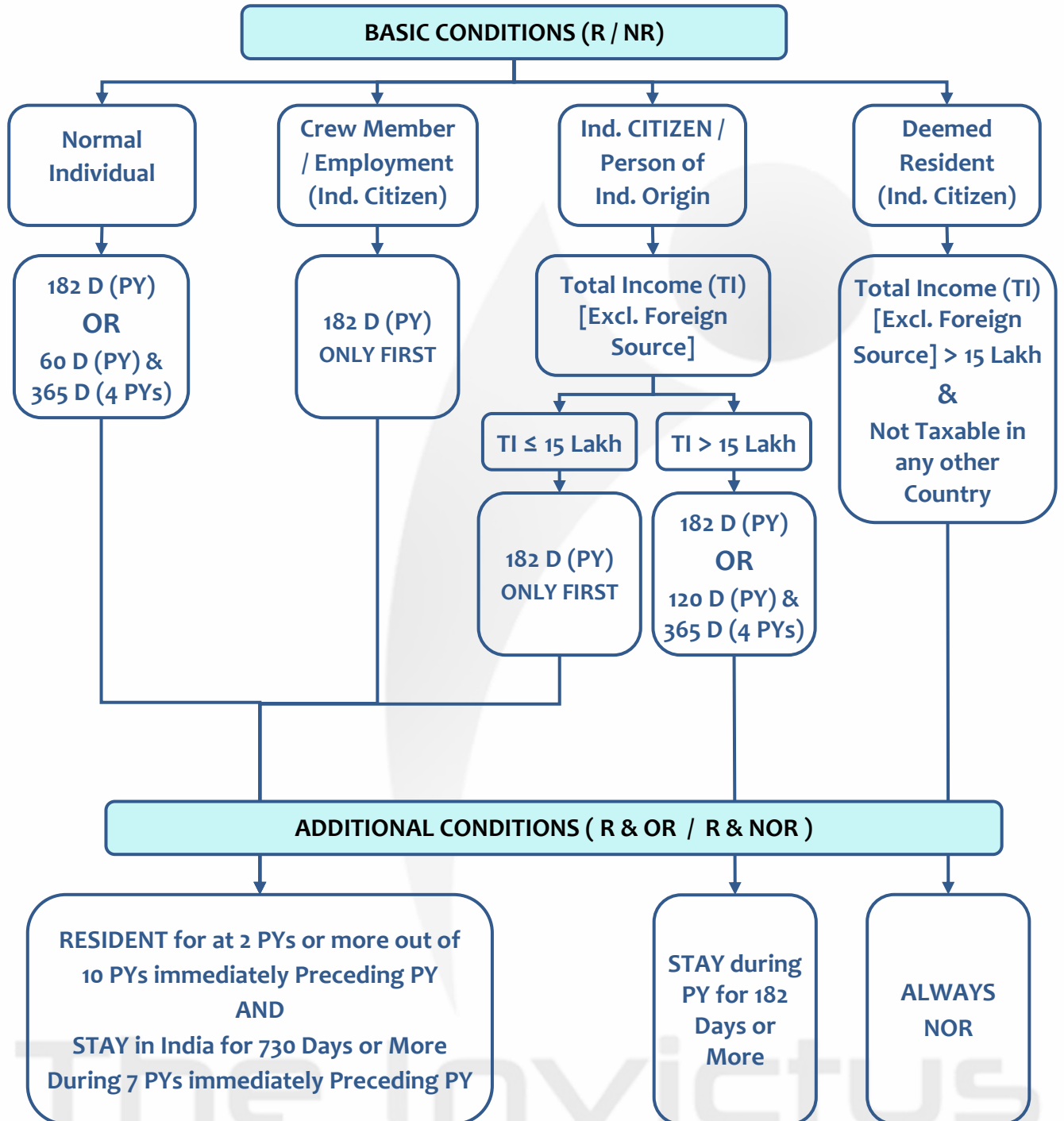
- Income accruing or arising **outside** India, **directly or indirectly** through or **from**
 - Any **Business Connection** in India
 - Any property/asset or **source** of income in India
 - transfer of **capital asset** situated in India
- Salary earned for **services rendered in India**

- 3) Salary payable by the Government to Indian Citizen for services rendered outside 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) Dividend paid by an Indian Company outside India
- 5) Interest on Loan
 - a) Paid by Government to any person (Always deemed to accrue/arise in India)
 - b) Paid by Non-Resident to any person
 - If money borrowed used for the purpose of business or profession carried on in India
Example: Mr. Obama a NR has borrowed money from Bank of USA and STARTED BUSINESS in India by utilising borrowed amount. Interest received by Bank of USA shall be deemed to accrue/arise in India and shall be chargeable to tax.
 - If money borrowed used the purpose other than business or profession, then Interest is not deemed to accrue/arise in India
Example: Mr. Obama a NR has borrowed money from Bank of USA and purchased Residential House in India by utilising borrowed amount. Interest received by Bank of USA is not deemed to accrue/arise in India and shall not be chargeable to tax.
 - c) Paid by Resident to any person,
 - However, if money borrowed for the purpose of business or profession carried on outside India,
 - It will not be deemed to accrue arise in India
Example: Mr. Mukesh a Resident has borrowed money from Bank of USA and started business in JAPAN by utilising borrowed amount. Interest received by Bank of USA is not deemed to accrue/arise in India and shall not be chargeable to tax.
- 6) Royalty, Fees for Technical Service
 - a) Paid by Government to any person (Always deemed to accrue/arise in India)
 - b) Paid by Non-Resident to any person
 - If Royalty or Technical service utilised for the purpose of business or profession carried on in India
 - c) Paid by Resident to any person,
 - However, if Royalty or Technical service utilised for the purpose of business or profession carried on outside India,
 - It will not be deemed to accrue arise in India

Note :

In case of non-resident, Operations confined for the purchase of goods in India for the purpose of export. In such case NO INCOME shall be deemed to accrue/arise in India

RESIDENTIAL STATUS – AT A GLANCE



SECTION 10(1) - AGRICULTURAL INCOME

Agricultural Income [Section 2(1A)]

Agricultural Income means,

- a) Any **rent** or **revenue** derived from **land** situated **in India** and used for **agricultural purposes**
- b) Any **income** derived from **such land** by
 - (i) **Agriculture** or
 - (ii) The **performance** of a **process** ordinarily employed by a **cultivator** or **receiver of rent** in kind to render the **produce fit** to be taken to the market or
 - (iii) The **sale** of such **agricultural produce** in the market.
- c) Any income may be derived from any **farm building** required for **agricultural operations**

Analysis of Definition**Rent or revenue derived from land situated in India and used for agricultural purposes**

The following three conditions have to be satisfied for income to be treated as agricultural income:

- a) Rent or revenue should be derived from **land**;
- b) Land has to be situated **in India** (If agricultural land is situated in a foreign country, the entire income would be taxable); and
- c) Land should be used for **agricultural purposes**.
 - The amount **received in money or in kind**, by one person from another for **right to use** land is termed as **Rent**.
 - The rent can either be received by the **owner** of the land or by the **original tenant** from the **sub-tenant**. It implies that **ownership** of land is **not necessary**. Thus, the rent received by the original tenant from sub-tenant would also be **agricultural income** subject the other conditions mentioned above.
 - The scope of the term “Revenue” is much broader than rent. It includes income other than rent. For example, fees received for renewal for grant of land on lease would be revenue derived from land

Income derived from such land by**A) Agriculture**

- The term “Agriculture” has **not been** defined in the Act. However, **cultivation** of a field involving **human skill** and **labour** on the land can be broadly termed as agriculture.
- “Agriculture” means **tilling** of the land, **sowing** of the seeds and similar operations.
- It involves **basic operations** and subsequent operations.
 - **Basic Operations**
 - ✓ Those operations by agriculturists which are **absolutely necessary** for the purpose of effectively **raising produce** from the **land** are **basic** operations
 - **Subsequent Operations**
 - ✓ Operations to be performed **after** the produce form the **sprouts** from the land such as **weeding, digging** etc.
 - ✓ These subsequent operations would be agricultural only when taken in conjunction with and as a continuation of the basic operations.

Income derived from **saplings** or **seedlings** grown in a **nursery** would be **deemed** to be **agricultural income**, whether or not the basic operations were carried out on land.

This Explanation ratifies the view taken by the Madras High Court in case of CIT v/s Soundarya Nursery in favour of taxpayer [Explanation 3 to Section 2(1A)]

B) Process ordinarily employed to render the produce fit to be taken to the market

- Sometimes, to make the agricultural produce a **saleable commodity**, it becomes necessary to **perform** some kind of **process** on the produce.
- The income from the **process** employed to render the **produce fit** to be taken to the **market** would be agricultural income.
- However, it must be a process **ordinarily employed** by the cultivator or receiver of rent in kind and the process must be applied to make the produce fit to be taken to the market.
- The ordinary process employed to render the produce fit to be taken to market includes **thrashing, winnowing, cleaning, drying, crushing** etc.

C) Sale of such agricultural produce in the market

- Any income from the sale of any produce to the cultivator or receiver of rent-in kind is agricultural income provided it is from the land situated in India and used for agricultural purposes.
- However, if the produce is subjected to any process **other than process ordinarily employed** to make the produce fit for market, the income arising on sale of such produce would be **partly agricultural income and partly non-agricultural income**.
- Similarly, if other agricultural produce like tea, cotton, tobacco, sugarcane etc. are subjected to manufacturing process and the manufactured product is sold, the profit on such sale will consist of agricultural income as well as business income.
- That portion of the profit representing agricultural income will be exempted.

Rule 7 - Income from growing and manufacturing of any product

- Where income is partially agricultural income and partially income chargeable to income-tax as business income,
- The **market value** of any **agricultural produce** which has been raised by the assessee or received by him as rent in kind and which has been **utilised as raw material** in such business or the sale receipts of which are included in the accounts of the business shall be **deducted**.
- **No further deduction** shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent in kind
- **Determination of Market Value**
 - The agricultural produce is **capable of being sold** in the market either **in its raw stage** or after application of any ordinary process to make it fit to be taken to the market. In such a case, the value calculated at the **average price** at which it has been so sold during the relevant previous year will be the market value.
 - It is possible that the **agricultural produce is not capable** of being ordinarily sold in the market in its raw form or **after application of any ordinary process**. In such case the market value will be the total of the following
 - ✓ The **expenses of cultivation**;
 - ✓ The **land revenue or rent paid** for the area in which it was grown; and
 - ✓ Such amount as the Assessing Officer finds having regard to the circumstances in each case to represent at reasonable profit

Rule 7A - Income from growing and manufacturing of rubber

- This rule is applicable when income derived from the sale of latex or cenex or latex based crepes or brown crepes or technically specified block rubbers manufactured from field latex or coagulum obtained from rubber plants grown by the seller in India.
- In such cases 35% profits on sale is taxable as business income under the head “profits and gains from business or profession”, and the balance 65% is agricultural income and is exempt,

Rule 7B - Income from growing and manufacturing of coffee

- In case of income derived from the sale of coffee grown and cured by the seller in India, 25% profits on sale is taxable as business income under the head “Profits and gains from business or profession”, and the balance 75% is agricultural income and is exempt.
- In case of income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, with or without mixing chicory or other flavouring ingredients, 40% profits on sale is taxable as business income under the head “Profits and gains from business or profession”, and the balance 60% is agricultural income and is exempt

Rule 8 - Income from growing and manufacturing of tea

- This rule applies only in cases where the assessee himself grows tea leaves and manufactures tea in India. In such cases 40% profits on sale is taxable as business income under the head “Profits and gains from business or profession”, and the balance 60% is agricultural income and is exempt.

| Rule | Composite Income | Business [Taxable] | Agricultural [Exempt] |
|------|---|--------------------|-----------------------|
| 7A | Manufacturer of Rubber | 35% | 65% |
| 7B | Manufacturer of Coffee - Grown & Cured | 25% | 75% |
| | - Grown, Cured, Roasted, Grounded | 40% | 60% |
| 8 | Manufacturer of Tea | 40% | 60% |

Income from Farm Building

Income from the farm building which is owned and occupied by the receiver of the rent or revenue of any such land or occupied by the cultivator or the receiver of rent in kind, of any land with respect to which, or the produce of which, any process discussed above is carried on, would be agricultural income.

However, the income from such farm building would be agricultural income only if the following conditions are satisfied:

- The building should be on or in the immediate vicinity of the land; and
- The receiver of the rent or revenue or the cultivator or the receiver of rent in kind should, by reason of his connection with such land require it as a dwelling house or as a store house

In addition to the above conditions any one of the following two conditions should also be satisfied:

- The land should either be assessed to land revenue in India or be subject to a local rate assessed and collected by the officers of the Government as such or;
- Where the land is not so assessed to land revenue in India or is not subject to local rate
 - ✓ It should not be situated in any area as comprised within the jurisdiction of a municipality or a cantonment board and which has a population not less than 10,000

- ✓ It should not be situated in any area within such distance, measured aerially, in relation to the range of population as shown hereunder

| | Distance from Jurisdiction | Population |
|---|----------------------------|-----------------------|
| 1 | 2 Kilometres | > 10,000 ≤ 1,00,000 |
| 2 | 6 Kilometres | > 100,000 ≤ 10,00,000 |
| 3 | 8 Kilometres | > 10,00,000 |

Agricultural income included in total income for rate purpose

Applicable only to Individuals, HUF, AOP/BOI and AJP

- If Net agricultural income > 5,000 and
- Non-agricultural income > BEL

Example

| Particulars (Individual having age 35 years) | | Case A (Rs.) | Case B (Rs.) |
|---|---------------------------|--------------|--------------|
| Step – 1 Calculate Tax on combined income | | | |
| A | Non-agricultural Income | 5,10,000 | 5,10,000 |
| B | Agricultural Income | 1,00,000 | NIL |
| C | Total (A+B) | 6,10,000 | 5,10,000 |
| D | Tax on (C) | 34,500 | 14,500 |
| Step – 2 Tax on BEL + Agricultural Income | | | |
| E | BEL + Agricultural Income | 3,50,000 | 2,50,000 |
| F | Tax on (E) | 5,000 | NIL |
| Step – 3 Net Tax payable [Step-1 less Step-2] | | | |
| G | Net Tax (D-E) | 29,500 | 14,500 |
| Step – 4 Surcharge, Rebate, Cess as applicable | | | |
| H | Surcharge | NA | NA |
| I | Rebate u/s 87A | NA | NA |
| K | Net Tax Payable (G+H-I) | 29,500 | 14,500 |
| L | HEC @ 4% | 1,180 | 580 |
| M | Total Tax Payable | 30,680 | 15,080 |

SECTION 10AA – TAX HOLIDAYS FOR UNIT ESTABLISHED IN SEZ**Eligible Assessee**

- All categories of assessee who derive any profits or gains from an undertaking,
- being a unit, engaged in the **manufacturing** or production of articles or things or things or provision any **service**.
- Such assessee should be an **entrepreneur** referred to in section 2(j) of the **SEZ Act, 2005** i.e., a person who has been granted a **letter of approval** by the Development Commissioner under section 15(g) of the said Act,

Conditions to claim exemptions

- It has begun or begins to manufacture or produce articles or things or provide any service in any SEZ during the previous year relevant to **A.Y.2006-07 or any subsequent assessment year but not later than A.Y.2020-21**,
- It should not be formed by **splitting up** or **reconstruction** of a business already in existence. Exception, Deduction will be provided if any undertaking, being the Unit, is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any undertaking in the circumstances and within the specified period as referred to in section 33B.
- It should not be formed by the **transfer of machinery** or plant **previously used** for any purpose to a new business. However, **deduction under section 10AA will be available** if total value of the machinery or plant transferred **does not exceed 20% of the total value of machinery or plant used in the business**
- For this purpose, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose if the following conditions are fulfilled:
 - Such machinery or plant was not at any time used in India;
 - Such machinery or plant is imported into India from any country outside India; and
 - No deduction on account of depreciation has been allowed or allowable under this Act in respect of such machinery or plant to any person earlier for any prior period
- The assessee should furnish in the prescribed form, along with the return of income, the report of a chartered accountant certifying that the deduction has been correctly claimed

Period for which deduction is available

- 1) **100% of the profits and gains** derived from the export, of such articles or things or from services for a period of **5 consecutive assessment years** beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, and
- 2) **50% of such profits** and gains for **further 5 assessment years**,
- 3) So much of the amount **not exceeding 50% of the profit** as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and **credited to a reserve account** (to be called the "Special Economic Zone Re-Investment Reserve Account") to be created and utilised in the manner laid down under section 10AA (2) **for next 5 consecutive years**

Utilization of Reserve for the purpose of

- Acquiring machinery or plant which is first put to use before the expiry of a period of 3 years following the previous year in which reserve is created.
- Until the acquisition of machinery or plant as aforesaid, for the purpose of the business of the undertaking. However, it should not be utilised for
 - Distribution by way of dividend or profits or
 - For remittance outside India a profits or

- For the creation of any asset outside India

Consequences of mis-utilisation / non-utilisation

- Utilisation for any purpose other than those referred above, the amount so utilized shall be deemed to be the profits in the year in which the amount was so utilized and charged to tax accordingly.
- Non-Utilisation before the expiry of the said period of 3 years, the amount not so utilised, shall be deemed to be the profits in the year immediately following the said period of three years and be charged to tax accordingly

Deduction under section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of this section and the deduction under section 10AA shall not exceed such total income of the assessee [Explanation to 10AA(1)]

Computation of Profit & Gains from the export of such undertakings

$$\text{Profit of Unit in SEZ} \times \frac{\text{Export Turnover of Unit in SEZ}}{\text{Total Turnover of Unit in SEZ}}$$

Meaning of Export Turnover

- Consideration **received in India** or **brought into India** by the assessee in respect of export by the undertaking being the unit of articles or things or services.
- The profits and gains derived from **on site development** of computer software (including services for development of software) **outside India** shall be **deemed** to be the profits and gains **derived from the export** of computer software outside India

Excludes,

- **Expenses** incurred in **foreign exchange** in rendering of services (including computer software) **outside India**
- Expenses **attributable** to the **delivery** of the articles or things **outside India** such as
 - **Freight**
 - **Telecommunication** Charges
 - **Insurance**

The Invictus

| Clauses | Other Exemptions under Section 10 |
|---------|---|
| 2 | <p>Amounts received by a member from the income of the HUF</p> <p>(a) out of the income of the family or</p> <p>(b) out of the income of the impartible estate belonging to the family.</p> |
| 2A | <p>Share income of a partner from Partnership Firm, determined in accordance with the profit-sharing ratio will be exempt from tax</p> |
| 10BB | <p>Payments to Bhopal Gas Victims</p> |
| 10BC | <p>Compensation received from CG/SG/Local Authority on account of disaster By an Individual or his legal heir on account of disaster</p> <p>"Disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade causes, or by accident or negligence. It should have the effect of causing -</p> <p>(a) substantial loss of life or human suffering; or</p> <p>(b) damage to, and destruction of, property; or</p> <p>(c) damage to, or degradation of, environment.</p> <p>It should be of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area.</p> |
| 11A | <p>Payment from Sukanya Samriddhi Account</p> <p>The interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt</p> |
| 16 | <p>Educational scholarships</p> |
| 17 | <p>Payments to MPs & MLAs – Daily allowance & Constituency Allowance will be exempt</p> |
| 17A | <p>Awards for literary, scientific and artistic works and other awards by the Government</p> |
| 18 | <p>Pension received by recipient of gallantry awards or his family members</p> <p>a) Individual being employee of Central or State Government and</p> <p>b) has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award notified by the Central Government in this behalf</p> |
| 19A | <p>Annual value of any one palace of former rulers shall be excluded</p> |
| 20 | <p>Income of local authorities</p> <p>Following income arising to a local authority would be exempt</p> <p>a) Income under the head house property; or</p> <p>b) Income from Capital gains; or</p> <p>c) Income from Other Sources; or</p> <p>d) Income from trade or business carried on by it which accrues or arises</p> <ul style="list-style-type: none"> ✓ From the supply of commodity or service under its jurisdictional area ✓ From the supply of water or electricity within or outside its own jurisdictional area. |
| 21 | <p>Income of research associations approved under section 35(1)(ii) - Notified - Research Association/Institute/College/University for the purpose of scientific research</p> <p>35(1)(iii) - Notified - Research Association/Institute/College/University for the purpose of social and statistical research</p> <p>Conditions</p> <ul style="list-style-type: none"> – It should apply or accumulate the income wholly for its objects |

| | |
|-------|---|
| | <ul style="list-style-type: none"> – The association should invest or deposit funds in the forms or modes specified u/s 11(5) – Activities of the research association should be genuine – Research activities must be carried out in accordance with the conditions specified imposed on the basis of which approval is granted – Approval granted shall be withdrawn if conditions are not satisfied. |
| 22B | Income of news agency set up in India solely for collection and distribution of news as specified by the central government <ul style="list-style-type: none"> – Press Trust of India Ltd. is Notified by CG |
| 23A | Income of professional associations Except <ul style="list-style-type: none"> – Income from House Property, – Income from specific service rendered, – Interest/Dividend on Investments |
| 23AA | Income of institutions established by armed forces |
| 23AAA | Income of Funds established for welfare of employees of which such employees are Members |
| 23AAB | Income of Fund set up by Life Insurance Corporation or other insurer under pension Scheme |
| 23B | Income of institution established for development of Khadi and Village industries |
| 23BB | Income of authorities set up under State or Provincial Act for promotion of Khadi and Village Industries |
| 23BBA | Income of authorities set up to administer religious or charitable trusts |
| 23BBE | Income of the IRDA |
| 23BBG | Income of Central Electricity Regulatory Commission (CERC) |
| 23BBH | Income of Prasar Bharati (Broadcasting Corporation of India) |
| 23C | Income of certain funds or institutions [Refer Chapter 12] |
| 23D | Income of Mutual Fund set up by Public Sector Bank/PFI/SEBI/RBI [Section 10(23D)] |
| 23EA | Income of Investor Protection Funds set up by recognised stock exchanges in India |
| 23EC | Specified income of Investor Protection Fund set up by commodity exchanges |
| 23ED | Income of Investor Protection Fund set up by depositories |
| 23EE | Specified income of Core Settlement Guarantee Fund (SGF) set up by a recognized Clearing Corporation |
| 24 | Income of trade unions |
| 25 | Income of provident funds, superannuation funds, gratuity funds |
| 25A | Income of Employees' State Insurance (ESI) Fund |
| 26 | Income of member of a scheduled tribe |
| 26AAA | The following income, which accrues or arises to a Sikkimese individual, would be exempt from income-tax – <ul style="list-style-type: none"> a) income from any source in the State of Sikkim; or b) income by way of dividend or interest on securities. |

| | |
|-------|---|
| | However, this exemption will not be available to a Sikkimese woman who, on or after 1st April, 2008, marries a non-Sikkimese individual. |
| 26AAB | Income of an Agricultural Produce Market Committee (APMC) or Board |
| 26B | Income of a corporation etc. for the promotion of interests of members of scheduled casts or tribes or backward classes or any two or all of them |
| 26BB | Income of corporations established to protect interests of minority community |
| 26BBB | Income of corporation established for welfare and economic upliftment of Ex-Servicemen |
| 27 | Income of a co-operative society for promoting interest of members of scheduled castes or tribes or both |
| 29A | Incomes of certain bodies like Coffee Board, etc. |
| 30 | Tea board subsidy |
| 31 | Other subsidies for business of growing and manufacturing rubber, coffee, cardamom or other specified commodity in India |
| 35 | Income from units from the Administrator of specified undertaking/specified company / mutual fund specified in clause |
| 39 | Specified income arising from any international sporting event in India |
| 40 | Certain grants etc. received by a subsidiary from its Indian holding company engaged in the business of generation or transmission or distribution of power |
| 42 | Specified income of certain bodies or authorities |
| 44 | Income received by any person on behalf of NPS Trust |
| 46 | Specified income of notified entities not engaged in commercial activity |
| 47 | Income of notified infrastructure debt funds |

SECTION 14A – RESTRICTIONS ON ALLOWABILITY OF EXPENDITURE

As per section 14A, **expenditure** incurred in relation to any **exempt income** is **not allowed** as a deduction while computing income under any of the five heads of income

The Assessing Officer is empowered to determine the amount of expenditure incurred in relation to such income which does not form part of total income in accordance with such method as may be prescribed

The Invictus

| PROFORMA FOR COMPUTATION OF INCOME UNDER THE HEAD SALARIES | | |
|--|-------------------------------------|-------------|
| Particulars | Amount | Amount |
| Basic Salary | | XXXX |
| Dearness Allowance | | |
| Fees / Commission | | XXXX |
| Bonus | | XXXX |
| PF Contribution from Employer (Contribution <i>Less</i> 12% of Salary) | | XXXX |
| Interest on PF Contribution (In Excess of 9.5%) | | XXXX |
| Allowances | XXX | |
| <i>Less</i> : Exempt Portion | (XXX) | XXXX |
| | | |
| Taxable Value of Perquisites | | XXXX |
| | | |
| Leave Travel Concession (LTC) | XXX | |
| <i>Less</i> : Exempt Portion | (XXX) | XXXX |
| | | |
| Gratuity | | |
| Received during Service (Fully Taxable) | | XXX |
| Received at time of Retirement | XXX | |
| <i>Less</i> : Exempt Portion | (XXX) | XXX |
| | | |
| Pension | | |
| Uncommuted Pension (Fully Taxable) | | XXX |
| Commuted Pension | XXX | |
| <i>Less</i> : Exempt | (XXX) | XXX |
| | | |
| Leave Encashment | | |
| Received during Service (Fully Taxable) | | XXX |
| Received at time of Retirement | XXX | |
| <i>Less</i> : Exempt | (XXX) | XXX |
| | | |
| | GROSS SALARY | XXXX |
| <i>Less</i> : Deductions u/s 16 | | |
| Standard Deduction (<i>Lower of Gross Salary or 50,000</i>) | (XXX) | |
| Professional Tax <i>or</i> Tax on Employment | (XXX) | |
| Entertainment Allowances (Only for Govt. Employees) | (XXX) | (XXXX) |
| | INCOME UNDER THE HEAD SALARY | XXXX |

SECTION 15 – BASIS OF CHARGE

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

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

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

Example

If A draws his salary in advance for the month of April 2022 in the month of March 2022 itself, the same becomes chargeable on receipt basis and is to be assessed as income of the P.Y.2021-22 i.e., A.Y.2022-23. However, the salary for the A.Y.2023-24 will not include that of April 2022.

Example

If the salary due for March 2022 is received by A later in the month of April 2022, it is still chargeable as income of the P.Y.2021-22 i.e., A.Y.2022-23 on due basis. Obviously, salary for the A.Y.2023-24 will not include that of March 2022.

NOTES**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.

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 years.

Forgoing / Waiver of salary:

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

Example

Mr. A, an employee instructs his employer that he is not interested in receiving the salary for April 2022 and the same might be donated to a charitable institution.

In this case, Mr. A cannot claim that he cannot be charged in respect of the salary for April 2022. It is only due to his instruction that the donation was made to a charitable institution by his employer. It is only an application of income.

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.

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.

Section 9(1)(iii) provides that **salaries payable by the Government** to a **citizen** of India for services outside India shall be deemed to accrue or arise in India.

However, by virtue of section 10(7), **any allowance or perquisites** paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt [Discussed in Residential Status Chapter]

ALLOWANCES

Different types of allowances are given to employees by their employers.

Generally allowances are given to employees to **meet some particular requirements** like house rent, expenses on uniform, conveyance etc.

Under the Income-tax Act, 1961, allowance is taxable on due or receipt basis, whichever is earlier.

Various types of allowances normally in vogue are discussed below:

| Sr. | Allowance | Exemption / Deduction |
|-----|--|--|
| 1 | <p>House Rent Allowance</p> <ul style="list-style-type: none"> HRA is a special allowance specifically granted to an employee by his employer towards payment of rent for residence of the employee. Exemption is not available to an assessee who lives in his own house, or in a house for which he has not incurred the expenditure of rent. Exemption shall be available for the period during which the said accommodation was occupied by assessee. <p>Salary = Basic Salary + DA (R) + Commission as fixed Percentage of Turnover</p> | <p>Lower of Following</p> <ol style="list-style-type: none"> Actual HRA Received Rent Paid Less 10% of Salary 50% (Metro Cities) / 40% (Other Cities) of Salary |
| 2 | Children Education Allowance | ₹ 100 per month per child upto 2 children |
| 3 | Hostel Expenses Allowance | ₹ 300 per month per child upto 2 children |
| 4 | <p>Transport Allowances</p> <p>Employee who is blind or deaf and dumb or orthopedically handicapped with disability of the lower extremities of the body, to meet his expenditure for commuting between his residence and place of duty</p> <p>No Exemption allowed to any other employees.</p> | ₹ 3,200 per Month |
| 5 | <p>Entertainment Allowance</p> <p>This allowance is given to employees to meet the expenses towards hospitality in receiving customers etc.</p> <p>Entertainment allowance received is fully taxable and is first to be included in the salary and thereafter the deduction is to be made from gross salary [Deduction is allowable to Govt. Employees (CG / SG) Only]</p> <p>Amount actually spent by the employee towards entertainment out of the entertainment allowance received by him is not a relevant consideration at all.</p> | <p>Lower of Following</p> <ol style="list-style-type: none"> Actual EA Received 1/5 of BASIC Salary 5,000 |

| | | | | |
|---|--|--|---|--|
| <p>6</p> | <p>Special Allowances</p> <p>Special allowances or benefit, not being in the nature of a perquisite, specifically granted to meet expenses incurred wholly, necessarily and exclusively in the performance of the duties of an office or employment of profit</p> <p>For the allowances under this category, there is no limit on the amount which the employee can receive from the employer, but whatever amount is received should be fully utilized for the purpose for which it was given to him. [Amount not utilised will be taxable]</p> <p>Taxable Allowance = Allowance Received less Amount Actually Spent</p> <p>a) Travelling Allowance “allowance granted to meet the cost of travel on transfer” includes any sum paid in connection with the transfer, packing and transportation of personal effects on such transfer.</p> <p>b) Daily Allowance any allowance, whether granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty</p> <p>c) Conveyance Allowance any allowance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit</p> <p>d) Helper Allowance any allowance granted to meet the expenditure incurred on a helper where such helper is engaged in the performance of the duties of an office or employment of profit</p> <p>e) Research allowance any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions</p> <p>f) Uniform Allowance any allowance granted to meet the expenditure on the purchase or maintenance of uniform for wear during the performance of the duties of an office or employment of profit</p> <p>An employee, being an assessee, who opts for the provisions of section 115BAC would be entitled for exemption only in respect of travelling allowance, daily allowance and conveyance allowance</p> | | | |
| <p>7</p> | <p>Fully Taxable Allowances</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 50%;"> <ul style="list-style-type: none"> ▪ Dearness Allowance ▪ Overtime Allowance ▪ Fixed Medical Allowance [Not perquisite] ▪ City Compensatory Allowance ▪ Interim Allowance ▪ Servant Allowance </td> <td style="vertical-align: top; width: 50%;"> <ul style="list-style-type: none"> ▪ Project Allowance ▪ Tiffin/Lunch/Dinner Allowance ▪ Any other cash allowance ▪ Warden Allowance ▪ Non-practicing Allowance </td> </tr> </table> | | <ul style="list-style-type: none"> ▪ Dearness Allowance ▪ Overtime Allowance ▪ Fixed Medical Allowance [Not perquisite] ▪ City Compensatory Allowance ▪ Interim Allowance ▪ Servant Allowance | <ul style="list-style-type: none"> ▪ Project Allowance ▪ Tiffin/Lunch/Dinner Allowance ▪ Any other cash allowance ▪ Warden Allowance ▪ Non-practicing Allowance |
| <ul style="list-style-type: none"> ▪ Dearness Allowance ▪ Overtime Allowance ▪ Fixed Medical Allowance [Not perquisite] ▪ City Compensatory Allowance ▪ Interim Allowance ▪ Servant Allowance | <ul style="list-style-type: none"> ▪ Project Allowance ▪ Tiffin/Lunch/Dinner Allowance ▪ Any other cash allowance ▪ Warden Allowance ▪ Non-practicing Allowance | | | |

| 8 | Fully Exempt Allowances | |
|---|--|---|
| | <ul style="list-style-type: none">▪ Allowances to Supreme/High Court Judges▪ Allowance paid by the UNO▪ Compensatory Allowance received by a judge | <ul style="list-style-type: none">▪ Sumptuary allowance granted to High Court or Supreme Court Judges▪ Allowance granted to Government employees outside India (Discussed in Residential Status Chapter) |



The Invictus

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. In modern times, the salary package of an employee normally includes monetary salary and **perquisites** like housing, car etc.

- 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
- Only those perquisites which the **employee actually enjoys** have to be valued and taxed. i.e. if any perquisite offered by employer but employee does not use then such perquisite shall not be included.

PERQUISITE TAXABLE IN THE CASE OF ALL EMPLOYEES

RENT FREE RESIDENTIAL ACCOMMODATION (RFA)

Unfurnished Accommodation (UFA)

Government Employee (CG / SG)

License fee determined as per Government rules

Less: The **rent actually recovered from** the employee

Non-Government Employee

1) Accommodation owned by Employer

| Location - City (Population – Census 2011) | Perquisite Value |
|--|------------------|
| > 40 Lakh | 10% of Salary |
| > 15 Lakh ≤ 40 Lakh | 7.5% of Salary |
| Other Areas | 5% of Salary |
| Less: The rent actually paid by the employee | |

2) Accommodation taken on lease by Employer

Lower of

- Actual Lease Rent paid/Payable **by Employer**
- 15% of Salary

Less: The rent actually recovered from the employee

Furnished Accommodation

Value of **Unfurnished Accommodation (UFA)**

Add: 10% of Furniture Cost

(However, if the furniture is hired, then hire charges payable/paid should be added)

Less: Charges **Recovered** from Employee

MEANING OF SALARY FOR PERQUISITE

SALARY = B A B C

B = Basic Salary

A = All Taxable Allowance (after reducing exempt amount, if any)

B = Bonus

C = Commission

Exclusions from Salary

- DA [**NOT** forming Part of Terms Means **TOTAL DA – DA(R)**]
- Employer’s Contribution to PF
- Exempt Allowances
- Value of Perquisites
- Lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, leave encashment, voluntary retirement benefits, commutation of pension and similar payments

Accommodation Provided in Hotel

Exception: Rent-free official residence provided to a Judge of a High Court or to a Judge of the Supreme Court is not taxable.

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

| Asset Used | Value of Benefit |
|--|--|
| Use of Laptop and Computers (Office or Personal Use) | NIL |
| Movable assets, <i>other than</i> - <ul style="list-style-type: none"> ▪ Laptops and Computers; and ▪ Assets already specified – Motor Car | 10% p.a. of the Actual cost of such asset or Amount of rent paid by employer (if taken on rent) Less: Amount Recovered from Employee |

TRANSFER OF MOVABLE ASSETS FROM EMPLOYER TO EMPLOYEE [Asset taken by Employee from Employer]

the value of benefit to the employee, arising from the transfer of an asset, by the employer is **Actual Cost of Asset to Employer Less Depreciation Less Amount Recovered from Employee**
Amount of depreciation shall be determined as under

| Asset | Depreciation |
|---|--|
| Computers & Electronic Items | 50% on WDV for each Completed year of Usage |
| Motor Cars | 20% on WDV for each Completed year of Usage |
| Any Other Asset | 10% of Actual Cost for each Completed year of Usage [SLM] |

Method adopted by the company for depreciation of asset (for Accounting or Tax Purpose) is **not relevant** for calculation of perquisite value of Asset.

Completed year of shall be Calculated from **Date of Purchase / Date of Put to use** of Asset by employer
Depreciation shall be computed only for **Completed years only** (fraction of the year shall be ignored)

MOTOR CAR [Taxable in the hands of Specified Employees]

| Sr. | Car Owned / Hired by | Expenses met by | Wholly for Official Use | Partly Personal Use & Partly Official Use | |
|-----|----------------------|-----------------|-------------------------|---|------------------|
| | | | | Engine Capacity (CC) | Perquisite Value |
| 1 | Employer | Employer | No Perquisite | Upto 1.6 Litres. | ₹ 1,800 p.m. |
| | | | | Above 1.6 Litres | ₹ 2,400 p.m. |
| | | | | If Chauffeur is also provided ₹ 900 p.m. shall be added | |
| | | | | | |
| 2 | Employer | Employee | No Perquisite | Upto 1.6 Litres. | ₹ 600 p.m. |
| | | | | Above 1.6 Litres | ₹ 900 p.m. |
| | | | | | |

| | | | | |
|--|--|----------|---------------|--|
| | | | | If Chauffeur is also provided ₹ 900 p.m. shall be added |
| 3 | Employee | Employer | No Perquisite | Actual amount of expenditure incurred by the employer Less: Perquisite value arrived at in (1) above |
| 4 | <p>Where car is owned by employer and expenses are also met by the employer, the taxable perquisites in case such car is used wholly for personal purposes would be</p> <p>Actual Expenditure Incurred by Employer on Running & Maintenance Add: 10% of Actual Cost of Motor Car Less: Amount Recovered from Employee</p> | | | |
| <p>Notes:</p> <ol style="list-style-type: none"> 1) If motor car owned by employee and used for fully personal purpose for which employer reimburses running & maintaining expenses. The perquisite value shall be taxable in case of all employees 2) If more than one car owned by employer and employee is allowed to use any or all cars for both official and personal use <ul style="list-style-type: none"> ▪ Value of any one car – Calculated considering Partly Official & Partly Personal ▪ Other Cars – Calculated considering FULLY PERSONAL use | | | | |

INTEREST FREE OR CONCESSIONAL LOAN

In respect of any loan given by employer to employee or any member of his household

Exceptions: [Not taxable as perquisite]

- Loan for purpose of Medical purpose for prescribed diseases
- Loan upto ₹ 20,000

Perquisite Value

Steps to calculate value of Perquisite

Step 1: Calculate maximum outstanding monthly balance at the end of every month

Step 2: Applicable Interest Rate = Rate of **SBI as on 1st Day** of PY **Less** Interest Rate Charged to Employee

Step 3: Apply Rate of Interest on Monthly Amount determined in Step 2

Step 4: Perquisite = Aggregate of Amount of Interest Calculated in Step 3

LEAVE TRAVEL CONCESSION

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.

The benefit is available to individuals –

Citizens as well as **non-citizens** - in respect of travel concession or assistance for himself or herself and for his/her family-

Self, Spouse and Children (Dependent or Independent)

Dependent Parents, Brothers and Sisters of the individual

Note: 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**.

Limit of exemption –

The exemption in all cases will be limited to the **amount actually spent** subject to such conditions as specified in Rule 2B regarding the ceiling on the number of journeys for the place of destination.

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**.

Example

An employee does not avail any LTC for the block 2022-25. He avails it during 2023. He is allowed to carry forward maximum one such holiday to be used in the succeeding block. Therefore, he will be eligible for exemption and two more journeys can be further availed.

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:

| Sr. | Journey Performed by | | Limit |
|-----|----------------------|---|--|
| 1 | Air | | Amount not exceeding the air Economy fare of the National Carrier by the Shortest route to the place of destination |
| 2 | Any Other Mode | | |
| | (i) | Where Rail Service is Available | Amount not exceeding the AC first class rail fare by the Shortest route to the place of destination |
| | (ii) | Where Rail Service is not Available | |
| | | (a) A recognised public transport system exists | Amount not exceeding the 1st class or deluxe class fare , as the case may be, on such transport by the Shortest route to the place of destination |
| | | (b) no recognised public transport system exists | Amount Equivalent to the AC first class rail fare , for the distance of the journey by the Shortest route , as if the journey had been performed by rail |

MEDICAL FACILITIES

The following medical facilities will **NOT AMOUNT** to a perquisite [Tax free perquisite]
 Medical **Allowance** (Fixed Monthly amount) is fully taxable as allowance [it is not perquisite]

Value of medical treatment in any hospital maintained by the employer [Not Taxable Perquisite]

The value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer

Reimbursement of expenditure actually incurred on medical treatment [Not Taxable Perquisite]

Any sum paid by the employer in respect of any expenditure actually incurred by the employee on

- his medical treatment or
- treatment of any member of his family

Two types of facilities are covered in case of above

- Payment by the employer for treatment in a **Government hospital** and
- Payment by an employer for treatment of prescribed diseases in any **hospital approved** by the principal Chief Commissioner or Chief Commissioner.

Premium paid to effect an insurance on the health of employee [Health Insurance Premium]

Any premium paid by an employer in relation to an employee to effect an insurance on the **health of such employee**. However, any such scheme should be approved by the Central Government or the Insurance Regulatory Development Authority (IRDA) for the purposes of section 36(1)(ib).

However, **LIFE INSURANCE PREMIUM** Paid by Employer is **TAXABLE Perquisite**

Reimbursement of premium paid to effect an insurance on the health of employee or for the family of an employee [Health Insurance Premium Reimbursed by EMPLOYER]

Any sum paid by the employer in respect of any premium paid by the employee to effect an insurance on his health or the health of any member of his family under any scheme approved by the Central Government or the Insurance Regulatory Development Authority (IRDA) for the purposes of section 80D

Amount paid towards expenditure incurred outside India on medical treatment:

Any expenditure **incurred by the employer** or any sum paid by the employer on any **expenditure actually incurred** by the employee on the following:

- a) **Medical treatment** of the **employee** or any **member of the family** of such employee outside India;
- b) **Travel and stay abroad** of the **employee** or any **member of the family** of such employee for medical treatment;
- c) Travel and stay abroad of **one attendant who accompanies** the patient in connection with such treatment.

Conditions:

Medical Treatment and Stay exempt **to the extent permitted by the RBI**.

Traveling of the patient and the attendant will be **exempt** if the **employee's gross total income** as computed before including the said expenditure **does not exceed ₹ 2 lakh**.

Note: For this purpose, family means

- Spouse
- Children (dependent or independent, married or unmarried)

- Parents, Brothers and Sisters of the individual if they are wholly or mainly dependent upon him.

Payment of premium on personal accident insurance policies

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.

Moreover, the employers would be taking such policy in their business interest only, so as to indemnify themselves from payment of any compensation. Therefore, the premium so paid will not constitute a taxable perquisite in the employees' hands

PERQUISITES TAXABLE ONLY IN THE HANDS OF SPECIFIED EMPLOYEES

Sometimes instead of discharging employee's obligation, employer provides perquisites in the form of facility to the employee. Such perquisites are taxable in the hands of specified employees only.

The value of any benefit or amenity granted or provided free of cost or at concessional rate will be taxable in the hands of specified employees.

Followings are the example of such services:

- Free or concessional educational facilities
- Use of motor car
- Provision of sweeper, gardener, watchman or personal attendant
- Facility of use of gas, electricity or water supplied by employer
- Free or concessional tickets

Valuation of Perquisite in case of domestic servant.

a) Servant hired by EMPLOYEE and EMPLOYER reimburses wages of such servant (which is not part of remuneration package) – In such case Amount reimbursed will be taxable as perquisite in case of ALL EMPLOYEES

b) Service of domestic servant is offered by EMPLOYER and it is part of remuneration package. – In such case following amount shall be taxable as perquisite in case of SPECIFIED EMPLOYEES ONLY

Taxable Perquisite = Amount paid to Servant Less Amount Recovered from Employee

MEANING OF SPECIFIED EMPLOYEES:

1) Director employee:

An employee of a company who is also a director is a specified employee. It is immaterial whether he is a full-time director or part-time director. It also does not matter whether he is a nominee of the management, workers, financial institutions or the Government. It is also not material whether or not he is a director throughout the previous year.

2) An employee who has substantial interest in the company:

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.

Beneficial and legal ownership:

In order to determine whether a person has a substantial interest in a company, it is the beneficial ownership of equity shares carrying 20% or more of the voting power that is relevant rather than the legal ownership.

Example

A karta in HUF holds shares in any company as Registered owner. All the benefits arising from shareholding goes to HUF. In this case, HUF is beneficial owner and Karta is registered owner.

3) Employee drawing in excess of ₹ 50,000:

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.

Salary for this purpose =

Basic Salary

- + Dearness Allowance
- + Commission, whether payable monthly or turnover based
- + Bonus
- + Fees
- + Any other taxable payment
- + Any taxable allowances (Taxable part of Allowance only)
- + Any other monetary benefits
- Deductions under section 16

Following payments shall be **excluded or deducted** for computing the limit of ₹ 50,000

- ✓ All non-monetary benefits - Perquisites (Not to be included)
- ✓ Monetary Benefits (e.g. Allowances) which are exempt (Exempt part of allowance)
- ✓ Standard Deduction of ₹ 50,000

If an employee is employed with more than one employer, the aggregate of the salary received from all employers is to be taken into account in determining the above ceiling limit of ₹ 50,000,

VALUATION OF FREE OR CONCESSIONAL EDUCATIONAL FACILITIES

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

But if the **education facility** is provided in the

- **School maintained** by the employer or
 - in any **school** by reason of his **being employment** at free of cost or at concessional rate,
- it would be perquisite in the hands of **SPECIFIED EMPLOYEES** only.

The value of benefit to the employee resulting from the provision of free or concessional educational facility for any member of his household shall be determined as follow:

| Circumstances | Value of Benefit |
|---|--|
| If the educational institution is maintained and owned by the employer | cost of such education in a similar institution in or near the locality. |
| If free educational facilities are allowed in any other educational institution by reason of his being in employment of that employer | 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 |

Less: Any Amount Recovered from Employee

Note: 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.

FREE OR CONCESSIONAL TICKETS

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

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

Value of Perquisite

Such benefit or amenity is offered by such employer to the public

Less: the amount, if any, paid by or recovered from the employee for such benefit or amenity.

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

VALUATION OF OTHER FRINGE BENEFITS AND AMENITIES

Value of any other fringe benefit or amenity as may be prescribed would be included in the definition of perquisite and taxable in the hands of all employees.

Accordingly, the following other fringe benefits or amenities are prescribed and the value thereof shall be determined in the manner provided hereunder: -

❖ Travelling, touring and accommodation

- **If Travelling, touring, accommodation etc. expenses are paid or reimbursed by employer –**

The value of travelling, touring, accommodation and any other expenses paid for or borne or reimbursed by the employer for any holiday availed of by the employee or any member of his household, other than LTC,

Value of Benefit = sum equal to the amount of the expenditure incurred by such employer in that behalf.

- **If Travelling, touring, accommodation etc. facilities are maintained by employer to particular employees only**

Where such facility is maintained by the employer, and is not available uniformly to all employees,

Value of benefit = Value at which such facilities are offered by other agencies to the public.

- **Expenses on any member of household accompanying such employee on office tour**

Where the employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him,

Value of Benefit = the amount of expenditure so incurred shall also be a fringe benefit or amenity.

- **If official tour is extended as vacation**

However, where any official tour is extended as a vacation,

Value of benefit = limited to the expenses incurred in relation to such extended period of stay or vacation. Less Amount, if any, paid or recovered from the employee for such benefit or amenity.

❖ Free or concessional food and non-alcoholic beverages

Free food and non-alcoholic beverages provided by the employer to an employee

Value of Perquisite = Expenditure incurred by such employer Less Amount, if any, paid or recovered from the employee for such benefit or amenity:

However, the following **would not be treated** as a perquisite -

- Free food and non-alcoholic beverages provided by such employer during
 - ✓ **working hours** at office or business premises or
 - ✓ through **paid vouchers** which are not transferable and usable only at eating joints (**Meal Pass**) to the extent the value thereof either case does not exceed **₹ 50** per meal
(*exemption would not be available in case of an employee, being an assessee, who opts for the provisions of section 115BAC*),
- tea or snacks provided **during working hours** or
- free food and non-alcoholic beverages during working hours provided in a remote area or an off-shore installation.

❖ Value of gift, voucher or token in lieu of such gift

The value of any gift, or voucher, or token in lieu of which such gift may be 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, if the value of such gift, voucher or token, as the case may be, is **below ₹ 5,000** in the aggregate during the previous year, the value of **perquisite shall be taken as 'Nil'**.

❖ Credit card expenses

The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or otherwise, paid for or reimbursed by such employer

Perquisite Value = Expenditure Incurred Less Amount, if any paid or recovered from the employee

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

❖ Club expenditure

The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household

Value of Perquisite = Expenditure Incurred Less Amount Recovered from Employee

However, where the employer has obtained **corporate membership** of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall **not include the initial fee paid for acquiring such corporate membership.**

Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be treated as a perquisite

There would be no perquisite for use of health club, sports and similar facilities provided uniformly to all employees by the employer

VALUATION OF SPECIFIED SECURITY OR SWEAT EQUITY SHARE

When any shares or securities allotted to employee by employer at concessional rate or free of cost.

Value of Perquisite = Fair Market Value on Date of Exercise of Option Less Amount Actually paid by Employee

Determination of Fair Market Value

The FMV of any specified security or sweat equity share, being an equity share in a company, on the date on which the option is exercised by the employee, shall be determined in the following manner -

1) If shares are listed on recognized stock exchange -

FMV = Average of the opening price and closing price of the share on that date on the said stock exchange.

If shares are listed on more than one recognized stock exchange - However, where, on the date of exercising of the option, the share is listed on more than one recognized stock exchanges, the fair market value shall be the average of opening price and closing price of the share on the recognised stock exchange which records the highest volume of trading in the share.

Further, where on the date of exercising of the option, there is no trading in the share on any recognized stock exchange, the fair market value shall be—

- the closing price of the share on any recognised stock exchange on a date closest to the date of exercising of the option and immediately preceding such date; or

2) If shares are not listed on recognized stock exchange –

FMV = Value determined by Merchant Banker

Contribution made to the Account of Assessee by Employer

The amount or aggregate of amounts of any contribution made

- in a recognised provident fund
- in NPS referred to in section 80CCD(1)
- in an approved superannuation fund

to the Extent it exceeds ₹ 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 (on account of the same having exceeded ₹ 7,50,000)

TAX FREE PERQUISITES

Telephone

Telephone provided by an employer to an employee at his residence

| | |
|---|---|
| Transport Facility | Transport facility provided by an employer engaged in the business of carrying of passengers or goods to his employees either free of charge or at concessional rate |
| Privilege passes and privilege ticket | Privilege passes and privilege ticket orders granted by Indian Railways to its employees; |
| Perquisites allowed outside India by the Government | Perquisites allowed outside India by the Government to a citizen of India for rendering services outside India; [Discussed in Residential Status Chapter] |
| Employer's contribution to staff group insurance scheme; | Employer's contribution to staff group insurance scheme; |
| Annual premium by employer on personal accident policy | Payment of annual premium by employer on personal accident policy effected by him on the life of the employee |
| Refreshment | Refreshment provided to all employees during working hours in office premises; |
| Subsidized lunch | Subsidized lunch provided to an employee during working hours at office or business premises provided the value of such meal is upto ₹ 50 If Value of such meal exceeds ₹ 50, Entire amount is taxable |
| Recreational facilities | Recreational facilities, including club facilities, extended to employees in general i.e., not restricted to a few select employees; |
| Amount spent on training of employees | Amount spent by the employer on training of employees or amount paid for refresher management course including expenses on boarding and lodging |

EXEMPTION OF TERMINAL BENEFITS

PENSION

'Pension' as a **periodic payment** made especially by Government or a company or other employers to the employee in consideration of past service payable after his retirement

Uncommuted Pension:

Uncommuted pension refers to pension received periodically. It is **fully taxable** in the hands of both government and non-government employees.

Commuted Pension:

Commutation means inter-change. Commuted pension means **lump sum amount taken** by commuting the whole or part of the pension. Many persons **convert their future right to receive** pension into a lumpsum amount receivable immediately.

Taxability of Pension Income

Uncommuted Pension - Fully Taxable (in the hands of All Employees)

Commuted

- **Employees of the CG / SG / Local authorities/ Statutory Corporation/ Members of the Civil Services/ Defence Services/ Judges of Supreme/High Court – Fully Exempt**

- **Others – Exempt Amount**
 - ✓ If employee is in **Receipt of Gratuity – $1/3 \times$ Commuted Pension / % of Commutation**
 - ✓ If employee is not in **Receipt of Gratuity – $1/2 \times$ Commuted Pension / % of Commutation**

GRATUITY

Gratuity is a voluntary payment made by an employer in **appreciation of services rendered** by the employee. Now-a-days gratuity has become a normal payment applicable to all employees. In fact, Payment of Gratuity Act, 1972 is a statutory recognition of the concept of gratuity. Almost all employers enter into an agreement with employees to pay gratuity.

Taxability of Gratuity Income

- **Gratuity Received During Service - Fully Taxable**
- **At the time of Retirement/Death**
 - **Govt Employees of CG / SG / Members of Civil Services/ Local authority employees etc. Employee – Fully Exempt**
 - **Others – Exempt Amount**
 - ✓ **Employee Covered under Payment of Gratuity Act**
 - 1) Actual Gratuity Received
 - 2) Statutory Limit : 20 Lakh
 - 3) $15/26 \times$ Last Drawn Salary \times Completed Year or Part in excess of 6 Months [Round Off]

Lower of Above

Salary = Basic Salary + DA
 - ✓ **Employee Not Covered under Payment of Gratuity Act**
 - 4) Actual Gratuity Received
 - 5) Statutory Limit : 20 Lakh
 - 6) $1/2 \times$ Ave of Last 10 months salary \times Completed Year only [Fraction to be Ignored]

Lower of Above

Salary = Basic Salary + DA (R) + Commission as fixed Percentage of Turnover

Note:

Where gratuity is received from 2 or more employers in the same previous year then aggregate amount of gratuity exempt from tax cannot exceed ₹ 20,00,000.

Where gratuity is received in any earlier previous year from former employer and again received from another employer in a later previous year, the limit of ₹ 20,00,000 will be reduced by the amount of gratuity exempt earlier.

LEAVE SALARY or LEAVE ENCASHMENT

Generally, employees are allowed to take leave during the period of service. Employee may avail such leave or in case the **leave is not availed**, then the leave may **either lapse or be accumulated** for future or **allowed to be encashed** every year or at the time termination/ retirement.

The payment received on account of encashment of unavailed leave would form part of salary. However, section 10(10AA) provides exemption in respect of amount received by way of encashment of unutilised earned leave by an employee at the time of his retirement, whether on superannuation or otherwise.

- **Leave encashment received during Service - Fully Taxable**
- **At the time of Retirement**
 - **Govt Employee (CG / SG) – Fully Exempt**
 - **Others**
 - 1) Actual Leave Salary Received
 - 2) Statutory Limit : 3 Lakh
 - 3) $10 \times$ Avge of Last 10 months salary
 - 4) Leave Credit / 30 Days \times Avge of Last 10 months salary

Lower of Above

Salary = Basic Salary + DA (R) + Commission as fixed Percentage of Turnover

[Leave Credit = (Leave allowed \times No of years) less Leave Taken]

[Leave allowed shall be restricted to maximum of 30 days per year]

Notes:

Where leave salary is received from two or more employers in the same previous year, then the aggregate amount of leave salary exempt from tax cannot exceed ₹ 3,00,000.

Where leave salary is received in any earlier previous year from a former employer and again received from another employer in a later previous year, the limit of ₹ 3,00,000 will be reduced by the amount of leave salary exempt earlier.

RETRENCHMENT COMPENSATION

The retrenchment compensation would be exempt under section 10(10B), subject to following limits

- 1) Compensation Actually Received
 - 2) Statutory Limit : 5 Lakh
 - 3) $15 \text{ Days Avge. Pay} \times$ Completed years of service and part thereof in excess of 6 months [Round Off]
- Lower of Above**

VOLUNTARY RETIREMENT COMPENSATION (VRS)

Category of Employees:

Central and State Government, Public sector company, any other company, local authority, cooperative society, IIT etc.

The retrenchment compensation would be exempt under section 10(10B), subject to following limits

- 1) Compensation Actually Received
- 2) Statutory Limit : 5 Lakh
- 3) $3 \text{ Months' Salary} \times$ Completed years of service [Fraction Shall be ignored]

4) Last drawn Salary x Remaining month of services left

Lower of Above

Salary = Basic Salary + DA (R) + Commission as fixed Percentage of Turnover

| PROVIDENT FUND | | | | |
|---|---|-------------------------|---|------------------------------|
| Particulars | RPF | SPF | PPF | URPF |
| At time of Contribution / Investment | | | | |
| ▪ Employer's Contribution | Excess of 12% of Salary Taxable | Fully Exempt | Not Applicable [No Employer Contribution] | Not Taxable Yearly |
| ▪ Employee's Contribution | Deduction u/s 80C | Deduction u/s 80C | Deduction u/s 80C | No deduction allowed u/s 80C |
| ▪ Interest Credited on EMPLOYER's Contribution | Excess of 9.5% p.a. is Taxable | Fully Exempt | Not Applicable | Not Taxable Yearly |
| ▪ Interest Credited on EMPLOYEE's Contribution | Excess of 9.5% p.a. is Taxable [See Note] | Fully Exempt [See Note] | Fully Exempt | Not Taxable Yearly |
| [Salary = Basic + DA(R) + Commission as fixed % on turnover] | | | | |
| Amount received at time of Retirement/Maturity/Withdrawal | | | | |
| ▪ Employer's Contribution | Fully Exempt (Under following Conditions) | Fully Exempt | Taxable as Salary | |
| ▪ Interest Credited on Employer's Contribution | | | Taxable as Salary | |
| ▪ Employee's Contribution | | | Fully Exempt | |
| ▪ Interest Credited on Employee's Contribution | | | Taxable as IFOS | |
| Conditions for Exemption of RPF: | | | | |
| 1) Employee rendered continuous service of at least 5 years OR | | | | |
| 2) Services terminated due to OR | | | | |
| ▪ his ill-health | | | | |
| ▪ contraction or discontinuance of employer's business | | | | |
| ▪ any other cause beyond the control of the employee. | | | | |
| 3) Entire balance standing to the credit of the employee transferred to his individual account in any RPF maintained with his new employer OR | | | | |
| 4) Entire balance standing to the credit of the employee transferred to his NPS account referred to in section 80CCD and notified by the Central Government | | | | |
| Taxability of yearly Accrual of Interest on EMPLOYEE's Contribution [Applicable for contribution made after 31-03-2021] | | | | |

- If Contribution during PY to such fund exceeds threshold limit [i.e. 2,50,000 / 5,00,000 where there is no Employer Contribution]
- In Such cases, Interest on such excess amount shall be taxable.
- Interest accrued on contribution made on or before 31-03-2021 shall continue to be exempted.

The Invictus

SECTION 22 - CHARGING SECTION

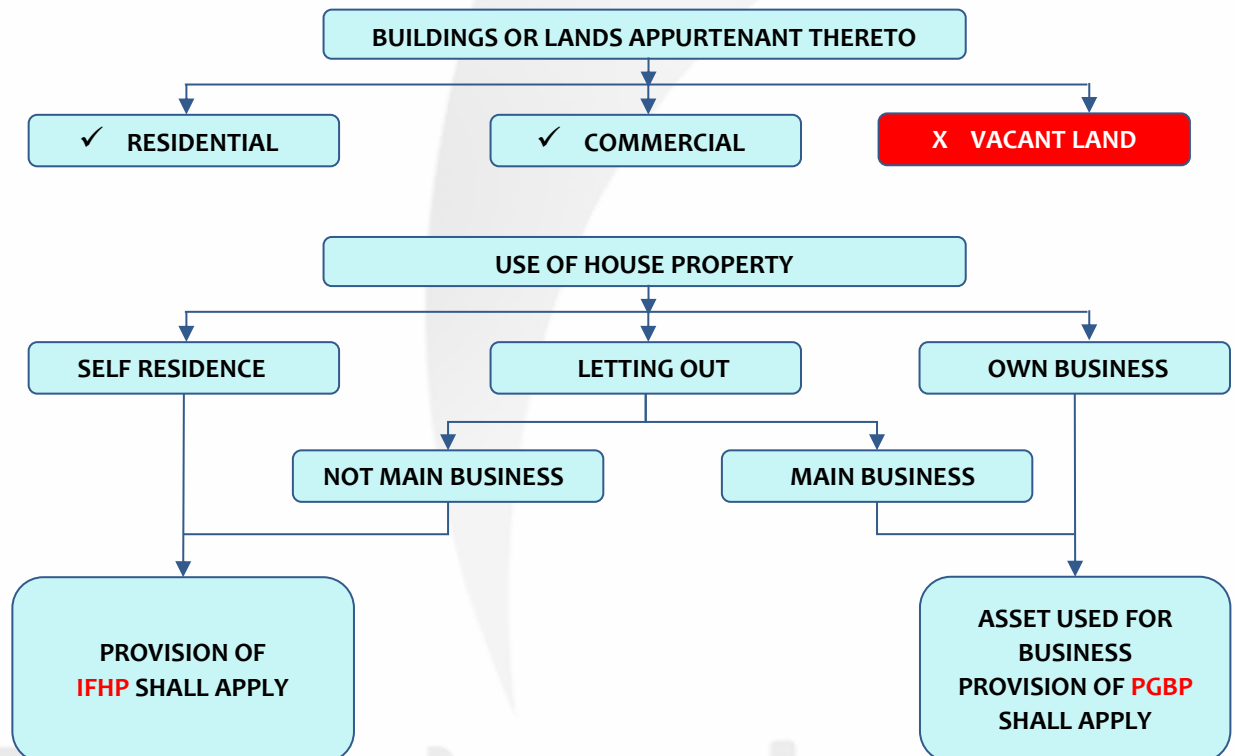
The **annual value** of any property

- comprising of **buildings** or **lands appurtenant** thereto
- of which the **assessee** is the **owner**
- is chargeable to tax under the head “Income from house property”.

Exceptions:

Annual value of the following properties is chargeable under the head “Profits and gains of business or profession” -

- Portions of property occupied by the assessee for the purpose of any **business or profession** carried on by him
- Properties of an assessee engaged in the **business of letting out** of properties.



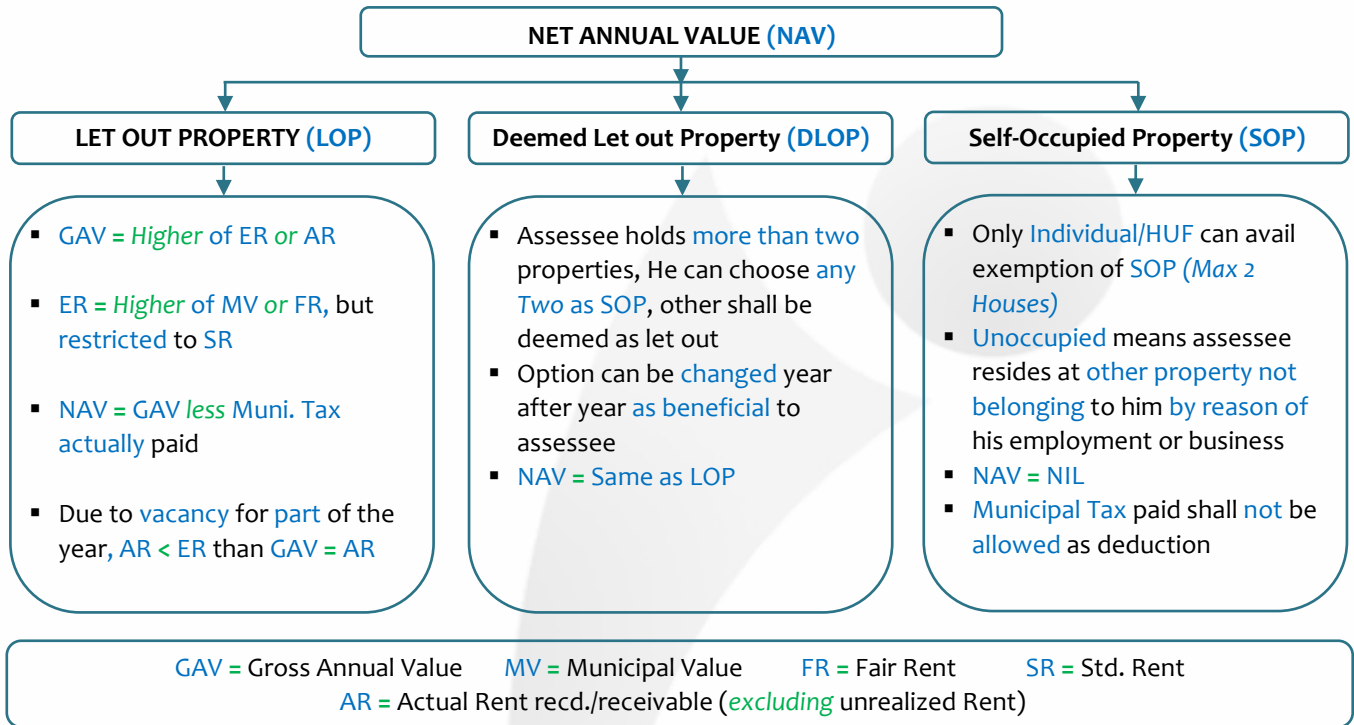
NOTES

Annual Value shall be determined in accordance with provision of section 23 Property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner.

- Buildings include **not only residential** buildings, but also factory buildings, offices, shops, godowns and other commercial premises.
- Land appurtenant means **land connected** with the building like garden, garage, parking etc.
- However vacant land and assets **other than building** shall be chargeable under the head **PGBP/IFOS**
- Income from property situated **outside India shall also be** chargeable

- Assessee **must be the owner or deemed owner** (section 27) of the property **during the PY**. However, it is immaterial whether he is the owner in the AY.
- However, Assessee need **not to be the owner of the land** upon which building stands

SECTION 23 – DETERMINATION OF ANNUAL VALUE



Gross Annual Value (GAV) In Case of Let Out Property [23(1)(b)]

Gross Annual Value in case of let out property shall be **Higher of**

- Expected Rent (ER) and
- Actual Rent Received or Receivable (AR)

Expected Rent (ER) [23(1)(a)]

- The sum for which the property might **reasonably be expected** to let from year to year;
- The Expected Rent (ER) is the higher of the Municipal Value (MV) and Fair Rent (FR) but restricted to Standard Rent (SR)
 - (i) **Higher** of MV and FR
 - (ii) **Lower** of (i) and SR
- ER **cannot** exceed SR but it **can be lower** than SR
- Municipal Value (MV) is the value determined by the municipal authorities for **levying municipal taxes** on house property
- Fair Rent (FR) means rent which **similar property** in the **same locality** would fetch.
- The Standard Rent (SR) is fixed by the **Rent Control Act**

Actual Rent Received / Receivable (AR)

- Actual rent **received** or **receivable** means the rent which assessee **entitled to receive**, if the property is let out during the **whole** or **part** of the year [No. of Months Let out x Monthly Rent]
- Amount of AR shall **not include** amount of rent which the owner **cannot realise**. i.e. **Unrealised Rent** subject to conditions prescribed under Rule-4

AR = Actual Rent Received or Receivable less Unrealised Rent

Unrealised Rent [Explanation to Section 23(1)]

- The amount of rent which the owner **cannot realise** shall be equal to the amount of rent **payable but not paid** by a tenant of the assessee and so proved to be **lost** and **irrecoverable**
- Conditions as per **Rule – 4** must be satisfied
 - Tenancy is **bona fide**
 - Defaulting **tenant** has **vacated** or steps taken compel him to vacate
 - Defaulting tenant should **not be occupation of other property** of assessee
 - Assessee has taken **legal steps** to institute legal proceedings for the **recovery** of unpaid rent or satisfies AO that legal step would be **useless** even if taken

Gross Annual Value (GAV) In Case of Self-Occupied Property (SOP) [23(2)]

Where the property consists of **Two houses** or part of a house which—

- Is in the **occupation** of the **owner** for the purposes of his **own residence** (i.e. SOP); or
- **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**, and
 - He has to **reside** at that **other place** in a building **not belonging** to him,

GAV in case of SOP = NIL [Benefit available to Individual / HUF only]

Provided, such properties **are not actually let out during** the whole or any part of the year of previous year or No other benefit derived by the owner [23(3)]

Gross Annual Value (GAV) in case of Deemed Let Out Property (DLOP) [23(4)]

Where property referred to in sub-section (2) [i.e. SOPs] above consist of **more than two** houses,

- The provisions of that sub-section shall apply only in respect of **two of such houses**,
- Which the assessee may, **at his option**, specify any two houses as SOPs
- The **annual value** of the house or houses, **other than the SOPs**
- Shall be determined under sub-section (1) **as if such house or houses had been let**.
- It means, assessee can **choose any Two** property as **SOPs** & others shall be treated as **deemed to be let out** if it is not actually let out

GAV in case of DLOP = ER

Net Annual Value (NAV)

Net Annual Value (NAV) in case of —

- **LOP** = Gross Annual Value (GAV) less Municipal Taxes Actually Paid
- **DLOP** = Gross Annual Value (GAV) less Municipal Taxes Actually Paid
- **SOP** = NIL (As GAV is Nil and no deduction in respect of Municipal taxes allowed)

Municipal Taxes [Proviso to 23(1)]

Taxes levied by any local authority in respect of the property shall be deducted

- Deduction shall be available in the PY in which actual payment is made
- Irrespective of method of accounting regularly employed by him
- Municipal Taxes must be borne by the assessee. Taxes borne by the tenant shall not qualify for the deduction
- Even if arrears of preceding PYs paid during the PY, it will qualify of deduction in PY in which it is paid
- In case of property situated outside India, taxes levied by local authority of such country shall also qualify for deduction.

Determination of NAV under certain circumstances**Property remain Vacant during the whole or part of the PY [23(1)(c)]**

Where the property or any part of the property is let and was

- Vacant during the whole or any part of the previous year and
- Owing to such vacancy the Actual Rent Received or Receivable (AR) by the owner in respect thereof is less than the Expected Rent (ER)
- In such case $GAV = AR$

In simple terms,

- Higher of ER or AR (if let out for whole year – No Vacancy)
- Lower of ER or AR (If property remain vacant during the year AND AR is lower than ER due to vacancy)

Example

ER = ₹ 2,40,000 Monthly Rent = ₹ 22,000

GAV if property Fully Occupied

- $ER = 2,40,000$ $AR = 22,000 \times 12 = ₹ 2,64,000$
- $GAV = ₹ 2,64,000$ [Higher of ER & AR]

GAV if property vacant for 2 months

- $ER = 2,40,000$
- $AR = 22,000 \times 10 \text{ months} = ₹ 2,20,000$

$GAV = ₹ 2,20,000$ [AR is lower owing to vacancy, hence $GAV = AR$]

Property is LOP for part of the PY and SOP for part of the PY

Where the property was let out as well self-occupied during the PY

- NAV shall be determined as if property is LOP for the whole year
- Actual Rent (AR) shall be calculated for the let out period only (Monthly Rent x No. of Months Let Out)

- ER shall be taken for **whole year** for comparison with AR
- Municipal taxes for the **whole year** will be fully allowed, if actually paid

In case of property, a portion is let out and a portion is self-occupied

Where property **proportionately** let out and proportionately self-occupied

- Income from any **portion** or part of a property **which is let out** shall be computed **separately** under the “**let out property**” category and
- The **other portion** or part which is **self-occupied** shall be computed under the “**self-occupied property**” category
- There is **no need** to treat the **whole property** as a **single unit** for computation of income from house property
- MV/FR/SR, 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
- **Property taxes**, if given on a **consolidated** basis can be **bifurcated** as attributable to each portion or floor or on a reasonable basis

Property held as stock in trade [23(5)]

Section 23 of the Act provides for the manner of determination of annual value of house property. Considering the business exigencies in case of real estate developers, the said section provides that

- Where the house property consisting of any building and land appurtenant thereto is held as **stock-in-trade** and
- The property or any part of the property is **not let** during the **whole** or **any part** of the previous year,
- The annual value of such property or part of the property shall be taken to be **NIL**,
- For the period upto **Two years**
- from the **end of the FY** in which the **certificate of completion** of construction of the property is obtained from the competent authority
- **After TWO YEARS** such property **remain in stock** shall be treated as **deemed let out**

COMPOSITE RENT [Building + Other Assets/Services]

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 e.g. – Lifts, Security, Power backup etc.
- The amount so received is known as “**composite rent**”.

Where composite rent includes rent of building and charges for different services (lifts, security etc.), the composite rent has to be **split up** in the following manner

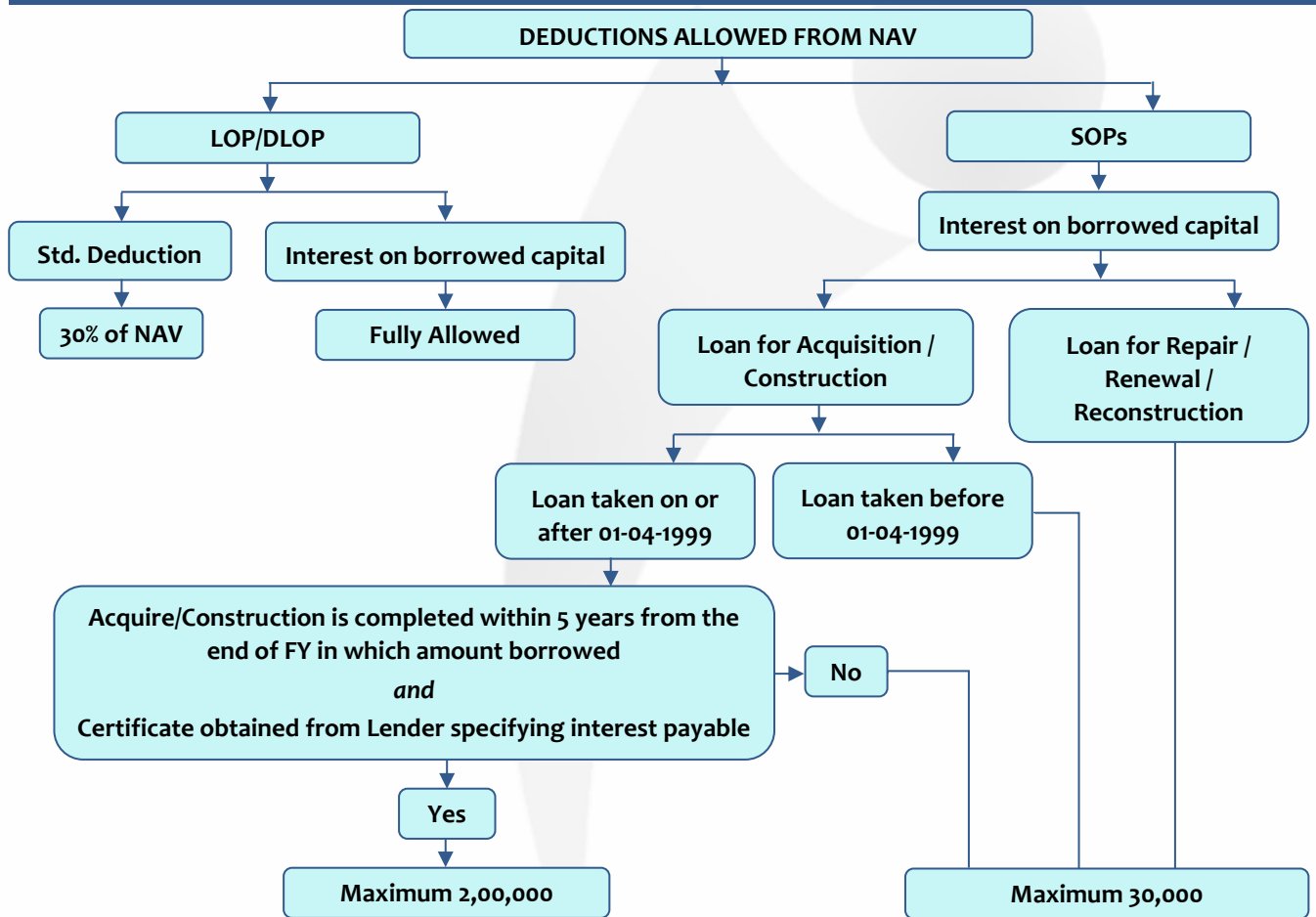
If let out building and other assets are inseparable

- Where composite rent is received from letting out of building and other assets (like furniture) and the two lettings are **not separable**
- The other party **does not accept** letting out of buildings **without other assets**,
- Then the **entire rent** is taxable either as **PGBP** or **IFOS**, the case may be.
- This is applicable **even if sum** receivable for the two lettings is **fixed separately**.

If let out building and other assets are separable

- Where composite rent is received from letting out of buildings and other assets and the two lettings are separable
- Letting out of one is acceptable to the other party without letting out of the other, then
 - Income from letting out of building is taxable under IFHP;
 - Income from letting out of other assets is taxable under the head PGBP or IFOS as the case may be.
- This is applicable even if a composite rent is received by the assessee from his tenant for the two lettings

SECTION 24 – DEDUCTION FROM NAV



Standard Deduction 24(a)

A Flat deduction and is allowed irrespective of the actual expenditure incurred

- In case of SOP, NAV is NIL hence no deductions will be allowed in this case
- No other expenditure, whatever name called, shall be allowed
 - **Standard Deduction = 30% of NAV**

Interest on Borrowed Capital 24(b)

Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital shall be allowed as deduction

- It is immaterial whether interest is actually paid or not during PY

- Interest on capital only allowed as deduction, Interest paid on outstanding interest shall not qualify for deduction

Deduction of in case of Let out / Deemed Let out Property

In case of LOP / DLDP,

- Capital borrowed for the purpose of acquisition, construction, repair, renewal or reconstruction
- Interest payable during the PY on such property shall be allowed as deduction **without any restriction**

Deduction in case of Self-Occupied Properties

Borrowing made on or after 01-04-1999 for Acquisition or Construction

- Capital borrowed on or **after** 01-04-1999
- For the purpose of **Acquisition** or **Construction** (Not for repair/renewal/reconstruction)
- **Deduction Allowed = Maximum ₹ 2,00,000** [if both conditions fulfilled]

Conditions to be fulfilled

- Acquisition or completion of construction
 - Such acquisition or construction is completed within
 - **5 Years** from the **END** of the **FY** in which capital is **borrowed**
- **Certificate** from the lender to be furnished
 - The assessee furnishes a certificate, from the person to whom
 - Any interest is payable on the capital borrowed,
 - Specifying the amount of interest payable by the assessee
 - For the purpose of such acquisition or construction of the property or
 - Conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

For the purposes of this proviso, the expression "new loan" means the whole or any part of a loan taken by the assessee subsequent to the capital borrowed, for the purpose of repayment of such capital. i.e. Fresh loan taken to repay the original loan [Explanation]

Borrowing made before 01-04-1999 for any purpose or conditions not satisfied or For Repairs/renewal

- Capital borrowed **before** 01-04-1999 for the any purpose
- Such as acquisition, construction, repair, renewal, reconstruction or
- Any of the **condition** stated **above** is **not fulfilled**
- **Deduction Allowed = Maximum ₹ 30,000**

Pre-Construction Period Interest [PCPI] [Explanation]

Where the interest, if any, payable on such capital borrowed for the

- Period **prior** to the **PY in which** the property has been **acquired** or **constructed**,
- As reduced by any part thereof allowed as deduction under any other provision of this Act,
- Shall be **deducted** under this clause in **equal instalments** for the **said PY** and
- For each of the **four immediately succeeding** PY (In 5 equal instalments)

PCPI = Interest for the period from

- **Date of borrowing** to

- The **LAST DATE OF IMMEDIATELY PRECEDING** the PY in which **construction** is **completed** / property acquired.

Example

- Date of borrowing = 01-10-2018
- Construction completion Date = 25-02-2021
- Pre-Construction Period = From 01-10-2018 to 31-03-2020 [18 Months]
- Interest **from 01-04-2020** shall be treated as **post construction** period interest.

SECTION 25 – INADMISSIBLE DEDUCTIONS

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

- Tax has not been **paid** or **deducted** from such interest and
- There is **no person** in India who may be treated as an **agent** under section 163.

SECTION 25A – ARREARS OF RENT AND UNREALISED RENT RECEIVED SUBSEQUENTLY

The amount of rent received in **arrears** from a tenant or the amount of **unrealised rent** realised **subsequently** from a tenant by an assessee shall be **deemed to be income** from house property

- In the **financial year** in which such **rent is received** or realised, and shall be
- Included in the total income of the assessee under the head IFHP,
- Whether the assessee is the **owner** of the property **or not** in **that financial year**.

Assessee is entitled to **deduction of 30%** of arrears of rent or unrealised rent realised subsequently as **standard deduction**

SECTION 26 – CO-OWNED PROPERTIES

Where property consisting of buildings or buildings and lands appurtenant thereto is owned by **two or more persons** and their respective **shares are definite** and ascertainable,

- Such persons shall **not** in respect of such property **be assessed as an AOP**,
- But the share of **each such person** in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income. i.e. **Proportionate** Income and deductions

For the purposes of this section, in applying the provisions of section 23(2) i.e. SOP

Each Co-owner is entitled to a deduction of **30,000/2,00,000 (Individually)** as the case may be [Explanation]

SECTION 27 – DEEMED OWNER

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.

1) Transfer to Spouse or Minor child otherwise than for adequate consideration

- Individual who transfers **otherwise than for adequate consideration** any house property
- To his or her **spouse**, or to a **minor** child, shall be deemed to be the owner of the house property so transferred;

Exception

- Transfer in connection with an **agreement to live apart**, in case of transfer to spouse
- **Minor married daughter**, in case transfer to minor child

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

2) Holder of an impartible estate

- 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.

Example

HUF jointly holds property on behalf of all its members, the joint HUF will be treated as the owner though legally the property is in the name of an individual member of the family.

3) Member of co-operative society etc.

- 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.

4) Person in possession of a property

- 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 –
 - **Possession** of property has been **handed over** to the buyer
 - Sale **consideration** has been **paid** or **promised** to be paid to the seller by the buyer
 - 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.

5) Person having right in a property for a period not less than 12 years

- 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

| Computation of IFHP under various cases | | | | |
|---|------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| Particulars | | Let Out Property (LOP) | Deemed Let Out Property (DLOP) | Self-Occupied Property (SOP) |
| A | Gross Annual Value (GAV) | Higher of ER or AR | ER | NIL |
| B | Municipal Taxes | Allowed as deduction if actually paid | Allowed as deduction if actually paid | Not Allowed hence NIL |
| C | Net Annual Value (NAV) | A - B | A - B | NIL |
| D | Deductions u/s 24 | | | |
| (i) | Std. Deduction | 30% of NAV | 30% of NAV | NIL |
| (ii) | Interest on Borrowed Capital | Fully Allowed | Fully Allowed | Allowed, Subject to some restrictions |
| E | Income from House Property | C - D(i) - D(ii) | C - D(i) - D(ii) | C - D(i) - D(ii) |

The Invictus

MEANING OF “BUSINESS” OR “PROFESSION”**Business [2(13)]**

“Business includes any **trade, commerce or manufacture** or any adventure or concern in the nature of trade, commerce or manufacture”.

Profession [2(36)]

“Profession Includes Vocation”.

- It means an occupation requiring either **intellectual skill** or **manual skill** directed by the intellectual skill of the operator
- e.g. An Auditor, Lawyer, Doctor, Painter or sculptor would be person carrying on profession and not business

Notes

- Only **Revenue Nature Income or Expenses** shall be considered under this head.
- It is **not necessary** to carry on activities **constituting business** for a considerable **length of time**, even a **single or isolated** transactions entered into with the **idea of making profit** would be a business.
- The object to make profit must be inherent in the transaction although the ultimate **result may be loss** thus the assessability of the PGBP does not in any way depend upon the ultimate outcome of the venture or transaction yielding income or loss
- The profits of **each distinct business** must be **computed separately** but the **tax chargeable** under this section is not on the separate income of every distinct business but on the **aggregate profits** of all the business carried on by the assessee
- The illegality of a business, profession or vocation does not exempt its profits from tax: the revenue is not concerned with the taint of illegality in the income or its source. i.e. **illegal income** is also **taxable**

SECTION 28 – PROFIT & GAINS BUSINESS OR PROFESSION – CHARGING SECTION

Following income shall be chargeable to income-tax, in nature of business, under the head PGBP.

1. The **profits and gains** of any business or profession which was carried on by the assessee at any time during the previous year
2. Any **compensation** or other payment due to or received by any person for, —
 - a) Change or Termination of Contract of Managing Company
 - b) Change or Termination of Contract of Agency
 - c) Change or Termination of any Business Contract whether Capital or Revenue in Nature
3. As Income derived by any trade, professional or similar **associations** from **specific services** rendered by them to **their members** will be treated as business income
4. **Cash assistance** against exports under any scheme of Government of India
5. The **value of any benefit or perquisite** whether convertible into money or not, arising from business or the exercise of any profession i.e. **Business Gift**
6. **Interest, salary, bonus, commission or remuneration**, by whatever name called, due to, or received by, a **partner** of a firm from such firm

7. Any sum, whether received or receivable, in cash or kind, under an agreement for i.e. **Non-Compete Fees**—
 - a) **Not carrying out** any activity in relation to any business or profession or
 - b) **Not sharing any know-how**, patent, copyright, trade-mark, 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;
 - Provided that **Sale** of the right to manufacture, produce or process any article or thing or right to carry on any business or profession, which is chargeable under the head “Capital gains”.
8. Any sum received under a **Keyman insurance policy** including the sum allocated by way of bonus on such policy will be taxable as income from business.
9. The **FMV of inventory** as on the date on which it is **converted into, or treated as, a capital asset** determined in the prescribed manner [w.e.f. 1-4-2019]
10. Any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the **whole of the expenditure** on such capital asset has been **allowed as a deduction under section 35AD**.

SECTION 29 – COMPUTATION OF INCOME FROM PROFIT & GAINS FROM BUSINESS OR PROFESSION

The income referred to in section 28 shall be computed in accordance with sections 30 to 43D. In this regard, following points needs to be considered while computing income form business or profession.

- Section 30 to 36 contain those **deductions** which are **expressly allowed** while computing the profit.
- Section 37 allows **residuary expenditure** if incurred **wholly** and **exclusively** for the purpose of **business** i.e., incurred on account of commercial expediency of the assessee

Format for Computation for Profit & Gains form Business or Profession

| | Particulars | Amount | Amount |
|-------------|--|--------------|--------|
| | Profit as per Profit & Loss Statement | | XXXX |
| Add | Expenses Debited but Disallowed / Income Taxable under PGBP but not Credited to P & L | XXXX XXXX | XXXX |
| Less | Expenses allowed but not Debited / Income Credited but Taxable under other head or Exempt Income | XXXX XXXX | (XXXX) |
| | Taxable Profit under the head PGBP | | XXXX |

SECTION 30 – RENT, RATES, TAXES, REPAIRS AND INSURANCE FOR BUILDINGS

In respect of rent, rates, taxes, repairs and insurance for premises, **used for the purposes of the business** or profession, the following deductions shall be allowed—

- Where the premises are **occupied by the assessee**—
 - **As a tenant**, the **rent paid** for such premises; and further if he has undertaken to bear the **cost of repairs** to the premises, the amount paid on account of such repairs;
 - **Otherwise than as a tenant**, the amount paid by him on account of **current repairs** to the premises;
- Any sums paid on account of **land revenue, local rates or municipal taxes**;
- **Insurance premium** paid against risk of damage or destruction of the premises

Cost of repairs and Current repairs referred above shall not include any expenditure in the nature of capital expenditure [Explanation]

Notes:

- Where assessee has the sublet a part of the premises, only net amount (Rent Paid Less Rent Received) shall be allowed as deductions
- Notional rent shall not be allowed as deduction to the owner.
- Rent paid to the partner by firm shall be allowed as deduction.
- Where the premises used partly for the business and partly for the other purpose, only proportionate expenses shall be allowed as deduction [Section 38]

SECTION 31 – ALLOWABLE REPAIRS AND INSURANCE EXPENSES OF MACHINERY, PLANT AND FURNITURE

In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

- The amount paid on account of current repairs thereto;
- Insurance premium paid against risk of damage or destruction thereof

Amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure. [Explanation]

Notes:

- The word “Used” includes active as well as passive use and kept ready to use. e.g. Fire Extinguisher, Machine Spares.
- Even if asset is used for the part of the previous year, assessee can claim full deduction.
- Repair include renovation or renewal of asset but does not include replacement or reconstruction.
- Where the machineries, plant and furniture used partly for the business and partly for the other purpose, only proportionate expenses shall be allowed as deduction [Section 38]

SECTION 32 – DEPRECIATION

Section 32 allows deductions in respect of depreciation of—

- a) **Tangible Assets** — Buildings, machinery, plant or furniture
- b) **Intangible Assets** — Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature **Excluding Goodwill of Business or Profession**
 - ‘Building’ means, Superstructure only and does not include land. Hence no depreciation shall be allowed on the value of the land. (FMV of the land shall be excluded if it cannot be determined separately)
 - The term ‘plant’ as defined in section 43(3) includes ships, vehicle, books, scientific apparatus and surgical equipment’s. The expression ‘plant’ includes part of a plant (e.g., the engine of a vehicle); machinery includes part of a machinery.
 - However, the word ‘plant’ does not include an animal, human body or stock-in-trade. Thus plant includes all goods and chattels, fixed or movable, which a businessman keeps for employment in his business with some degree of durability

Mandatory Deduction [Explanation 5]

For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;

Put to Use [Proviso to Section 32(1)]

Where an asset is **acquired** by the assessee

- During the previous year **and is put to use** for the purposes of business or profession
- For a period of less than **180 days** in **that PY**,
- The deduction under this sub-section in respect of such asset shall be restricted to **50% of the amount calculated** at the percentage prescribed

However, when asset purchased in any PY preceding the PY but not put to use during that PY. Assessee can claim full rate of depreciation when asset put to use during any subsequent PY even though such asset is use for period of less than 180 days during such PY.

Example

Asset purchased during PY 2022-23 and not put to use during the PY. – No depreciation for PY 2022-23

Now asset has been put to use from 30th November 2023 i.e. less than 180 days during PY 2023-24.

Assessee is entitled to claim full depreciation for PY 2023-24 even though asset was put to use for less than 180 days during PY 2023-24

Conditions to Claim Depreciation

Following condition must be fulfilled to claim depreciation

1) Ownership of Asset

Asset must be owned, **wholly or partly**, by the assessee

- When assessee carries on the business or profession in a **lease hold building**, he is not the owner of the building but he is entitled to claim **depreciation in respect of capital expenditure incurred by him** on construction of any structure or any work in relation to the building by way of improvement, renovation or extension.
- In case of asset purchased on hire purchase basis, **Hirer shall be entitled to claim the depreciation** from the year in which asset taken on hire.
- If asset is given on lease, **lessor can claim depreciation** on the basis of ownership

2) Usage of Asset for the purpose of Business

Asset must be actually used for the purpose of business or profession during the previous year.

- Asset must be used for the **purpose of business** or profession.
- Asset used **partly for business purposes and partly for other purpose**, **proportionate** depreciation shall be allowed. [Section 38]
- Asset **must be put to use** during the previous year.
- Use includes “**passive use**” or “**kept ready to use**”. E.g. Stand by equipment and fire extinguishers.

Computation of Depreciation in Case of Power Sector Undertakings

In case of assessee engaged in business of **generation or generation and distribution of power**

- Depreciation shall be calculated at the percentage of the actual cost at rates specified in Appendix - IA
ACTUAL COST x Rate of Depreciation [Straight Line Method]
- However aggregate depreciation shall not exceed the actual cost of the asset.
- Undertakings have option to choose the WDV method, provided such option must be exercised before the due date of the filing of first Income Tax Return u/s 139(1). Option exercised once shall be final and shall apply to subsequent years.

Computation in case of Other Assessee – Where in case of Block of Assets [Written Down Value Method]

In case of assessee other than above

- Depreciation shall be calculated at such percentage on the WDV thereof at rates specified in Appendix - I **WDV × Rate of Depreciation [WDV Method]**
- Block of assets means a group of the assets falling within a class of the assets comprising assets in respect of which the same percentage of depreciation prescribed. i.e. Group of assets having same class and same rate.

Section 43(6) – Written Down Value in case of Block of Asset

In case of asset acquired during the previous year —

- **WDV = Actual Cost to the Assessee**

In case of asset acquired before the previous year —

- **WDV = Actual Cost Less Depreciation ACTUALLY allowed till the previous year**
- Carried forward unabsorbed depreciation shall be deemed actually allowed [Explanation 3 to 43(6)(C)]

WDV of the Asset shall be calculated in following manner

| Sr. | Particulars | Amount |
|-----|--|--------|
| 1 | Opening WDV of the Block of Asset (on 1 st April of Previous year) | XXXX |
| 2 | Add : Asset Acquired during the PY (Actual Cost) (Used for 180 Days or More) | XXXX |
| 3 | Add : Asset Acquired during the PY (Actual Cost) (Used for Less than 180 Days) | XXXX |
| 4 | Total (4 = 1 + 2 + 3) | XXXX |
| 5 | Less : Value of the asset sold / Discarded (From 1 & 2 i.e. Op. WDV & 180+ Days) | XXXX |
| 6 | Less : Value of the asset sold / Discarded (From 3 i.e. less than 180 days) | XXXX |
| 7 | Depreciable Value (7 = 4 – 5 – 6) | XXXX |
| 8 | Depreciation (Depreciable Value × Rate of Depreciation) | XXXX |
| | Full Rate on (1 + 2 – 5) | |
| | Half Rate on (3 – 6) | |
| 9 | Closing WDV (9 = 7 – 8) | XXXX |

Block Ceases to Exist

In following cases WDV of the block shall be reduced to NIL (Block ceases to exist) —

- Value of Asset transferred (Point 4 of above table) exceeds Total amount of Opening WDV and Asset acquired during the previous year (Point 3) [Negative Value of Block]
- or
- ALL the assets of block transferred/sold/discarded/demolished/destroyed [Positive Value but no Asset].

Additional Depreciation @ 20% [Section 32(1) (iia)] Not Allowed under Default Tax Regime u/s 115BAC

Assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power,

- New machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005,
- A further sum equal to 20% of the ACTUAL COST of such machinery or plant shall be allowed as depreciation.

Business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation under section 32(1) (ia). [Circular No. 15/2016, Dt. 19-05-2016]

Further in case of any asset is acquired by the assessee during the previous year and **put to use for period less than 180 days**, half of the depreciation shall be allowed in the year of previous year and the balance depreciation shall be allowed in immediately succeeding year.

No additional Depreciation allowed in case of

Provided further that no additional depreciation shall be allowed in respect of—

- Any machinery or plant which, before its installation by the assessee, **was used either within or outside India** by any other person; (Second Hand) or
- Any machinery or plant **installed in any office premises** or any **residential accommodation**, including accommodation in the nature of a guest-house; or
- Any **office appliances** or **road transport vehicles**; or
- 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 gains of business or profession" of any one or more previous year;

Section 43(1) – Actual Cost

"Actual Cost" means the **actual cost of the assets to the assessee**, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority —

- **Actual Cost of Asset = Purchase Cost Plus Incidental Expense Less Subsidies/Credit of taxes availed**
- If **payment or aggregate of payment** for acquisition or any expenditure made in to a person otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of ECS through a bank account, **exceeds ₹ 10,000**. [Cash / Bearer cheque payment]
- such expenditure shall be **excluded** for the purposes of determination of actual cost

| ☐ Actual Cost in certain special situations [Explanations to Section 43(1)] | |
|---|---|
| (1) | Asset used for Normal Business after using it for Scientific Research Business earlier — Actual Cost = Actual Cost – Deduction allowed u/s 35(1)(iv) |
| (1A) | Stock in Trade converted into capital asset and used for business or profession— Actual Cost = FMV on Date of Conversion |
| (2) | Asset is acquired by way of gift or inheritance — Actual cost = WDV to the previous owner [i.e. Actual Cost to Previous owner Less Depreciation] Amount of depreciation that would have been allowable to the assessee, as if the asset was the only asset in the relevant block of assets |
| (3) | Second Hand Asset — Actual cost = Determined by AO |
| (4) | Re-Acquisition of Asset— The actual cost to the assessee shall be — Lower of a) The written down value at the time of original transfer [WDV = Actual Cost Less Depreciation] or b) The actual price for which the asset is re-acquired by him |

| | |
|------|--|
| (4A) | <p>Transfer of asset on lease, hire or otherwise to the previous owner (Sale & Lease Back)—</p> <ul style="list-style-type: none"> – Mr. X transfers the asset (which was used by the Mr. X for the purpose of business and depreciations has been claimed on such asset by Mr. X) to Mr. Y – Mr. X acquires such asset on lease/hire or otherwise form Mr. Y – Actual Cost to Mr. Y = WDV of the asset at the time of transfer by Mr. X [WDV = Actual Cost Less Depreciation] <p>There is no need to check whether such transaction is carried out for the purpose of reduction in tax liability of Mr. Y. <i>Explanation 4A overrides Explanation 3</i></p> |
| (5) | <p>Building previously the property of the assessee brought into the use for business or profession—</p> <ul style="list-style-type: none"> – Actual Cost = Actual Cost Less Depreciation – Amount of depreciation that would have been allowable to the assessee, as if the asset was the only asset in the relevant block of assets <p>[Note : this provision is not applicable to any other asset. In case of other asset Original Purchase price shall be considered as Actual Cost without reducing depreciation. Ignore FMV Also]</p> |
| (8) | <p>Capitalization of interest paid or payable in connection with acquisition of an asset—</p> <ul style="list-style-type: none"> – Interest paid to any period till the asset first put to use shall be added to Actual Cost – Interest relatable to any period after such asset is first put to use shall not be included |
| (9) | <p>Amount of duty of excise or additional duty leviable shall be reduced if credit is claimed—</p> <ul style="list-style-type: none"> – Actual cost shall be reduced to the extent of credit claimed (Input Tax Credit) |
| (10) | <p>Subsidy or grant or reimbursement—</p> <ul style="list-style-type: none"> – 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 – Provided, that where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, proportionate subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee. |
| (11) | <p>Asset is acquired outside India by non-resident, and such asset is brought by him to India—</p> <ul style="list-style-type: none"> – Actual Cost = Actual Cost Less Depreciation as if asset used in India since acquisition |
| (13) | <p>Capital asset on which deduction is claimed & allowed u/s 35AD—</p> <ul style="list-style-type: none"> – Actual cost shall be NIL, if deduction is actually allowed or allowable u/s 35AD <p>In case of asset used for other purpose and deduction allowed is treated as deemed income</p> <p>Provided, where an asset, in respect of which deduction is claimed and allowed under section 35AD</p> <ul style="list-style-type: none"> – And if such asset is used for purpose other than specified business – In that case deduction allowed will be treated as deemed to be the income – In such case actual cost of such asset shall be Actual Cost = Actual Cost Less Depreciation since date of acquisition |

Carry forward and Set off of depreciation [Section 32(2)]

Owing to no profits or **inadequate profits**, **full effect cannot be given** to depreciation in any previous year i.e. **Depreciation remains unabsorbed**

- In simple words, unabsorbed depreciation can be carried forward for indefinite years till it is fully setoff
- Since the unabsorbed depreciation forms part of the current year's depreciation, it can be set off against any other head of income **except "Salaries"**

- Set off will be allowed even if the same business to which it relates is no longer in existence in the year in which the set off takes place

Order of Set Off

However, in the order of set-off of losses under different heads of income, effect shall first be given to business losses and then to unabsorbed depreciation.

Current year depreciation must be deducted first before deducting the unabsorbed carried forward business losses

Therefore, the order of set off shall be

1. Current Year Depreciation
2. Brought Forward Business Losses
3. Unabsorbed Depreciation

RATES OF DEPRECIATION

| PART A TANGIBLE ASSETS | |
|---|-----|
| I Buildings - include roads, bridges, culverts, wells and tube wells | |
| 1 Residential Purposes | 5% |
| 2 General | 10% |
| 3 Temporary Structures | 40% |
| II Furniture and Fittings | |
| 1 Furniture and Fittings including Electrical Fittings | 10% |
| III Plant & Machinery | |
| 1 Motors buses running them on hire [Other than Below] | 30% |
| 2 Motors buses running than on hire acquired AND Put to use between 23-08-19 to 31-03-20 | 45% |
| 3 Motor cars other than running on hire [Other than Below] | 15% |
| 4 Motors buses OTHER than on hire acquired AND Put to use between 23-08-19 to 31-03-20 | 30% |
| 5 Aeroplanes, Aero engines | 40% |
| 6 Computers including computer software, Printer, UPS | 40% |
| 7 Annual publications owned by assessee carrying on a profession | 40% |
| 8 Books owned by assessee carrying on business in running lending libraries | 40% |
| 9 Books, other than annual publications, owned by assessee carrying on a profession | 40% |
| 10 Lifesaving medical equipment | 40% |
| 11 Plant & machinery (General rate) | 15% |
| 12 Energy Saving Devices (as specified) | 40% |
| 13 Windmills on or after 01-04-2014 | 40% |
| 14 Windmills before 01-04-2014 | 15% |
| PART B INTANGIBLE ASSETS | |
| 1. Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature (No Depreciation on Goodwill) | 25% |

SECTION 38 – BUILDING ETC. PARTLY USED FOR THE BUSINESS OR NOT EXCLUSIVELY SO USED

Where any building, machinery, plant or furniture is **not exclusively used** for the purposes of the business or profession

- Deductions u/s 30 (Rent etc. for building), 31 (Repairs etc. for P&M) and 32 (Depreciation) shall be
- Restricted to a **fair proportionate** part thereof which the as A.O. may determine

Section 36 – Other Deductions

The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28 [Section 36(1)]

| | |
|-----------------------|--|
| (i) | Insurance premium paid against risk of damage or destruction of stocks or stores used for the purposes of the business or profession |
| (ia) | Any premium paid by a federal milk co-operative society for life insurance of the cattle owned by a member of a co-operative society |
| (ib) | Health Insurance Premium of employees paid (by any mode other than cash) by employer |
| (ii) | Any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission; |
| (iii) | <p>Interest paid in respect of capital borrowed for the purposes of the business or profession:</p> <p>Capital borrowed for acquisition of an asset [proviso to section 36(iii)]</p> <ul style="list-style-type: none"> – Interest from the borrowing date till the date of asset first put to use shall not be allowed as deduction (whether capitalised in the books of the account or not) – Interest relatable to period after the asset first put to use shall be allowed as expense as it cannot be included to actual cost of asset |
| (iiia) | <p>The pro rata amount of discount on a Zero Coupon Bond (ZCB) over the period of life will be allowed</p> <ul style="list-style-type: none"> – Deduction Amount = Discount / Period of life – Discount = Redemption Amount less Issue Amount – Period of life = Commencing from the date of issue and the date of maturity or redemption of bond |
| (iv) & (v) | <p>Any sum paid by the assessee as an employer by way of contribution towards</p> <ul style="list-style-type: none"> – Recognised Provident Fund or Approved superannuation fund (iv) – The Gratuity Fund to be settled upon a trust (v) – The fund should be for exclusive benefit for the employees – The amount contributed should be periodic payment and not adhoc payment to start the fund |
| (iva) | <p>Employer's contribution to the account of employees under pension scheme referred to in u/s 80CCD</p> <ul style="list-style-type: none"> – Maximum Deduction = 10% of salary of employee of the previous year – Salary = Basic Salary plus DA (R) – Excess contribution made by employer shall be disallowed by virtue of Section 40A(9) |

| | |
|-------|---|
| (va) | <p>Employee's contribution towards welfare fund to be allowed only if such amount credited before due date</p> <ul style="list-style-type: none"> – Employee's Contribution = Amount received from the employees for the relevant fund e.g. PF – Due Date = Date by which employer required credit such contribution to the employee's account <p>Note: As per EPF Scheme, contributions for any particular month shall be paid within 15 days of the close of every month.</p> <p>Also remember that, Employer's contribution shall be disallowed subject to section 43B</p> |
| (vi) | <p>In respect of animals which have been used for the purposes of the business or profession (otherwise than as stock-in-trade) e.g. Cow for dairy business</p> <ul style="list-style-type: none"> – Have died or become permanently useless for such purposes, – Deduction Amount = Actual Cost Less Amount realised in respect of carcasses or animals |
| (vii) | <p>Bad Debts</p> <ul style="list-style-type: none"> – In case of General Assessee <ul style="list-style-type: none"> ▪ Bad Debt = Amount not received <p>Recovery of Bad Debt – [Deemed Income u/s 41(4)]</p> <ul style="list-style-type: none"> – Where a deduction has been allowed in respect of a bad debt or part of debt – if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, – The excess shall be deemed to be profits and gains of business or profession, and – Accordingly, chargeable to income-tax as the income of the previous year in which it is recovered, – Whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not. |
| (ix) | <p>Expenditure on Family planning incurred by COMPANY,</p> <ul style="list-style-type: none"> – Revenue Nature = Fully allowed in the year in which it incurred – Capital Nature = 1/5th of such expenditure will be deducted in the year in which incurred and each of the four immediately succeeding years. – Unabsorbed part can be carry forward and setoff in the same way as unabsorbed depreciation (indefinite years) – Capital Expenditure will be treated in the same way as capital expenditure for scientific research for the purpose of sale or transfer of the asset including transfer on amalgamation. |
| (xv) | <p>The amount of securities transaction tax (STT) paid by the assessee during the year</p> <ul style="list-style-type: none"> – In respect of taxable securities transactions entered into in the course of business – Subject to the condition that such income from taxable securities transactions is included under the head PGBP |
| (xvi) | <p>The amount of Commodity transaction tax (CTT) paid by the assessee during the year</p> <ul style="list-style-type: none"> – In respect of taxable commodity transactions entered into in the course of business – Subject to the condition that such income from taxable commodity transactions is included under the head PGBP |

SECTION 37 – GENERAL - RESIDUARY EXPENSES

Any expenditure, [37 (1)]

- Not being expenditure of the nature described in sections 30 to 36 and
- Not being in the nature of capital expenditure or personal expenses of the assessee
- Laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed

For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee [Explanation 1]

- For any purpose which is an offence or which is prohibited by law shall
- Not be deemed to have been incurred for the purpose of business or profession and
- No deduction or allowance shall be made in respect of such expenditure.

For the removal of doubts, it is hereby declared that for the purposes of sub-section (1) [Explanation 2]

- 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.
- CSR is an application of income, not incurred wholly & exclusively for the business or profession

Notwithstanding anything contained in sub-section (1), [37(2B)]

- 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.
- Such contribution shall be allowed as deduction u/s 80GGB and 80GGC

Conditions for allowance u/s 37(1)

- The expenditure should not be of the nature described in sections 30 to 36
- It should have been incurred by the assessee in the accounting year.
- It should be in respect of a business carried on by the assessee the profits of which are being computed and assessed.
- It must have been incurred after the business was set up
- It should not be in the nature of any personal expenses of the assessee
- It should have been laid out or expended wholly and exclusively for the purposes of such business
- It should not be in the nature of capital expenditure
- The expenditure should not have been incurred by the assessee for any purpose which is an offence or is prohibited by law

Examples:

- Keyman Insurance Policy – Allowed
- Dividend is distribution of income and cannot be considered as expense hence not allowed.
- Payment of Income Tax is personal in nature hence not allowed. However, fees for tax audit or consultation for Income Tax is allowable expenditure.
- Penalty Levied for breach of contract is allowed however penalty levied for breach of law is not allowed Interest on Indirect Tax is a breach of contract hence allowed, however penalty paid is in the nature of breach of law hence disallowed

SECTION 40 – INADMISSIBLE DEDUCTIONS

Following are deductions which are not allowed due to non-fulfilment of certain conditions

Non-Deduction or Non-Payment of TDS [Section 40(a)]

a) Non-Resident Case [40(a)(i)]

Where any Interest, Royalty, Fees for technical services(FTS) or other sum chargeable under this act which is payable to,

- A non-resident, not being a company or to a foreign company
 - Outside India or
 - In India
- On which Tax Deductible under Chapter XVIIIB and
 - Such tax has not been deducted before the end of PY or
 - After deduction has not been deposited on or before the due date of filing of ITR u/s 139(1)
- **100% of such sum shall be disallowed**

Provided that where in respect of such sum

- Tax deducted in subsequent year or
- Deducted in PY but deposited after the due date of filing of ITR u/s 139(1)
- Such shall be allowed as a deduction in computing the income of the PY in which such tax is deducted/deposited

b) Resident Case [40(a)(ia)]

Where ANY SUM payable,

- To a Resident
- On which Tax Deductible under Chapter XVIIIB and
 - Such tax has not been deducted before the end of PY or
 - After deduction has not been deposited on or before the due date of filing of ITR u/s 139(1)
- **30% of such sum shall be disallowed**

Provided that where in respect of such sum

- Tax deducted in subsequent year or
- Deducted in PY but deposited after the due date of filing of ITR u/s 139(1)
- Such shall be allowed as a deduction in computing the income of the PY in which such tax is deducted/deposited

Exception – No Disallowance, If Following Conditions are satisfied

- The payee has furnished return of income u/s 139
- Payee has taken into account such amount in computing his total income
- Payee has paid tax due on income declared by him in such ITR
- Deductor shall furnish Certificate to this effect from CA in prescribed form.

Tax paid on perquisites [40(a)(v)]

Tax on perquisites (other than monetary payments) paid by employer on behalf of employee

- Employer – Such payment of tax will be **disallowed** as Income Tax is personal Expenses
- Employee – Such payment of tax by employer shall be **exempt** and not charged to tax [10(10CC)]

Salary, Interest etc. paid to partner [40(b)]

Any payment of salary, bonus, commission or remuneration, by whatever name called,

- paid to **non-working** partner shall be **disallowed**
- Where, such payment made to **working partner** in excess of below limit shall not be allowed

| Book Profit | Maximum Remuneration |
|--|---|
| On the first ₹ 3,00,000 of the Book-Profit <i>or</i> in case of a Loss | ₹ 1,50,000 or 90% of the Book-Profit, whichever is Higher |
| On the Balance of Book Profit | At the rate of 60% |

- Any interest payment authorised by the deed **to the extent such interest exceeds 12%** simple interest p.a. shall be **disallowed**
 - Where any interest, salary, bonus, commission or remuneration, by whatever name called, disallowed u/s 40(b), such disallowed part shall not be taxable in the hands of partner

Example

Suppose a firm pays interest to a partner at 20% simple interest p.a. The allowable rate of interest is 12% p.a. Hence the excess 8% paid will be disallowed in the hands of the firm.

Since the excess interest has suffered tax in the hands of the firm, the same will not be taxed in the hands of the partner. It will be taxable @12% in the hands of Partner

SECTION 40A (2) – PAYMENT TO RELATIVE & ASSOCIATES

Where the assessee incurs any expenditure in respect of which

- Payment has been or is to be made to
- Any **Specified person referred below**, and
- The AO is of opinion that such expenditure is **excessive or unreasonable** having regard to the
 - **FMV** of the goods, services or facilities for which the payment is made or
 - The **legitimate needs** of the business or profession of the assessee or
 - The **benefit derived** by or accruing to him therefrom,
- **So much** of the **expenditure** as is so considered by AO to be **excessive or unreasonable** shall **not** be allowed as a deduction

Specified Persons in case of

| | |
|--------------------|--|
| Individuals | Relatives - Spouse/Brother/Sister/Lineal Ascendant/ Lineal descendant |
| HUF/AOP/BOI | Members and their Relatives |
| Firm/LLP | Partners and their Relatives |
| Company | Directors and their Relatives / Subsidiaries / Holdings/ Co-Subsidiaries |
| | By Any person |

| | |
|---|--|
| Holding Substantial Interest [≥ 20% shareholding or profit sharing] in business of Assessee | By Company/Firm-LLP/HUF/AOP-BOI or By Directors/Partners/Members or Relative of them |
|---|--|

SECTION 40A (3) – CASH PAYMENT IN EXCESS OF ₹ 10,000

Where the assessee incurs any expenditure in respect of which

- A payment or aggregate of payments made to a person in a day, otherwise than by
 - An account payee cheque drawn on a bank or
 - Account payee bank draft or
 - Use of ECS through a bank account or Other prescribed electronic modes such as credit card, debit card, net banking, IMPS, UPI, RTGS, NEFT, and BHIM, Aadhar Pay
- Exceeds ₹ 10,000 [₹ 35,000 - For plying, hiring or leasing goods carriages (Proviso)]
- No deduction shall be allowed in respect of such expenditure

In case of an assessee following mercantile system of accounting, [40A(3A)]

- if an expenditure has been allowed as deduction in any previous year on due basis, and
- Payment has been made in a subsequent year by violating the above provision
- Payment so made shall be deemed to be the income of the subsequent year

Exception - circumstances in which a payment or aggregate of payments exceeding ten thousand rupees may be made to a person in a day [Rule 6DD]

- a) Payment is made to
 - The RBI or Any banking company;
 - The SBI or any Subsidiary Bank;
 - The LIC of India
 - Any Co-Op bank or Land Mortgage Bank;
 - Any Primary Agricultural Credit Society or Any Primary Credit Society;
- b) Payment is made to the Govt. and, under the rules framed by it, such payment is required to be made in legal tender;
- c) Payment is made by
 - Any letter of credit arrangements through a bank;
 - A mail or telegraphic transfer through a bank;
 - A book adjustment from any account in a bank to any other account in that or any other bank;
 - A bill of exchange made payable only to a bank;
 - A Credit card /A Debit card.
- d) 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;
- e) Payment is made to the cultivator, grower or producer for the purchase of -
 - Agricultural or forest produce; or
 - The produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
 - Fish or fish products; or
 - The products of horticulture or apiculture,

- ✓ The expression 'fish or fish products' would include 'other marine products such as shrimp, prawn, cuttlefish, squid, crab, lobster etc.'
 - ✓ The 'producers' of fish or fish products for the purpose of Rule 6DD(e) would include, besides the fishermen, any headman of fishermen,
 - ✓ However, the above exception will not be available on the payment made to trader, broker or any other middleman, by whatever name called.
- f) Purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products
 - g) Payment is made in a **village or town**, which on the date of such payment is **not served by any bank**, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
 - h) Payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed ₹ 50,000;
 - i) 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 -
 - is temporarily posted for a continuous period of 15 days or more in a place other than his normal place of duty or on a ship; and
 - does not maintain any account in any bank at such place or ship;
 - j) Payment was required to be made on a day on which the **banks were closed** either on account of holiday or strike;
 - k) 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;
 - l) Payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business

SECTION 43B – CERTAIN DEDUCTIONS TO BE MADE ON ACTUAL PAYMENT

The following sums are allowed as deduction **only on the basis of actual payment** within the **time limits specified** in section 43B i.e. **Due date of filing of ITR u/s 139(1)**

If such payment is made **after the due date** specified u/s 139(1), It will be **allowed in the PY in which actually paid**

1. Any sum payable by way of **tax, duty, cess or fee**, by whatever name called, under any law for the time being in force
2. Any sum payable by the assessee as an **employer** by way of contribution to any **provident fund** or superannuation fund or gratuity fund or any other fund for the welfare of employees

Allowability of Employer's Contribution to fund of welfare of employees [Cir. No.22/2015 Dt. 17/12/2015]

| Contribution by | Employer | Employee |
|---------------------|---|---|
| Allowability | If deposited on or before due date of Filing of ITR u/s 139(1) e.g. 31 st July or 31 st October (Audit Case) | If deposited on or before due date Specified under relevant Act e.g. As per EPF scheme, Due date is 15 days from the close of the month |
| Disallowance | u/s 43B if not deposited on or before due date of filing of ITR | No deduction allowed u/s 36(1)(va) |

3. **Bonus or Commission** for services rendered payable to employees referred to in 36(1)(ii)
4. **Interest on any loan** or borrowing or advance from any
 - **Public Financial Institution or State Financial Corporation or State Industrial Investment Corporation**

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

If **outstanding 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**. [Explanation 3C & 3D]

Such **converted interest** shall be allowed as **deduction in PY** in which such converted interest actually paid (in form of **instalment**)

5. Any sum paid by the assessee as an employer in lieu of earned leave of his employee
6. Any sum payable by the assessee to the **Indian Railways** for use of Railway assets
7. **Any sum payable to MSME within time specified – if such payment is not made as below, it will be allowed as deductions in the year in which sum actually paid.**
 - **If there is written agreement – On or before date specified in Agreement (It can be Max. 45 Days)**
 - **No written agreement – within 15 days from date of acceptance**

Micro – Plant & Machinery ≤ 25 Lakh (Mfg.) / 10 Lakh (Service)
Small – Plant & Machinery > 25 Lakh ≤ 5 Crore (Mfg.) / > 10 Lakh ≤ 2 Crore (Service)

"Any sum payable" means a sum for which the **assessee incurred liability** in the previous year even though such sum might not have been payable within that year under the relevant law. [Explanation 2]

SECTION 43CA – STAMP DUTY VALUE OF LAND & BUILDING TO BE TAKEN AS FULL VALUE OF CONSIDERATION

Where an asset being **Land or Building or Both** held as **Stock-in-Trade** (Land and Building held as “Capital Asset” shall be covered u/s 50C of Capital Gain)

- Value of such asset transferred < Stamp Duty Value (SDV)
- In such case, **Stamp Duty Value** shall be **deemed to be the full value of consideration**
- For the purpose of computing income under the head PGBP
- i.e. **Higher** of **Sale Consideration or SDV** shall be considered

Allowability of Variance between Sale Consideration or SDV [w.e.f. 01-04-2019]

Variation can occur in respect of similar properties in the same area because of a variety of factors, including shape of the plot or location. In order to minimize hardship in case of genuine transactions in the real estate sector,

- **No adjustments shall be made** in a case where the variation between SDV and the sale consideration is
- **Not more than ten** percent of the sale consideration
- if **SDV ≤ 110%** of Sale Consideration
- In such cases **Sale Consideration will be taken as value**, not SDV

Date of Stamp Duty Value

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,

- Date for the purpose of SDV
 - **Date of Agreement** – in case of **part/full** payment made by an account payee cheque drawn on a bank or Account payee bank draft or use of ECS through a bank account
 - **Date of Registration** – In any other case

MAINTENANCE OF BOOKS OF ACCOUNTS AND AUDIT OF ACCOUNTS

SECTION 44AA – COMPULSORY MAINTENANCE OF BOOKS OF ACCOUNTS

By Notified Professionals [44AA(1)]

Following professional must statutorily maintain

- Such books of accounts and other documents as may
- Enable the AO to compute his total income in accordance with the provisions of the Act.

| | | | |
|------------------------------|---|---------------------|----------------|
| Legal | Medical | Engineering | Architectural |
| Accountancy | Technical | Interior Decoration | Other Notified |
| Notified Professions: | | | |
| Authorised Representative | Film Artist Professionals including Actor, Camera man, Director, Music director, Art director, Dance director, Editor, Singer, Lyricist, Story writer, Screen play writer, Dialogue writer and Dress designer | | |
| Company Secretary | | | |
| Information Technology | | | |

Prescribed Limits [Rule 6F]

- Gross Receipts > ₹ 1,50,000 in All the 3 years immediately preceding the PY,
- Where profession has been newly setup in the PY such limits are likely to exceed in that PY

Prescribed Books of Account & Other Documents [Rule 6F]

- Cash Book
- Journal, if books are maintained as per mercantile system of accounting
- Ledger
- Carbon Copies of Bills for sum > ₹ 25
- Original Bills
- Vouchers, where such bills & receipts are not issued & the expenditure incurred < ₹ 50
- Daily Case Register in Form 3C & Medical Inventories (only for medical professionals)

Assessee other than referred above [44AA(2)]

Every person carrying on business or profession (Other than referred above) must maintain books of account if exceeds the prescribed limit

| Individual / HUF | Other than Individual / HUF |
|---|--|
| Income > ₹ 2,50,000 | Income > ₹ 1,20,000 |
| Turnover or Gross Receipts > ₹ 25,00,000 | Turnover or Gross Receipts > ₹ 10,00,000 |
| In any one the 3 Years immediately preceding the PY. However, in case of newly setup business or profession such limits are likely to exceed during the PY | |

Place & Time Limit

All the books of account and related documents should be

- Kept at the principal place of business, i.e., where the business or profession is generally carried on.
- Preserved for a minimum of 6 years from the end of relevant AY i.e. for a total of 7 FY from the end of relevant year.

SECTION 44AB – AUDIT OF ACCOUNTS

Requirement to get Accounts Audited

In the following cases for a person carrying on business or profession to **get his accounts audited** before the “**specified date**” by a Chartered Accountant

a) Carrying on Business

- Total sales/Turnover/Gross receipts > ₹ 1 crore in PY

or

- Total sales/Turnover/Gross receipts > ₹ 10 crore in PY

If **Aggregate** cash receipts in the relevant PY < 5% of total receipts (incl. receipts for sales, turnover, gross receipts); **and**

Aggregate cash payments in the relevant PY < 5% of total payments (incl. amount incurred for expenditure)

b) Carrying on Profession

- Gross receipts > ₹ 50 Lakhs in PY

c) Carrying on the business shall, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business under

- Section 44AE - Business of plying, hiring or leasing goods carriages

d) Carrying on the Profession shall, and he claims that the profits and gains from such profession are lower than the profits and gains computed on a presumptive basis under

- Section 44ADA - Profits and Gains of Profession on presumptive basis **AND**
- His income exceeds the Basic Exemption Limit

e) Where the assessee is covered under section 44AD (4) and his income exceeds the basic exemption limit**Audit Report [Rule 6G]**

Audit Report to be furnished by the **specified date** in the prescribed forms.

- Prescribed Forms (Rule 6G)
 - **Form 3CA & 3CD** for the assessee required to get accounts audited under any other law e.g. Companies Act 2013
 - **Form 3CB & 3CD** for any other case
- Specified Date
 - Specified date means **the date one month prior to the** due date of filing of ITR u/s 139(1)
 - E.g. 30th September in case of companies where due date for filing of ITR is 30th October

Non Applicability

In the following cases assessee does not required to get accounts audited

- Carrying on business & opt for the presumptive taxation u/s 44AD and Turnover does not exceed ₹ 2 Crores.

SECTION 44AD – PRESUMPTIVE TAXATION IN CASE OF BUSINESS

Eligibility & Presumptive Rate

Resident Individuals, HUFs and Partnership Firms (but not LLP) who

- Having any business with total turnover/gross receipts \leq ₹ 200 Lakhs or
- Having any business with total turnover/gross receipts \leq ₹ 300 Lakhs (if Cash Receipts including NON A/C Payee Cheque or Draft \leq 5% of Total Turnover)
- Has not claimed deduction
 - Under Section 10AA - SEZ or
 - Deduction under any provision of Chapter VI-A under Heading “C – Deduction in respect of certain Incomes”
- Not engaged in
 - Business of plying, hiring and leasing goods carriages covered u/s 44AE or
 - Carrying on profession as referred to in section 44AA(1) or
 - Earning income in nature of Commission or Brokerage or
 - Person carrying on any agency business
- Declare the income at presumptive rate of
 - 8% of the Total Turnover or Gross Receipts or
 - 6% of the Total Turnover or Gross Receipts
 - ✓ if amount received by an account payee cheque, account payee bank draft or by use of ECS through a bank account
 - ✓ During PY or before the due date of filing of ITR u/s 139(1)
 - Deductions allowable u/s 30 to 38 shall be deemed to be allowed and no further deductions shall be allowed
 - In case of partnership firm, no deduction of remuneration and interest shall be allowed from such presumptive profit.
 - WDV of the asset shall be deemed to have calculated as if the assessee had claimed and had been actually allowed the deduction in respect of depreciation for each of the relevant AYs

Relief from Compliance

Assessee opting presumptive taxation scheme,

- Does not required to maintain books of account u/s 44AA (2)
- Does not required to get accounts audited u/s 44AB(a)
- Require to pay Advance Tax in only one instalment by 15th March every year.

Not eligible to opt for presumptive scheme [44AD(4)]

In the following cases assessee will not be eligible to opt for presumptive scheme for 5 AYs.

- If assessee opted for presumptive income scheme for any PY say AY 2020-21
- Then assessee have to opt presumptive income scheme for 5 successive AYs thereafter (From AY 2021-22 to AY 2025-26)
- If assessee violates this section i.e. does not opt for presumptive scheme for any of 5 successive AYs, e.g. assessee does not opt for presumptive scheme for AY 2021-22
- He shall not eligible to opt presumptive income scheme for 5 successive AYs subsequent to AY relevant to PY of such violation (From AY 2022-23 to 2026-27)

- Assessee would have to maintain books of account and other documents u/s 44AA(2) and get his accounts audited u/s 44AB, if his total income > basic exemption limit in those years.

SECTION 44ADA – PRESUMPTIVE TAXATION IN CASE OF PROFESSION

Eligibility & Presumptive Rate

Resident Individual or Firm (But not LLP) who

- Engaged in any profession referred to in Section 44AA(1) and
- Whose Gross Receipts ≤ ₹ 50 lakhs in PY or
- Whose Gross Receipts ≤ ₹ 75 lakhs in PY
(if Cash Receipts including NON A/C Payee Cheque or Draft ≤ 5% of Total Turnover)
- Declare the income at presumptive rate of
 - 50% of the Total Gross Receipts or such higher sum
 - Deductions allowable u/s 30 to 38 shall be deemed to be allowed and no further deductions shall be allowed
 - In case of partnership firm, no deduction of remuneration and interest shall be allowed from such presumptive profit.
 - WDV of the asset shall be deemed to have calculated as if the assessee had claimed and had been actually allowed the deduction in respect of depreciation for each of the relevant AYs
- Option to claim lower profits
 - Assessee having Gross Receipts ≤ ₹ 50 lakhs and Total income > Basic Exemption Limit
 - Can opt to declare income lower than 50%
 - In such case, assessee required to maintain books of account u/s 44AA(1) and get his books of account audited u/s 44AB

Relief from Compliance

Assessee opting presumptive taxation scheme,

- Does not required to maintain books of account u/s 44AA (1)
- Does not required to get accounts audited u/s 44AB
- Require to pay Advance Tax in only one instalment by 15th March every year.

SECTION 44AE – SPECIAL PROVISION FOR COMPUTING BUSINESS OF PLYING, HIRING OR LEASING GOODS CARRIAGES

Eligibility & Presumptive Rate

Assessee being

- Owner of ≤ 10 Goods Carriage Vehicles at any time during the PY and
- Having income from the business of Plying, Hiring or Leasing of such goods carriages
- Declare the presumptive income during which such vehicle is owned by the assessee during the PY
 - ₹ 1,000 per ton of gross vehicle weight or unladen weight for every month or part of the month – In case of Heavy Goods Vehicles
 - ₹ 7,500 for every month or part of the month – In case of other vehicles
 - Deductions allowable u/s 30 to 38 shall be deemed to be allowed and no further deductions shall be allowed

- However, in case of partnership firm, Remuneration and Interest paid to its partners are allowed to be deducted subject to limits specified u/s 40(b)
 - WDV of the asset shall be deemed to have calculated as if the assessee had claimed and had been actually allowed the deduction in respect of depreciation for each of the relevant AYs
- Option to claim **lower profits**
- **Can opt** to declare income lower than prescribed amount
 - In such case, assessee required to **maintain books of account** u/s 44AA(1) and **get his books of account audited** u/s 44AB

Relief from Compliance

Assessee opting presumptive taxation scheme,

- Does **not** required to **maintain books of account** u/s 44AA (1)
- Does **not** required to **get accounts audited** u/s 44AB

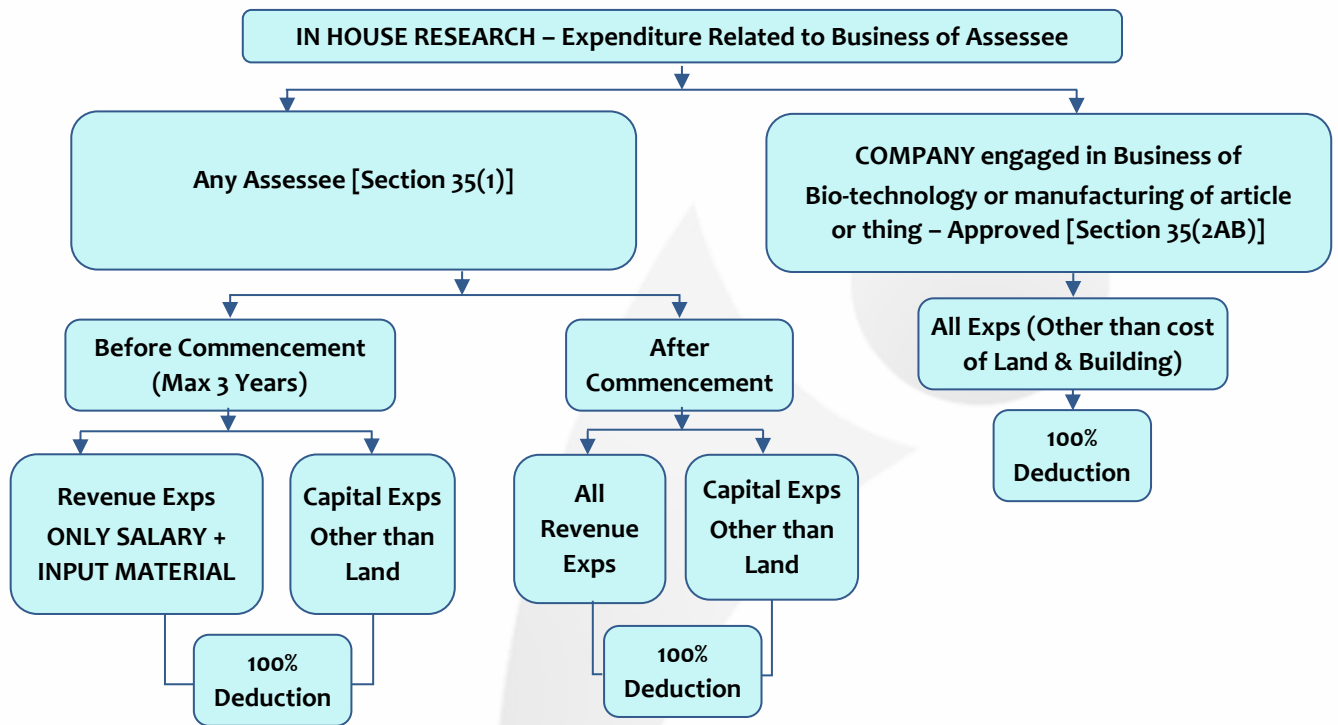
Meaning of Certain Terms

| | |
|-------------------------------|--|
| Heavy Goods Vehicle | Any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms . |
| Gross Vehicles Weights | Total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle. |
| Unladen Weights | The weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working but excluding the weight of driver or attendant and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative body or part |

The Invictus

SPECIAL PROVISION

Section 35 - Expenditure on Scientific Research

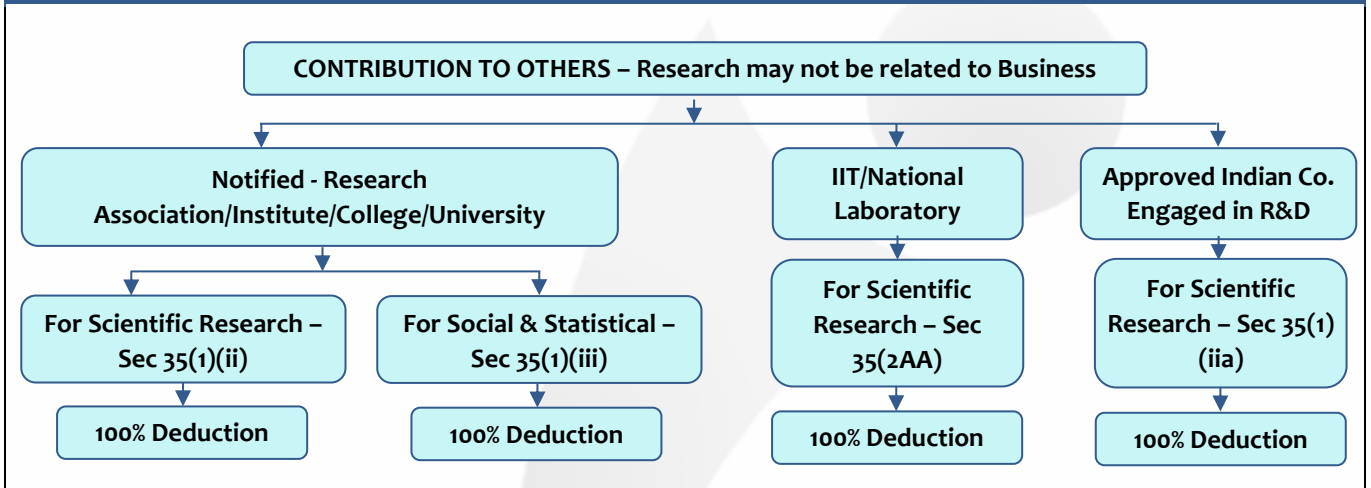


Assessee engaged in the business of Scientific Research [Also allowed under Default Regime u/s 115BAC]

| | |
|---|--|
| <p>Expenditure incurred by any Assessee</p> <p>[Section 35(1)]</p> | <p>Revenue Expenditure —</p> <ul style="list-style-type: none"> - Revenue Expenditure incurred before commencement of business (Within 3 years immediately preceding the previous year) by way of <ul style="list-style-type: none"> ▪ Salary to research personnel engaged in scientific research and ▪ Material Input for such scientific research - Will be allowed in the previous year in which business is commenced (Deduction will be limited to amount certified by the prescribed authority) <p>Capital Expenditure —</p> <ul style="list-style-type: none"> - Any Capital Expenditure would be fully deductible in the previous year in which it was incurred - Capital Expenditure incurred before commencement of business will be deemed to be incurred in the previous year and shall be allowed as deductions in the year of commencement of business - No expenditure in Land will be allowed as deduction, if value of land is not ascertainable separately, FMV of the land shall be excluded - No depreciation allowed in capital asset on which full deduction is allowed - Unabsorbed capital expenditure in scientific research can be carried for indefinite period |
| <p>Company engaged in</p> | <p>Where a company engaged in the business of bio-technology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the</p> |

| | |
|---|---|
| <p>Business of Bio-tech or Mfg. of article or thing etc. [Section 35(2AB)]</p> | <p>list of the Eleventh Schedule</p> <ul style="list-style-type: none"> – Incurs any expenditure on scientific research on – In-house research and development facility – As approved by the prescribed authority, – A deduction of a 100% of the all expenditure will be allowed. – Such expenditure should not be in the nature of cost of any land or building. |
|---|---|

Assessee makes contribution to others [NOT allowed under Default Regime u/s 115BAC]



| | |
|--|---|
| <p>Section 35(1)(ii) 35(1)(iii)</p> | <p>Amount paid to —</p> <ul style="list-style-type: none"> – A research association or an approved and notified University, college or other institution to be used for the purpose of <ul style="list-style-type: none"> ▪ Scientific Research: Deduction Amount = 100% of the Contribution [35(1)(ii)] ▪ Social & Statistical Research: Deduction Amount = 100% of the Contribution [35(1)(iii)] – Payment made to such institution would be allowable irrespective of whether research is related to business of assessee or not and payment is of revenue nature or capital nature. – Deduction allowed to donor shall not be denied on the ground that subsequent to payment approval granted to aforesaid entity has been withdrawn |
| <p>Section 35(2AA)</p> | <p>Amount paid to —</p> <ul style="list-style-type: none"> – National Laboratory or University or Indian Institute of Technology or a specified person for carrying out programmes of scientific research approved by the prescribed authority <ul style="list-style-type: none"> ▪ Deduction Amount = 100% of the Contribution – Deduction allowed to donor shall not be denied on the ground that subsequent to payment approval granted to aforesaid entity or programme has been withdrawn |
| <p>Section 35(1)(iia)</p> | <p>Amount paid to —</p> <ul style="list-style-type: none"> – Approved company registered in India and having main object of the scientific research and development <ul style="list-style-type: none"> ▪ Deduction Amount = 100% of the Contribution |

**Section 35AD - “Investment linked Tax Incentives” for Specified Businesses
[NOT allowed under Default Regime u/s 115BAC]**

Commencement of following business on or after 1st April —
[35AD(5)]

| | | | | | | | | |
|----|--|------|----|---|------|----|---|------|
| 1 | Laying & Operating Cross Country Natural Gas Pipe Line | 2007 | 2 | Cold Chain Facilities for Specified Products | 2009 | 3 | Warehousing Facilities for storing agricultural Produce | 2009 |
| 4 | Building & Operating a Hotel of Two star or above in India | 2010 | 5 | Building & Operating a Hospital with at least 100 Beds for Patients | 2010 | 6 | Housing Project for slum redevelopment or rehabilitation | 2010 |
| 7 | Notified Scheme for Affordable Housing Projects | 2011 | 8 | Production of Fertilizer in New Plant or Newly installed Capacity in Existing Plant | 2011 | 9 | ICD / CFS Notified or Approved by Customs Act 1962 | 2012 |
| 10 | Bee-keeping & Production of Honey & Beeswax; | 2012 | 11 | Setting up & Operating Warehousing Facility for Sugar | 2012 | 12 | Laying & Operating Slurry pipeline for transportation of Iron ore | 2014 |
| 13 | Setting Up & Op. Semi- conductor wafer fabrication Mfg. Unit | 2014 | 14 | Developing / maintaining and operating /developing, maintaining & operating a NEW infrastructure facility | | | | 2017 |

| | |
|--|---|
| <p>Eligibility of Deduction [35AD(1)]</p> | <p>100% of the Capital Expenditure</p> <ul style="list-style-type: none"> – Incurred during the previous year, – Wholly and exclusively for the above businesses <p>However, following expenditure would not be eligible for deduction</p> <ul style="list-style-type: none"> – Expenditure incurred on acquisition of any Land, Goodwill or Financial Instrument – Expenditure for which payment or aggregate of payment made to a person of an amount exceeding ₹ 10,000 in a day otherwise than Account Payee Cheque drawn on a bank or an Account Payee Bank Draft or use of ECS through a bank account <p>Expenditure prior to commencement of operation exclusively for the Specified Business</p> <ul style="list-style-type: none"> – Would be allowed as deduction in the previous year in which the assessee commences operation of his specified business – Amount incurred prior to commencement should be capitalized in the books of account of the assessee on the date of commencement of the business <p>Set-off and Carry Forward of Losses of Specified Business</p> <ul style="list-style-type: none"> – Set-off of losses from Specified Business is allowed against Specified Business only (Even if It not eligible for deduction u/s 35AD). – Losses from Specified Business can be carried forward for indefinite period. |
|--|---|

| | |
|-------------------------|--|
| Other Conditions | <p>Asset on which deductions allowed is sold / discarded etc.</p> <ul style="list-style-type: none"> Asset on which deduction allowed under this section is discarded, demolished, destroyed or sold, In such case amount received shall be taxable as Business Income. <p>Asset on which deductions allowed is used for other Business</p> <ul style="list-style-type: none"> Asset must be used for specified business for the period of 8 years from PY in which it is acquired. If Asset used for any business other than Specified Business during 8 Years, following amount shall be considered as Business Income and It will be treated Actual Cost for asset in that other business. <p>Amount of Deduction Allowed u/s 35 AD Less : Depreciation (As if deductions not claimed)</p> |
|-------------------------|--|

Amortisation of Preliminary Expenses [35D]

Amortisation of preliminary expenses incurred by Indian companies and other resident non-corporate taxpayers —

- 1/5th of the expenditure** shall be allowed as deduction for each of the five succeeding PYs beginning with PY in which business is commenced
- Preliminary Expenses in case of
 - New Companies – Expenditure incurred before commencement of business
 - Extension/new unit of existing undertakings – Expenditure incurred till the extension is completed or new unit commences the business

Overall Limit – Actual preliminary expenses for the purpose of amortisation shall be restricted to below limits.

| In case of companies | In case of Other Assessee |
|---|---------------------------|
| 5% of Cost of Project or 5% of Capital Employed Whichever is Higher | 5% of Cost of Project |

- Capital Employed** = Issued Shares *plus* Debentures *Plus* Long Term Borrowings
- Cost of Project** = Actual cost of Fixed Assets being land, buildings, leaseholds, plant, machinery, furniture, fittings, railway sidings (including expenditure on the development of land, buildings) which are shown in the books of the assessee

As on the **LAST DAY** of the **PY** in which business/New unit is commenced.

Section 43(5) – Speculative Business

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

Where any part of the business of a company consists in the purchase and sale of the shares of other companies, such a company shall be deemed to be carrying on speculation business **to the extent to** which the business **consists of the purchase and sale of such shares** *Except*

- A company whose gross total income consists of **mainly income** chargeable under the heads “Interest on securities”, “Income from house property”, “Capital gains” and “Income from other sources”;
- A company whose **principal business** of which is trading in shares/Banking/Granting of loans & advances [Explanation to Section 73]

Following transactions shall not be deemed to be a speculative transaction [Proviso to Section 43(5)]

| | |
|----|---|
| a) | A contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; |
| b) | A contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; |
| c) | A contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; |
| d) | An eligible transaction in respect of trading in derivatives referred to in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; |
| e) | An eligible transaction in respect of trading in commodity derivatives carried out in a recognised association, which is chargeable to commodities transaction tax (CTT) However, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of CTT under shall not apply. [Second Proviso to Section 43(5)] [w.e.f. 1-4-2019] |

INCOME IS PARTLY AGRICULTURAL AND PARTLY BUSINESS IN NATURE [RULE 7 & 8]

| Rule | COMPOSITE Income | Business Income (Taxable) | Agricultural Income (Exempt) |
|-----------|-----------------------------------|---------------------------|------------------------------|
| 7A | Manufacturer of Rubber | 35% | 65% |
| 7B | Manufacturer of Coffee | | |
| | - Grown & Cured | 25% | 75% |
| | - Grown, Cured, Roasted, Grounded | 40% | 60% |
| 8 | Manufacturer of Tea | 40% | 60% |

INTRODUCTION

The provisions for computation of Income from capital gains are covered under sections 45 to 55 of the Income Tax Act, 1961. Section 2(14) defines the term capital gain and section 45, the charging section lays down basis of charge for taxability of capital gain/loss arises on transfer of capital asset.

Section 2(24)(vi) of the Income-tax Act specifically provides that “Income” includes “any capital gains chargeable under Section 45(1)”. It may not be out of place to mention here that in the absence of a specific provision in Section 2(24) capital gains have no logic to be taxed as income.

SECTION 45(1) – SCOPE & YEAR OF CHARGEABILITY – CHARGING SECTION [GENERAL PROVISION]

Any profits or gains arising from

- The transfer of a capital asset
- effected during the previous year
- Shall be Taxable under the head “Capital Gains”
- In the year of Transfer

DEFINITIONS**Capital Assets [2(14)]**

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 (FII) which has invested in such securities in accordance with the SEBI regulations.

But does **not include**,

1) Stock-in trade:

Any stock-in-trade, consumable stores or raw materials held for the purpose of the business or profession of the assessee;

2) Personal effects:

Personal effects, that is to say, movable property (including wearing apparel, Motor Car, Furniture etc.) held for personal use by the assessee or any member of his family dependent on him

But **Excludes**, (i.e. following are excluded from personal effects i.e. it these are considered as capital assets)

a) Jewellery;

- Ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones and whether or not worked or sewn into any wearing apparel;
- Precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel. [Explanation]

b) Archaeological Collections;**c) Drawings;****d) Paintings;**

- e) Sculptures; or
- f) Any work of art

3) Rural Agricultural Land:

Agricultural Land in India – within Jurisdiction of Municipal/Cantonment having population as below, Capital Gain from Rural Agricultural Land is exempt u/s 10(1)

| Population | ≤ 2 Kms | ≤ 6 Kms | ≤ 8 Kms | > 8 Kms |
|-----------------------|-------------------------------|---------|---------|---------|
| ≤ 10,000 | Rural Agricultural Land (RAL) | | | |
| 10,001 to 100,000 | | | | |
| 1,00,001 to 10,00,000 | Urban Agricultural Land (UAL) | | | |
| > 10,00,000 | Urban Agricultural Land (UAL) | | | |

Remember: Only Rural Agricultural Land is out of purview of capital asset, any transactions related to Urban Agricultural Land will not constitute agricultural revenue & shall attract provision of Capital Gains

4) Specified Gold Bonds:

6½% Gold Bonds, 1977, or 7% Gold Bonds, 1980, or National Defence Gold Bonds, 1980, issued by the Central Government

5) Special Bearer Bonds, 1991

issued by the Central Government

6) Gold Deposit Bonds

issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government.

‘Property’ includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever. [Explanation]

Transfer [2(47)]

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

1. The sale, exchange or relinquishment (A giving up of a possession, claim, or right) of the asset; or
2. The extinguishment of any rights therein; or
3. The compulsory acquisition thereof under any law; or
4. The owner of a capital asset may convert the same into the stock-in-trade of a business carried on by him. Such conversion is treated as transfer; or
5. The maturity or redemption of a zero coupon bond (ZCB); or
6. Possession of an immovable property in consideration of part-performance of a contract referred to in section 53A of the Transfer of Property Act, 1882.

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

7. Transactions which have the effect of transferring or enabling the enjoyment of an immovable property.

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

Period of Holding – Short Term or Long Term [2(42A)]

| STCA – Holding Period | Assets |
|-----------------------|---|
| ≤ 12 month | Listed Securities / Equity Oriented Units / ZCB |
| ≤ 24 month | Unlisted Shares / Land or Building or Both |
| ≤ 36 month | Unlisted securities other than shares / Debt oriented Unit / Other Assets |

Market Linked Debentures and Units of Specified Mutual Fund are always Short Term (Referred to u/s 50AA)

| Determination of period of Holding in certain cases [Explanation 1 read with Rule 8AA] | | | | |
|--|---|--|------------------------------------|--|
| Sr. | Situations | Period of Holding | | |
| | | | Start Date | End Date |
| 1 | Inventory of business is converted into or treated as a capital asset by the assessee [Stock In Trade → Capital Asset] | Period from the date of conversion or treatment as a capital asset shall be considered. | Date of Conversion | Date of Sale |
| 2 | Where any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employees) | Period from the date of allotment or transfer of such specified security or sweat equity shares shall be reckoned. | Date of allotment of such security | Date of Transfer/Sale of such security |

The Invictus

SECTION 48 – MODE OF COMPUTATION

Computation of Capital Gain

"Capital gains" shall be computed, by deducting from the FVOC the following amounts, namely: —

- Expenditure incurred wholly and exclusively in connection with such transfer; Brokerage etc.
- The Cost of Acquisition / Improvement of the asset and the cost of any improvement thereto. *However, Cost of Acquisition / Improvement shall NOT INCLUDE, if following deductions claimed*
 - Interest on Loan for House Property [Section 24(b)]
 - Deduction of Interest on Loan for House under Chapter VI-A [Section 80EE and 80EEA]

Capital Gain shall be computed as follows

| Particulars | Amount |
|--|-------------|
| Full Value of Consideration / Sale Consideration (FVOC) | XXXX |
| Less: Expense Related to Transfer [STT paid not allowed] | XXXX |
| Net Sale Consideration | XXXX |
| Less: Cost of Acquisition / Improvement (in case of Short Term) or Indexed Cost of Acquisition or Improvement (In case of Long Term) | XXXX |
| Capital Gain / Loss | XXXX |
| Less: Exemption available (Section 54 / 54B / 54F / 54D / 54EC) | XXXX |
| Capital Gain / Loss chargeable to Tax | XXXX |

Indexed Cost of Acquisition [First Proviso]

Indexation benefit shall be available in respect to transfer of **Long-Term Capital Asset** only.

No Indexation benefit shall be available in following cases

- Long term capital gain referred to in Section 112A in case of following assets (Third Proviso)
 - a) Equity share (Listed) in a company on which STT is paid both at the time of acquisition and transfer
 - b) Unit of equity-oriented fund on which STT is paid at the time of transfer.
- Transfer of Short-Term Capital Asset
- Transfer of Depreciable asset u/s 50 (Even if asset is long term – No Indexation)
- Sale of undertaking as Slump Sale u/s 50B

| Cost Inflation Indices (CII) | | | | | | | |
|------------------------------|---------|---------|---------|---------|---------|---------|---------|
| FY | 2001-02 | 2002-03 | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 |
| CII | 100 | 105 | 109 | 113 | 117 | 122 | 129 |
| FY | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 |
| CII | 137 | 148 | 167 | 184 | 200 | 220 | 240 |
| FY | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
| CII | 254 | 264 | 272 | 280 | 289 | 301 | 317 |
| FY | 2022-23 | 2023-24 | | | | | |
| CII | 331 | 348 | | | | | |

SECTION 55 – MEANING OF “ADJUSTED”, “COST OF IMPROVEMENT” AND “COST OF ACQUISITION”

Cost of Goodwill / Other Intangible Asset / Business Rights etc. [Sub. old clause (a)]**In case of acquired from previous owner : Amount paid for acquisition [Purchased Asset]**

- If depreciation is claimed for upto PY 2019-20, such depreciation shall be reduced from such cost

In case of acquired from previous owner u/s 47 : Cost at which previous owner has acquired

- If depreciation is claimed for upto PY 2019-20, such depreciation shall be reduced from such cost

Cost of Improvement / Cost of Self-Generated Asset = NIL in any case**Other Cases**

- Where the capital asset became the property of the assessee before the 01-04-2001,
 - Cost of acquisition of the asset to the assessee or
 - The FMV of the asset on the 01-04-2001,
 At the option of the assessee (Generally Higher Amount will be taken as Cost);
 - where the capital asset became the property of the assessee by any modes specified in section 49 (1), and the capital asset became the property of the previous owner before the 01-04-2001,
 - Cost of the capital asset to the previous owner or
 - The FMV of the asset on the 01-04-2001,
 At the option of the Assessee ;
- Provided that in case of a capital asset referred to in (a) and (b), being Land or Building or both,
- the FMV of such asset on the 01-04-2001 for the purposes
 - shall not exceed the stamp duty value, wherever available, of such asset as on the 01-04-2001.
- Where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation (Section 46), the cost of acquisition means the
 - FMV of the asset on the date of distribution.
 - Where the capital asset became the property of the previous owner or the assessee before 1-4-2001, cost of improvement means all expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after the said date by the previous owner or the assessee
 - i.e. cost of Improvements carried out before 01-04-2001 shall not be considered (As it is already considered while computing FMV as on the date of 01-04-2001)
 - Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the
 - FMV on the date on which the capital asset became the property of the previous owner

EXCEPTION TO GENERAL PROVISION – YEAR OF TAXABILITY

Generally, Capital Gain shall be taxable in the year in which Capital Asset is transferred.

However, under following cases Capital Gain shall be Taxable in the Year in which Amount of Sale Consideration is received.

Receipts form Insurance Parties of Claim Amount [45(1A)]

Where any person receives any Claim Money or other assets under any insurance from an insurer on account of

- Damage to or destruction of any capital asset,
- As a result of flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature, riot or civil disturbance, accidental fire or explosion or
- Because of action by an enemy or action taken in combating an enemy (whether with or without declaration of war), then,

Any profits or gains arising from receipt of such money or other assets shall be Taxable as “Capital gains” for the previous year in which such money or other asset was received.

No insurance or No Compensation Received

- Where asset is destroyed and there is not insurance or Insurance compensation received
- Such destruction of asset shall not be treated as transfer
- Neither Section 45 nor Section 45(1A) shall be attracted.
- Cost of Asset destroyed shall be treated as dead loss for which has no tax treatment

✦ Capital Gain = Claim Received or FMV of Asset received (FVOC)

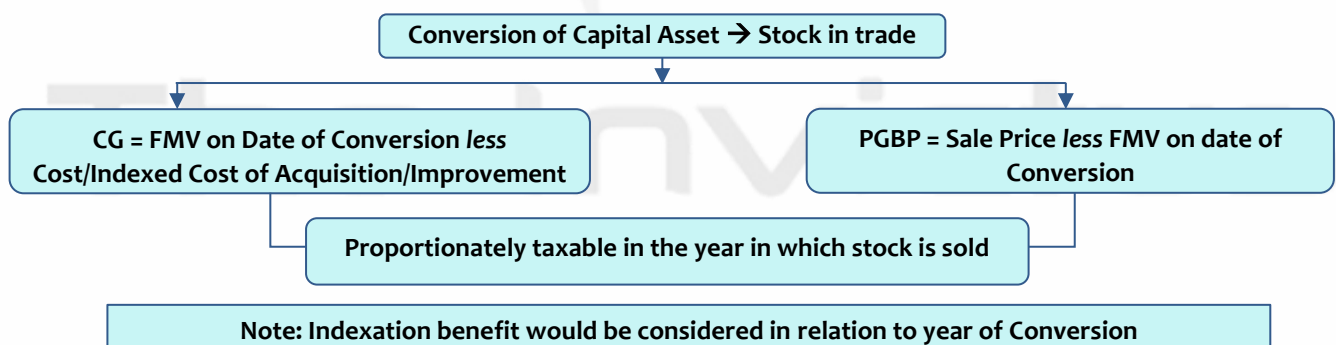
Less Cost of Asset or WDV in case of depreciable asset

✦ Taxability : Year in which such money or other asset is received

Conversion or Treatment of Capital Asset as Stock in Trade [45(2)]

Any Capital Asset Converted into Stock in Trade shall be treated as transfer.

- Capital Gain arising on such conversion shall not be taxable in the year of Conversion.
- Capital Gain shall be Taxable in year in which such converted stock is sold.
- If Proportionate Stock is sold, Proportionate Capital Gain shall be taxable in the year of Sale
- **Holding Period** : From Date of Purchase of Capital Asset to Date of Conversion



Compensation on Compulsory Acquisition by Central Govt. [45(5)]

Where a capital asset is **compulsory acquired** by the **Central Government**

- Capital Gain shall be **chargeable as income**
- Of the **PY** in which such **compensation is received**.

✦ Capital Gain = Compensation Received

Less Cost of Acquisition

✦ Taxability: Year in which such compensation received**Enhanced Compensation by Court**

Where court awards a compensation **which is higher than the original compensation**, i.e. Enhanced Compensation

- The **difference** thereof will be **chargeable to capital gains**
- In the year in which the same is **received** from the government
- Cost of Acquisition in this case shall be **NIL** (its already considered while computing Original Compensation)

✦ Capital Gain = Enhanced Compensation (i.e. Compensation awarded by Court **Less Original Compensation)****✦ Taxability: Year in which such compensation received**

Provided that any amount of compensation received in pursuance of an **interim order** of a court, Tribunal or other authority shall be **deemed to be income chargeable** under the head "Capital gains" of the previous year in which the **final order** of such court, Tribunal or other authority is made;

Reduction in Compensation by Court

Where capital gain has been charged on the

- Compensation received by the assessee for the compulsory acquisition of any capital asset or
- Enhanced compensation received by the assessee and
- **Subsequently** such compensation is **reduced by any court**, tribunal or any authority
- The assessed capital gain of that year shall be **recomputed**
- By taking into consideration the **reduced amount**.
- This **re-computation** shall be done by way of **rectification** under section 155.

In case of **death** of the **transferor** before receiving the enhanced compensation, the enhanced compensation will be chargeable to tax in the hands of the **person who received the same**.

Remember: **Interest** received on **enhanced compensation** shall be chargeable to tax under the head **IFOS**

TAXABILITY OF FINANCIAL ASSETS

Financial Assets – Shares, Debentures Etc. [Determination of Cost – Section 55]

In a case where by virtue of holding a capital asset, being a share or any other security, the assessee—

- Becomes **entitled to subscribe [Right Shares]** to any additional financial asset; or
- Is allotted any additional financial asset **without any payment [Bonus Shares]**,
- In ALL the cases below **FVOC** shall be Price at which **such shares are sold**

a) Original shares (which form the basis of entitlement of rights / Bonus shares)

- In relation to the original financial asset on the basis of which the assessee becomes entitled to any additional financial assets, cost of acquisition means the **amount actually paid** for acquiring the original financial assets.

COA = Amount actually paid at the time of acquisition

Sale Consideration = No. of Shares x Sale Price per share

Holding Period : Date of Allotment of Shares to Date of Sale

b) Bonus Shares:

- In relation to the financial asset allotted to the assessee **without any payment** and on the basis of holding of any other financial assets, cost of acquisition shall be taken to be nil in the case of such assessee.
- In other words, where bonus shares are allotted without any payment on the basis of holding of original shares, the cost of such bonus shares will be nil in the hands of the original shareholder.
- However, in respect of bonus shares allotted before 1.4.2001, although the cost of acquisition of the shares is nil, the assessee may opt for the FMV as on 1.4.2001 as the cost of acquisition of such bonus shares.

Bonus Shares Allotted before 01-04-2001 = COA will be FMV as on 01-04-2001

Bonus Shares Allotted on or after 01-04-2001 = NIL

Sale Consideration = No. of Bonus Shares x Sale Price per Bonus Share

Holding Period : Date of Allotment of Shares to Date of Sale

c) Rights entitlement (which is renounced by the assessee in favour of a person)

- In relation to any right to renounce the said entitlement to subscribe to the financial asset, when such **a right is renounced** by the assessee in favour of any person, cost of acquisition shall be taken to be nil in the case of such assessee.

COA = NIL

Sale Consideration = No. of Right Entitlement x Sale Price per Right

Holding Period : Date of Allotment of Right to Date of Sale

d) Rights shares acquired by the Assessee by using Right Entitlement

- In relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, cost of acquisition means the **amount actually paid** by him for acquiring such asset.

COA = Amount actually paid at the time of acquisition

Sale Consideration = No. of Right Shares x Sale Price per Right Share

Holding Period : Date of Allotment of Shares to Date of Sale

e) Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement:

- In the case of any financial asset purchased by the person in whose favour the right to subscribe to such assets has been renounced, cost of acquisition means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution for acquiring such financial asset.

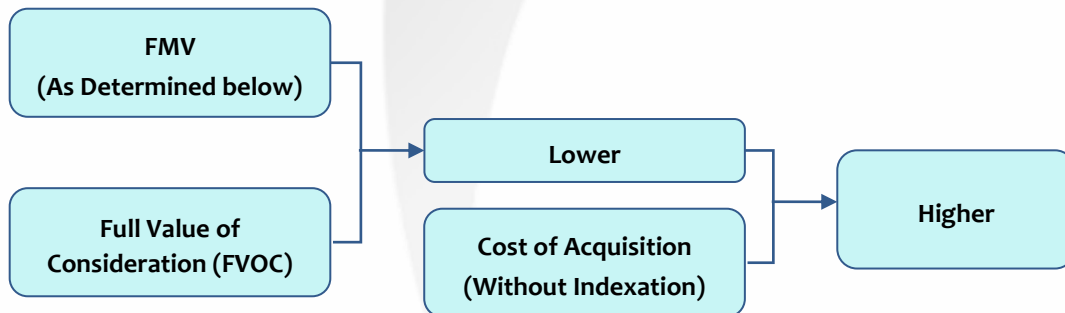
COA = Amount actually paid at the time of acquisition + Cost of Purchase of Right

Sale Consideration = No. of Right Shares x Sale Price per Right Share

Holding Period : Date of Allotment of Shares to Date of Sale

Long-term capital assets referred to in section 112A (Listed Shares) – Determination of Cost of Shares

- The cost of acquisition in relation to the long-term capital assets being,
 - Equity shares in a company on which STT is paid both at the time of purchase and transfer or
 - Unit of equity-oriented fund or unit of business trust on which STT is paid at the time of transfer.
- Acquired (Including Bonus Shares) before 1st February, 2018 shall be the higher of
 - (i) Cost of acquisition of such asset; and
 - (ii) Lower of
 - a) The FMV of such asset; and
 - b) The Full Value of Consideration received or accruing as a result of the transfer of the capital asset.



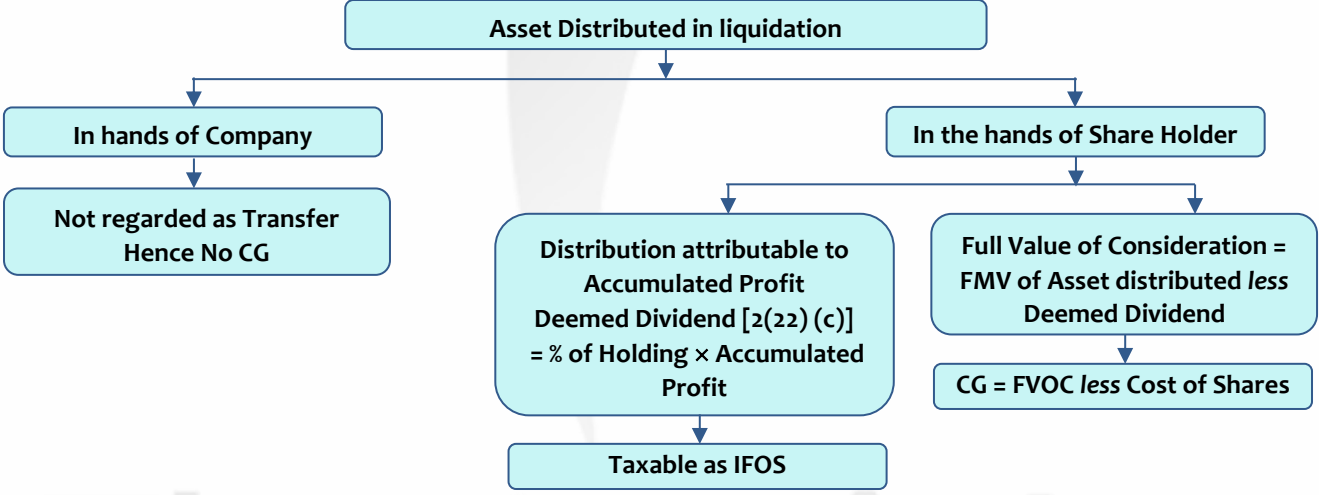
| Sr. No | Circumstances | Fair Market Value |
|--------|---|---|
| A | In a case where the capital asset is listed on any recognized stock exchange as on 31.01.2018 | <p>If there is trading in such asset on such exchange on 31.01.2018 The highest price of the capital asset quoted on such exchange on the said date</p> <p>If there is no trading in such asset on such exchange on 31.01.2018 The highest price of such asset on such exchange on a date immediately preceding 31.01.2018 when such asset was traded on such exchange.</p> |

| | | |
|----------|--|---|
| B | In a case where the capital asset is a unit which is not listed on any recognized stock exchange as on 31.01.2018 | The net asset value of such unit as on the said date |
| C | In a case where the capital asset is an equity share in a company which is <ul style="list-style-type: none"> – Not listed on a recognized stock exchange as on 31.01.2018 but listed on such exchange on the date of transfer [Listed after 31-01-2018] – Listed on a recognized stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer under section 47 [Unlisted Shares → Listed Shares] | An amount which bears to the cost of acquisition the same proportion as CII for the financial year 2017-18 bears to the CII for the first year in which the asset was held by the assessee or on 01.04.2001, whichever is later. $FMV = \frac{\text{Cost of Acquisition} \times \text{CII [2017-18]}}{\text{CII [Yr. of Acquisition] or For 2001-02}}$ Whichever is later |

SECTION 46 – CAPITAL GAIN ON DISTRIBUTION OF ASSETS BY COMPANIES IN LIQUIDATION

Notwithstanding anything contained in section 45,

- 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



Note: if liquidator directly sells assets and distribute fund: Company shall be liable to CG

Where a shareholder on the liquidation of a company receives any money or other assets from the company

- He shall be chargeable to income-tax under the head "Capital gains", in respect of
- The money so received or the market value of the other assets on the date of distribution,
- As reduced by the amount assessed as dividend within the meaning of Section 2(22)(c) and

The sum so arrived at shall be deemed to be the FVOC for the purposes of section 48.

Holding Period of Shares : Date of Purchase of Shares to Date of Liquidation (Not the date of Asset Received.)

SECTION 46A – CAPITAL GAIN ON BUY BACK OF SHARES OR SPECIFIED SECURITIES

Where a shareholder or a holder of other specified securities receives any consideration

- From any company for purchase of its own shares/ specified securities held by such shareholder then,
- Subject to the provisions of section 48,
- Difference between the cost of acquisition and the value of consideration received by the shareholder
- Shall be deemed to be the capital gains in the year in which such shares/securities were purchased by the company.

| Taxability | Buy Back of Shares | | Buy Back of Securities |
|---------------------|---|---|---|
| | Domestic Companies (Listed or Unlisted) | Other than Domestic Co. [Section 46A] | Any Company |
| Company | Taxable Income = Consideration Paid to Shareholder Less Amount Received by company on issue of Shares Tax to be paid by Company u/s 115QA Tax Rate @ 23.296% [20 % Tax + 12% Surcharge + 4% Cess] [No indexation to be done] | No Taxability in the hands of Company | No Taxability in the hands of Company |
| Share Holder | Exempt u/s 10(34A) | Capital Gain = Amount Received Less Cost of Acquisition of such shares | Capital Gain = Amount Received Less Cost of Acquisition of such specified securities |

Specified Securities

As per Section 68 of the Companies Act, 2013, "specified securities" includes employees' stock option or other securities as may be notified by the Central Government from time to time.



EXEMPT TRANSFER & COST OF ACQUISITION IN CERTAIN CASES

SECTION 47 – SPECIFIED CASES OF EXEMPT TRANSFER

SECTION 49 – COST OF ACQUISITION TO TRANSFEREE

Nothing contained in section 45 shall apply to the following transfers

- 1 **Specific transaction of asset distribution or transfer of asset [Sec. 47]**
- a) Distribution of capital assets on the **total or partial partition** of a HUF [47(i)]
 - b) Transfer of a capital asset under a **gift or will or an irrevocable trust excluding** ESOP [47(iii)]
 - c) Transfer of capital asset by **100% Holding to Subsidiary or Vice-versa, Transferee** Company must be an **INDIAN** Co. in **both** the cases [47(iv) & (v)]
 - **Exception**, Capital Asset Transferred **as Stock in Trade** exemption shall not apply
 - Exemption Withdrawn if, [Sec. 47A(1)]
 - Any time before the expiry of **8 years** from the date of transfer
 - Transferee **converts** such **capital asset into stock in trade** or
 - Parent company **ceases** to Hold **100% shares** in subsidiary company
 - Capital Gain **not charged on such transfer** shall be **deemed to be the capital gain** of the PY in which such transfer took place.

Cost of Acquisition [Sec. 49]**Transactions covered by Section 49(1)**

Where the capital asset **became the property of the assessee**—

- On any distribution of assets on the total or partial partition of a HUF;
- Under a gift or will;
- By succession, inheritance or devolution, or
- On any distribution of assets on the liquidation of a company, or
- Under a transfer to a revocable or an irrevocable trust, or
- Under any such transfer as is referred to in clause (iv) or clause (v)

Deemed Cost of Acquisition – When Such Asset Sold

- Deemed cost of Acquisition = Cost of **acquisition** by **Previous Owner** + Cost of **Improvement** by **Previous Owner** or **Assessee**
- However, in case of Point C above - **if exemption is withdrawn** by virtue of Section 47A, Cost of Acquisition = **Cost** at **which asset acquired** from transferor

Holding Period for Long Term / Short Term

- Holding period shall Include Period of Holding of Previous owner also.
- From Date of **Purchase by Pervious Owner** to **Date of Sale**.

Previous Owner of Property

| | |
|----------|--|
| | <p>In this sub-section the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition OTHER THAN transactions referred above</p> <p>CIT v/s Manjula Shah (Bombay High Court) <i>For computation of Indexed cost of acquisition of the gifted asset in the hands of the assessee, the indexation benefit would be available from the year in which the capital asset is acquired by the previous owner (Holding period of previous owner shall also be included)</i></p> |
| <p>2</p> | <p>Transfer of Asset in relation to Amalgamation/Demerger – Exempt transfer [Sec. 47]</p> <p>a) Transfer of Capital Asset held by</p> <ul style="list-style-type: none"> ▪ Amalgamating Company → Amalgamated INDIAN Company [47(vi)] ▪ Demerged Company → Resulting INDIAN Company [(vib)] <p>Cost of Acquisition [Sec. 49] Deemed Cost of Acquisition – When Such Asset Sold Cost of acquisition by Previous Owner + Cost of Improvement by Previous Owner or Assessee</p> <p>Holding Period for Long Term / Short Term</p> <ul style="list-style-type: none"> – Holding period shall Include Period of Holding of Previous owner also. – From Date of Purchase by Amalgamating / Demerged Co. to Date of Sale by Amalgamated / Resulting Co. |
| <p>3</p> | <p>Transfer or issue of share to shareholder in relation to Amalgamation/Demerger – Exempt [Sec. 47]</p> <p>a) Transfer or issue of shares by the resulting company to the shareholder of demerged company in a scheme of demerger – Exempt Transfer – No Capital Gain [47(vid)]</p> <p>b) Transfer of shares held in the amalgamating company by a shareholder, in a scheme of amalgamation – Exempt Transfer – No Capital Gain [47(vii)]</p> <ul style="list-style-type: none"> ✦ The amalgamated company is an Indian Company ✦ The transfer is made in consideration of the allotment to him of any SHARES in the amalgamated company ✦ Where the shareholder itself is the amalgamated company, this condition does not apply (if Co. itself is a shareholder so cannot issue shares to itself) <p>Cost of Acquisition [Sec. 49]</p> <ul style="list-style-type: none"> – In case of demerger cost of acquisition in Resulting Company = A × B / C A = Cost of shares of Demerged Co. B = Net worth transferred to Resulting C = Total Net worth of Demerged Co. (Before Demerger) – In case of demerger cost of share held in Demerged Company Cost of Shares of Demerged Co. Less Cost allotted to share of resulting as above – Cost of acquisition in Amalgamated Company = Cost of Share acquired in Amalgamating Co. <p>Holding Period for Long Term / Short Term</p> |

| | |
|---------------------|--|
| | <ul style="list-style-type: none"> - From Date of Purchase of SHARES in Amalgamating / Resulting Owner to Date of Sale of SHARES in Amalgamated / Resulting Co. - Capital Gain shall arise when such Shares of Amalgamated / Resulting Co. are Sold |
| 4 | <p>Conversion of Bonds/Preference → Shares – Exempt Transfer [Sec. 47]</p> <p>a) Any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company [47(x)]</p> <p>b) Any transfer by way of conversion of preference shares of a company into equity shares of that company [47(xb)]</p> <p>Cost of Asset [Sec. 49]</p> <ul style="list-style-type: none"> - Cost of Bonds/Preference shares etc. in relation to which asset acquired. <p>Holding Period for Long Term / Short Term</p> <ul style="list-style-type: none"> - From Date of Purchase of BONDS / PREF. Shares Owner to Date of Sale of EQUITY SHARES. - Capital Gain shall arise when such converted EQUITY SHARES are Sold |
| 5 FA 2023 | <p>Conversion of Gold into Electronic Gold Receipt (EGR) or Vice Versa – Exempt transfer [Sec. 47]</p> <p>a) Any transfer of Capital Asset being Gold → EGR or vice versa is an exempt transfer.</p> <p>Cost of Acquisition [Sec. 49]</p> <p>Deemed Cost of Acquisition – When Such Asset Sold</p> <ul style="list-style-type: none"> - in case of Gold → EGR – Cost of EGR will be Cost of Gold - in case of EGR → Gold – Cost of Gold will be Cost of EGR <p>Holding Period for Long Term / Short Term</p> <ul style="list-style-type: none"> - in case of Gold → EGR – Date of Purchase of Gold to Transfer of EGR - in case of EGR → Gold – Date of Purchase of EGR to Transfer of Gold |

| | | | | | | | | | |
|--|--|---------------|-----------|--|------------|--------|--------------|--------------|---------|
| Some other Exempt Transfer [Sec. 47] | | | | | | | | | |
| a) | Redemption by an individual of Sovereign Gold Bond issued by RBI under the Sovereign Gold Bond Scheme, 2015 [47(viic)] | | | | | | | | |
| b) | Any transfer of any of the following capital asset to the Government or to the University or the National Museum, National Art Gallery, National Archives or any other public museum or institution notified by the Central Government to be of national importance or to be of renown throughout any State [47(ix)]: <table border="0" style="width: 100%; margin-left: 20px;"> <tr> <td style="width: 50%;">- Work of Art</td> <td style="width: 50%;">- Drawing</td> </tr> <tr> <td>- Archaeological, scientific or art collection</td> <td>- Painting</td> </tr> <tr> <td>- Book</td> <td>- Photograph</td> </tr> <tr> <td>- Manuscript</td> <td>- Print</td> </tr> </table> | - Work of Art | - Drawing | - Archaeological, scientific or art collection | - Painting | - Book | - Photograph | - Manuscript | - Print |
| - Work of Art | - Drawing | | | | | | | | |
| - Archaeological, scientific or art collection | - Painting | | | | | | | | |
| - Book | - Photograph | | | | | | | | |
| - Manuscript | - Print | | | | | | | | |
| c) | Any transfer of a capital asset in a transaction of Reverse Mortgage under a scheme made and notified by the Central Government [47(xvi)] | | | | | | | | |

Other cases of Cost of Acquisition [Sec. 49]

- a) Sweat Equity Shares = FMV which has been taken into account for perquisite valuation under the head SALARY [49(2AA)].
- b) Inventory Converted into Capital Assets = FMV of the inventory as on the date of such conversion determined in the prescribed manner. [49(9)]
- c) Where the capital gain arises from the transfer of such property which has been subject to tax under section 56(2)(x) [Gift Transactions] = Value taken into account for the purposes of section 56(2)(x) [Taxable amount of Gift in the hands of Recipient] [49(4)]

The Invictus

SPECIAL PROVISIONS

SECTION 50 – SPECIAL PROVISION FOR COMPUTING CAPITAL GAIN IN CASE OF DEPRECIABLE ASSETS

Notwithstanding anything contained in Section 2(42A)

- Where the capital asset is an asset forming part of a **block of assets**
- In respect of which **depreciation has been allowed** under this Act or under the Indian Income-tax Act, 1922, the provisions of sections 48 and 49 shall be subject to the **following modifications** &
- Capital Gain shall be computed as below

- a) Where the **FVOC / Sale Consideration received** for the transfer of the **ALL** or **SOME** of assets within the block of the assets during the previous year, **exceeds** the aggregate of the following amounts, namely:—
- **Expenditure** incurred wholly and exclusively in connection with such transfer or transfers;
 - The **WDV of the block of assets** at the **beginning** of the previous year; and
 - The **actual cost** of any asset falling within the block of assets **acquired during the previous year**,
Such **excess** shall be **deemed to be the Capital Gains** arising from the transfer of short-term capital assets;

Example

Asset A, B & C are falling in same block say Plant & Machinery

| Block – Plant & Machinery | Amount |
|---|-----------------|
| WDV at beginning of the year (Asset A & B) | 3,00,000 |
| Add: Actual Cost of asset acquired during the year (Asset C) | 2,00,000 |
| Less: Net Sale Consideration of Asset Transferred (Asset B) | 6,50,000 |
| STCG | 1,50,000 |

Net sale consideration of one asset (Asset B) **exceeds** opening Balance of WDV and Cost of asset acquired during the year (Asset C)

Hence there is no value remain in block. The excess amount (INR 1,50,000) will be STCG

- b) Where any block of assets **ceases to exist**, for the reason that **ALL the assets** in that block are **transferred** during the previous year and
- The **FVOC / Sale Consideration** received for the transfer of the ALL assets within the block of the assets during the previous year, **Lower than** the aggregate of the following amounts, namely:—
- **Expenditure** incurred wholly and exclusively in connection with such transfer or transfers;
 - The **WDV of the block of assets** at the **beginning** of the previous year; and
 - The **actual cost** of any asset falling within the block of assets **acquired during the previous year**,
Such **Deficit** shall be **deemed to be the Capital Loss (STCL)** arising from the transfer of short-term capital assets;

Example

Now, Let's assume all asset (A, B, & C) in above example sold for INR 4,50,000.

There is balance amount in block of INR 50,000 (5,00,000 – 4,50,000) will be STCL as there is no asset remain in the block so Block cease to exist.

In simple terms,

| Situation | Value Remain in Block | Asset remain in Block | STCG/STCL |
|---|-----------------------|-----------------------|---|
| Sale Consideration > Op WDV + Asset Acquired during PY (All or Some Assets are Transferred) | No | Yes | STCG, No Depreciation on remaining Asset Block Ceases to Exist |
| Sale Consideration < Op WDV + Asset Acquired during PY | | | |
| <ul style="list-style-type: none"> All the Assets are Transferred | Yes | No | STCL, No depreciation on remaining Value Block Ceases to Exist |
| <ul style="list-style-type: none"> Some of the Assets are Transferred | Yes | Yes | No STCG / STCL, Depreciation allowed on Closing Balance Block Continue to Exist |
| Points to Remember: <ul style="list-style-type: none"> Indexation benefit is not available in case of depreciable assets Gain / Loss arising on transfer of such asset shall always be SHORT TERM irrespective of period of Holding. | | | |

SECTION 50AA – CAPITAL GAIN IN CASE OF MARKET LINKED DEBENTURES

[w.e.f. 01-04-2023]

Capital Gain arising from the transfer or redemption or maturity of Capital Asset being

- Specified Mutual Fund acquired on or after 01-04-2023 or
- Market Linked Debenture.

Shall be chargeable to tax at normal rate of Tax.

Sale Consideration = Amount Received on Transfer / Redemption / Maturity

COA = Cost at which such asset acquired

Holding Period : Always Short Term (Holding Period is Irrelevant)

Market Linked Debentures :

MLDs are fixed income instruments whose returns are linked to an external benchmark, generally a stock market index

Specified Mutual Fund :

Mutual Fund in which Investment in Equity Shares of Domestic Company ≤ 35% of Total Proceeds

Investment in Equity Shares shall be computed with reference to the annual average of daily closing figures

SECTION 50B – SPECIAL PROVISION FOR COMPUTATION OF CAPITAL GAINS IN CASE OF SLUMP SALE

When undertaking is transferred as **slump sale**

- If undertaking held for **more than 36 months**, it shall be treated as **LTCC**
- **Indexation** benefit shall **not** be available
- Every assessee, in the case of slump sale, shall furnish in the prescribed form [Form 3CEA]
 - A report of a Chartered Accountant before the specified date referred to in section 44AB
 - indicating the **computation of the net worth** of the undertaking or division, as the case may be, and
 - Certifying that the net worth of the undertaking has been correctly arrived

Capital Gain = Sale Consideration (FMV on Date transfer shall be deemed to be FVOC)
Less NET WORTH being deemed cost of acquisition

Net worth [Explanation 1]

- Aggregate value of **total assets** of the undertaking or division
- **Less:** the **value of liabilities** of such undertaking or division as appearing in the books of account.
 However, any change in the value of assets on account of **revaluation of assets shall not be considered** for this purpose.

Net Worth = Total Value of Assets of Undertaking Less Liabilities of Undertaking [As appeared in Books]

Aggregate value of total assets of undertaking or division [Explanation 2]

- In case of **depreciable asset** [WDV as per section 43(6)(c)]
 - **WDV of Asset = Cost of Asset Less Depreciation**, as if there is only asset in the block
- In case of capital asset where **whole expenditure allowed u/s 35AD**
 - **WDV of Asset = NIL**
- In case of **other assets**
 - **Book value** of assets

SECTION 50C – SDV OF LAND & BUILDING TO BE TAKEN AS FULL VALUE OF CONSIDERATION

Where an asset being **Land** or **Building** or Both (**not held as Stock-in-Trade**)

- Value of such asset transferred (**FVOC**) < Stamp Duty Value (**SDV**)
- In such case, **SDV** shall be **deemed to be** the **FVOC**
- For the purpose of computing income under the head Capital Gains
- i.e. Higher of Sale Consideration or SDV shall be considered

Allowability of Variance between Sale Consideration or SDV [w.e.f. 01-04-2019]

Variation can occur in respect of similar properties in the same area because of a variety of factors, including shape of the plot or location. In order to minimize hardship in case of genuine transactions in the real estate sector,

- Variation upto 10% of Sale consideration is allowed.
- if SDV > **110%** of Actual Sale Consideration, In such cases SDV shall be deemed FVOC

Date of Stamp Duty Value

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,

- Date for the purpose of SDV
 - **Date of Agreement** – in case of **part/full payment** made by an account payee cheque drawn on a bank or Account payee bank draft or use of ECS through a bank account or through other mode prescribed **on or before date of agreement**.
 - **Date of Registration** – In any **other case**

SECTION 50CA – FVOC FOR TRANSFER OF SHARE OTHER THAN QUOTED SHARE

Where the consideration received or accruing [**Sale Consideration Received < FMV**]

- As a result of the transfer by an assessee of a capital asset,
- Being share of a company **other than a quoted share**, is **less than the FMV** of such share
- Determined in such manner as may be prescribed under Rule 11UA,
- The **value so determined shall**, for the purposes of section 48, be **deemed to be the FVOC** received or accruing as a result of such transfer. [**FMV = FVOC**]

For the purposes of this section, "quoted share" means the share quoted on any recognised 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. [Explanation]

SECTION 50D – FMV DEEMED TO BE FULL VALUE OF CONSIDERATION IN CERTAIN CASES

Where the **consideration received** or accruing

- As a result of the transfer of a capital asset by an assessee is
- **Not ascertainable** or cannot be determined, then,
- for the purpose of computing income chargeable to tax as capital gains,
- the **FMV of the said asset** on the date of transfer shall be deemed to be the FVOC received or accruing as a result of such transfer

SECTION 51 – ADVANCE MONEY RECEIVED & FORFEITED

Where any capital asset was on any previous occasion the subject of negotiations for its transfer,

- Any **advance or other money received** and retained by the assessee
- In respect of such **negotiations** shall be
- Deducted from the cost for which the asset was acquired or the **WDV or the FMV**, as the case may be, in computing the cost of acquisition

Treatment of Advance money

- **Received before 01-04-2014:**
Deducted from Cost of Acquisition before applying indexation, Taxable in the **year of Transfer of Asset**
- **On or After 01-04-2014:**
Taxable **u/s 56(2)(ix)** as **IFOS**, Taxable in the **year of FORFEITURE**

EXEMPTION IN CAPITAL GAINS

SECTION 10 – Certain Exemptions u/s 10

Section 10(33) – Transfer of Units of Unit Scheme 1964

Any income arising from the transfer of specified units of Unit Scheme 1964 (US 64), shall be exempt from tax. Such transfer should take place on or after 1.4.2002

Section 10(37) – Compulsory acquisition of Urban Agricultural Land

Agricultural land situated in specified urban limits

- Has been **compulsorily** acquired,
- Capital gains arising to an individual or a HUF from transfer of urban agricultural land by way of compulsory acquisition shall be **exempt**
- Such exemption is available where the compensation or the enhanced compensation or consideration, as the case may be, is received on or after 1.4.2004.

The exemption is available only when such land has been **used for agricultural purposes** during the preceding two years by **such individual or a parent of his or by such HUF**.

The Invictus

EXEMPTION OF CAPITAL GAINS ON INVESTMENT BASIS

| Provisions | Section 54 – CG on Sale of Residential House | Section 54B – Gain on Transfer of Urban Agricultural Land [UAL] | Section 54F – Capital Gain on sale of any LTCA |
|--|--|---|--|
| Assessee | INDIVIDUAL & HUF | | |
| Conditions | <ul style="list-style-type: none"> Transfer of residential house, Income of which is charged under IFHP It must be LTCA Used for Residential Purpose | <ul style="list-style-type: none"> UAL [LTCA or STCA] Land must be used for agri. purpose by Individual or his parents/HUF – In the 2 yrs. immediately preceding the date of transfer | <ul style="list-style-type: none"> Any LTCA other than Residential House Assessee should not own more than one residential house on date of transfer |
| New Asset | <p>If CG ≤ 2 Cr</p> <ul style="list-style-type: none"> Two Resi. House in India (Option can be exercised once only. Not available again for same or subsequent AY even if CG ≤ 2 Cr) <p>If CG > 2 Cr.</p> <ul style="list-style-type: none"> One Resi. House in India | Any Agricultural Land [UAL or RAL] | Residential House situated in India |
| Amount of Exemption | Lower of Capital Gain or Cost of New Asset (Max 10 Cr.) | Lower of CG or Cost of New Asset | Proportionate $LTCC \times \frac{\text{Cost of New Asset (Max 10 Cr.)}}{\text{Net Sale Consideration}}$ |
| Time Period to acquire New Asset | <ul style="list-style-type: none"> Purchased within 1 yr. before or 2 yrs. after the date of Transfer. or Constructed within 3 yrs. From the date of transfer | <ul style="list-style-type: none"> Purchased within 2 yrs. from date of transfer | <ul style="list-style-type: none"> Purchased within 1 yr. before or 2 yrs. after the date of Transfer. or Constructed within 3 yrs. From the date of transfer |
| Restriction on transfer of New Asset / Acquisition | New asset acquired shall not be transferred within 3 yrs. from the date of purchase / Construction | <p>New UAL shall not be transferred within 3 yrs. from the date of purchase of New UAL</p> <p>N.A. if New land is RAL, as it is already exempted from CG</p> | <p>Should not Transfer within 3 yrs. from the date of purchase / Construction</p> <p>or</p> <p>Should not, Purchase within 2 yrs. / Construct within 3 yrs. from the date of transfer of Original Asset Any residential house other than above new asset</p> |

| | | | |
|---|--|--|--|
| Consequences on Violation of any condition | Cost of Acquisition of asset transferred shall be reduced by CG exempted earlier for the purpose of computation of CG of new asset | Cost of Acquisition of asset transferred shall be reduced by CG exempted earlier for the purpose of computation of CG of new asset | Exemption not available and CG exempted earlier Chargeable to tax |
|---|--|--|--|

| Provisions | Section 54D – CG on Compulsory Acquisition of Land & Building of Industrial Undertaking | Section 54EC – Investment in certain bonds |
|---|---|---|
| Assessee | Any Assessee | |
| Conditions | <ul style="list-style-type: none"> ▪ Must be Land & Building ▪ Used by the assessee for business of industrial undertaking – 2 yrs. preceding date of transfer ▪ Even if he is not owner during 2 yrs. (e.g. Rented Premise which purchased later on) | <ul style="list-style-type: none"> ▪ Transfer of any LTCA being Land or Building or Both ▪ Depreciable asset held for > 36 months – Also eligible [CIT vs. Dempo Co. (SC)] |
| New Asset | Purchase/Construct any other land or Building for Shifting/Re-establish existing or Setting up new industrial undertaking | Bonds of NHAI or RECL or Power Finance Corp. (PFC) or Railway Finance Corp (RFC) Redeemable after 5 yrs. , issued on or after 01-04-2018 |
| Amount of Exemption | Lower of CG or Cost of New Asset | Lower of CG or Cost of New Investment [Max. 50 Lakh] |
| Time Period to acquire New Asset | <ul style="list-style-type: none"> ▪ Purchase/Construct: within 3 yrs. From date of transfer | <ul style="list-style-type: none"> ▪ Purchase: Within 6 months from date of transfer In case of Capital Asset converted into stock in trade, 6 months shall be reckoned from the date of sale of stock in trade |
| Restriction on transfer of New Asset / Acquisition | New undertaking shall not be transferred within 3 yrs. from the date of purchase / Construction | Should not Transfer/Convert into money /avail loan/advance on security within 5 yrs. from the date of purchase of bonds |
| Consequences on Violation of any condition | Cost of Acquisition of asset transferred shall be reduced by CG exempted earlier for the purpose of computation of CG of new asset | CG exempted earlier shall be taxed in the year of violation |

CAPITAL GAINS ACCOUNT SCHEME (CGAS)

- Under sections 54 (*Max. 10 Cr*), 54F, 54B, 54D, 54G and 54GA, CG is exempt only on investment of such gains *or* net consideration in case of 54F (*Max. 10 Cr*),
- In case of 54GB amount deposited in Specified A/c and not in CGAS
- If Such **Investment is not** made before due date of filing of ITR,
- Such Amount should be **deposited** in CGAS on or **before** the due date of filing of ITR
- If amount deposited is **not utilised** before time specified, Unutilised amount will be **charged to Tax**

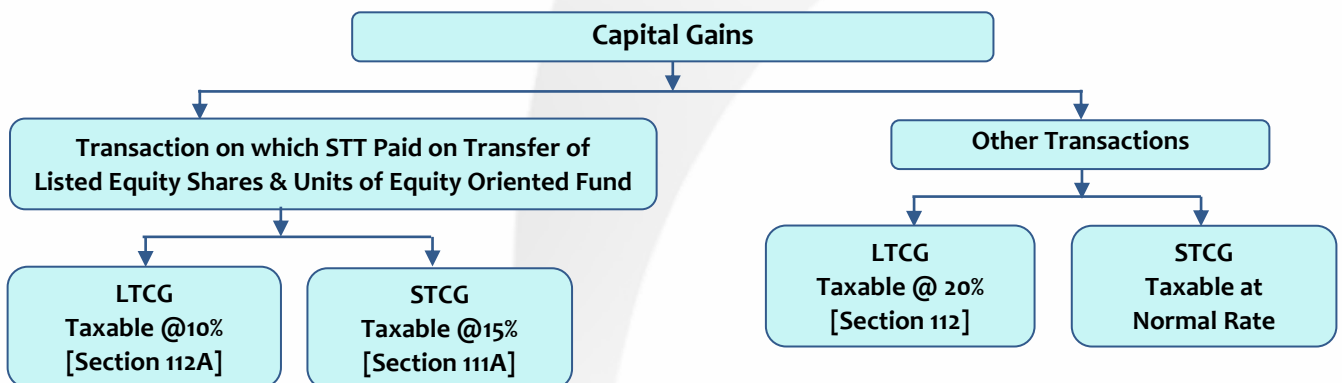
Note:

In case of **Compulsory Acquisition** Time limit for acquiring **New Asset or Deposit in CGAS** would be considered from the **date of Receipt** of Compensation if such compensation not received at the time of transfer.

In event of **death** of an individual before the specified period, the **unutilised amount** is not chargeable to tax in the **hands of the legal heirs**. It is **not income** but is a part of the estate devolving upon them.

[CBDT Circular No.743 dated 06-05-1996]

TAX RATES ON CAPITAL GAIN



- In case of **LTCG taxable u/s 112A**, Gain upto ₹ 1,00,000 is **Not Taxable** (It will be included in Total Income),
- **No benefit of rebate u/s 87A** shall be available in case of **LTCG taxable u/s 112A**
- No deduction under Chapter VI-A allowed against STCG u/s 111A, LTCG u/s 112A and LTCG u/s 112
- Basic Exemption Limit shall be first exhausted as per following order [For **Residents** only]
 - Any **Other Income** (Taxable at Normal Rate) and
 - LTCG u/s 112 (Taxable @ 20%),
 - STCG u/s 111A (Taxable @ 15%),
 - LTCG u/s and 112A (Taxable @ 10%) (exceeding ₹ 1,00,000)

SECTION 56 – INCOME FROM OTHER SOURCES - CHARGING SECTION

Income of every kind which is **not to be excluded from the total income** under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads [56(1)]

In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head IFOS, namely :— [56(2)]

DIVIDEND [56(2)(I)]

Dividend Income shall include Deemed Dividend as referred to in Section 2(22) (a) to (e).

Deemed Dividend [2(22)]

- a) Any distribution of **accumulated profits**, in form of assets etc. [ASSETS]
- **Market value of such assets** shall be treated as **deemed dividend**
 - to the **extent** of **accumulated profit**
- b) Any **distribution** to its shareholders by a company of [BONUS]
- **Debenture, Debenture Stock** or Deposit Certificate in any form, whether with or without interest,
 - Any distribution of **Bonus Shares** to **PREFERENCE** shareholders
 - To the **extent** to which the company **possesses accumulated profits**,
 - Whether capitalised or not, will be deemed as dividend.
- The **market value** of such **bonus shares** is deemed as dividend in the hands of the preference shareholder. In the case of debentures, debenture stock etc., their value is to be taken at the **market rate** and if there is no market rate they should be valued according to accepted principles of valuation
Bonus shares issued to EQUITY Share Holders is not Deemed Dividend
- c) Any distribution made to the shareholders of a company on its **liquidation**, [CLOSURE]
- To the extent to which the distribution is **attributable** to the **accumulated profits** of the company
 - Immediately before its liquidation, whether capitalised or not, is deemed to be dividend income.
- Any distribution made out of the profits of the company **after the date** of the liquidation **cannot** amount to dividend. It is a repayment towards capital
- d) Any distribution to its shareholders by a company [DIMINISHING]
- on the **reduction** of its capital
 - to the extent to which the company possessed **accumulated profits**,
 - whether capitalised or not, shall be deemed to be dividend.
- e) Any payment by a company in which the public are **not substantially interested** of
- Any sum by way of **advance** or **loan**
 - To shareholder who is the beneficial owner of **10% or more** of the equity capital of the company or
 - To a **concern in which such shareholder** holds **substantial** interest (i.e. $\geq 20\%$)
 - Will be deemed to be dividend to the extent of the accumulated profits.

- If the loan is not covered by the accumulated profits, it is not deemed to be dividend.
- If the loan is granted in the **ordinary course** of its business and **lending of money** is a substantial part of the company's business, the loan or advance to a shareholder or to the specified concern is not deemed to be dividend
- Where a loan had been treated as dividend and subsequently the company declares and distributes dividend to all its shareholders including the borrowing shareholder, and the dividend so paid is set off by the company against the previous borrowing, the adjusted amount will not be again treated as a dividend.

Accumulated Profits

- Accumulated profits in point (a), (b), (d) and (e) above include all profits of the company up to the date of distribution or payment of dividend

Taxability of Dividend

- Section 8 provides that deemed dividend under section 2(22) declared by a company or distributed or paid by it shall be deemed to be the income of the previous year in which it is **declared, distributed or paid**, as the case may be.
- Any **interim dividend** shall be deemed to be the income of the previous year in which the amount is **unconditionally made available** to the member who is entitled to it.
- Any income by way of dividends received by a resident from a company, whether **domestic** or **foreign**, is taxable in the hands of a resident shareholder at **normal rates of tax**.

CASUAL INCOME [56(2)(ib)]

Casual income means income in the nature of

- Winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc.

Tax on Casual Income (Other than Online Games) [Section 115BB]

Tax on winnings from Online Games [Section 115BBJ]

- Such winnings are chargeable to tax at a flat rate of **30%** plus applicable **surcharge** and **Health & Education Cess@4%** [Section 115BB]
- **No expenditure** allowed as deductions from such income
- **No benefit** of Basic Exemption Limit is allowed
- **No deduction** under VI-A allowed against such income

Online Games : A game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device

INTEREST RECEIVED ON COMPENSATION/ ENHANCED COMPENSATION [56(2)(viii)]

Section 145B(1) provides that notwithstanding anything contained in section 145(1),

- The interest received by an assessee on compensation or on enhanced compensation
- Shall be deemed to be his income of the **previous year in which it is received**
- **50%** of such interest shall be allowed as **deduction** [Section 57]

ADVANCE FORFEITED DUE TO FAILURE OF NEGOTIATIONS [56(2)(ix)]

- Advance received **upto 31-03-2014** = Reduced from cost of acquisition of capital asset under the head Capital Gains in year in which **asset transferred**
- Advance received **after 31-03-2014** = Taxable under **IFOS** in **year of forfeiture**

COMPENSATION OR ANY OTHER PAYMENT RECEIVED IN CONNECTION WITH TERMINATION OF HIS EMPLOYMENT [56(2)(xi)]

- Any compensation or any other payment, due to or received by any person, by whatever name called, in connection with
- The **termination of his employment** or
- The **modification** of the terms and conditions relating thereto
- Shall be chargeable to tax under this head

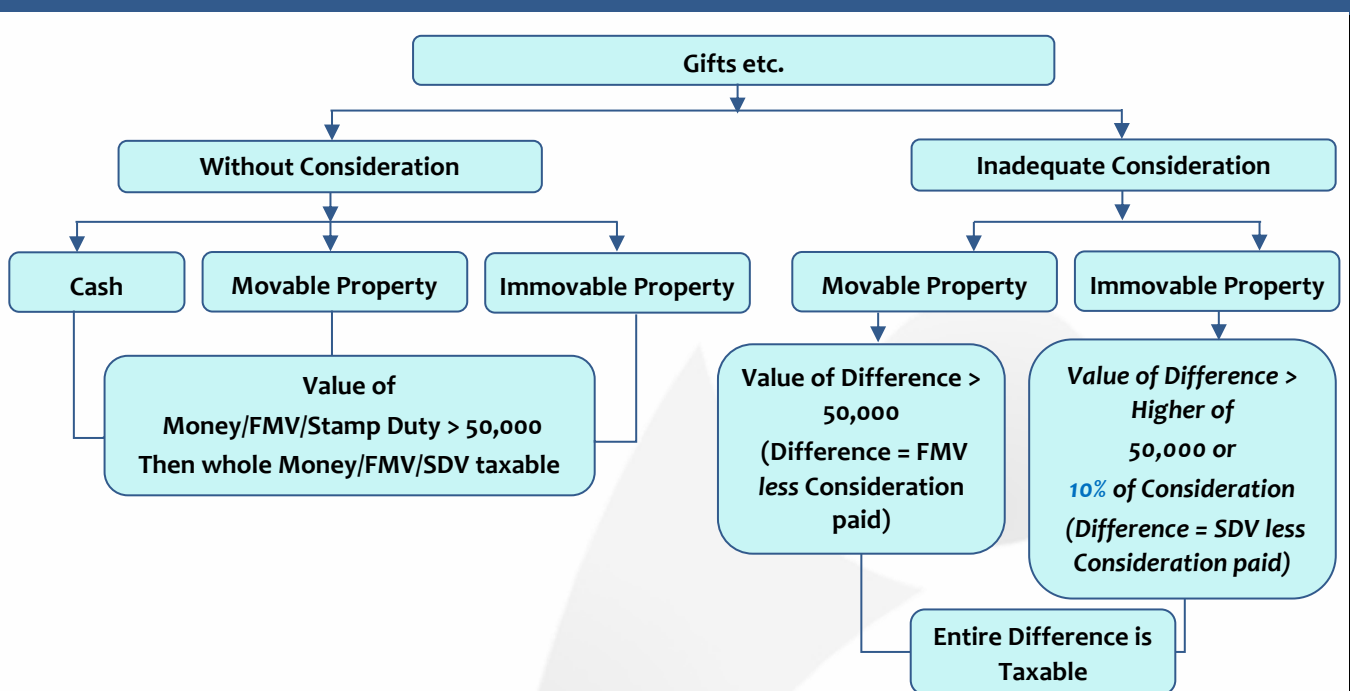
OTHER INCOME

- Salary received by an MPs/MLAs – it is not chargeable under the head ‘Salary’. However Daily Allowance & Constituency Allowance received is Exempt u/s 10(17)
- Interest on bank deposit. Interest earned on NRE A/c is exempt u/s 10(4) in the hands of person who is PROI as per FEMA.
- Interest on Loan given / Interest on Income tax refund.
- Interest on **Post Office** Saving Account (POSB)
 - Interest on Post Office Saving Account is exempt u/s 10(15)
 - ✓ 3500 in case of Single Account Holder
 - ✓ 7000 in case of Joint Account Holder
 - Deduction is also available u/s 80TTA / 80TTB
- Compensation received from CG / SG / Local Authority on account of any disaster is exempt u/s 10(10BC). However, if any damage or loss on account of disaster is allowed as deduction under any provision of the act, Exemption is not available.

Following income chargeable under IFOS only if not chargeable under PGBP

- Any sum received by an **employer-assessee** from his employees as **contributions** to any provident fund, superannuation fund or any other fund for the welfare of the employees
- Income from **letting out** on hire, **Machinery, Land, Plant** or **Furniture**
- Where letting out of buildings is **inseparable** from the letting out of machinery, plant or furniture, the income from such letting [Discussed in IFHP]
- Interest on securities
- Sum received (Including Bonus) under Life Insurance Policy which is not exempt u/s 10(10D) [Discussed Later on]
- **Keyman Insurance Policy**, if not chargeable to tax under PGBP or Salary. if sum is received by any person other than the employer who took the policy and employee in whose name the policy was taken

SECTION 56(2)(x) - TAXATION OF GIFTS



Tax implications for transfer of immovable property for inadequate consideration in the hands of seller shall be dealt as per Section 43CA (in case of Stock in trade) and 50C (in case of Capital Asset)

| | |
|----------------------------------|--|
| <p>Sum of Money</p> | <p>If any sum of money is received without consideration and the aggregate value of which exceeds ₹ 50,000, the whole of the aggregate value of such sum is chargeable to tax</p> |
| <p>Movable Property</p> | <p>Without consideration: The aggregate FMV of such property on the date of receipt would be taxed as the income of the recipient, if it exceeds ₹ 50,000.</p> <p>For inadequate consideration: If the difference between the aggregate FMV and such consideration exceeds ₹ 50,000, such difference would be taxed as the income of the recipient.</p> <p>Applicability of section 56(2)(x): The provisions of section 56(2)(x) would apply only to property which is the nature of a capital asset of the recipient and not stock-in-trade, raw material or consumable stores of any business of the recipient. Therefore, only transfer of a capital asset, without consideration or for inadequate consideration would attract the provisions of section 56(2)(x).</p> |
| <p>Immovable Property</p> | <p>Without consideration, The stamp duty value of such property would be taxed as the income of the recipient if it exceeds ₹ 50,000</p> <p>For Inadequate consideration: If consideration is less than the stamp duty value of the property and the difference between the stamp duty value and consideration is more than the higher of –</p> <ul style="list-style-type: none"> (i) ₹ 50,000 and (ii) 10% of consideration, |

| | | | | |
|---|---|--|---|---|
| | <p>the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the assessee as IFOS</p> <p>Date of Stamp Duty Value</p> <p>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,</p> <ul style="list-style-type: none"> - Date for the purpose of SDV <ul style="list-style-type: none"> ▪ Date of Agreement, in case of part/full payment made by an account payee cheque drawn on a bank or Account payee bank draft or use of ECS or Any other mode prescribed. ▪ Date of Registration – In any other case | | | |
| <p>Non-Applicability</p> | <p>Exempt Transaction</p> <p>Any sum of money or value of property received in the following circumstances would be outside the ambit of section 56(2)(x)</p> <ol style="list-style-type: none"> 1) From any relative or 2) On the occasion of the marriage of the individual; or 3) Under a will or by way of inheritance; or 4) In contemplation of death of the payer or donor, as the case may be; or 5) From any local authority as defined in the Explanation to section 10(20); or 6) From any fund or foundation or university or any trust or institution referred in section 10(23C); or 7) From any trust or institution registered under section 12AA; or 8) By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in Section 10(23C) (iv)/(v)/(vi)/(via) 9) By way of exempt transfer under clause referred in Section 47 or 10) From an individual by a trust created or established solely for the benefit of relative of Individual 11) Any amount received by person for treatment of COVID related illness for his own / Family Members 12) Any amount received by Family Member of deceased person where death caused due to COVID related illness <ul style="list-style-type: none"> From Employer – No Limit From Other Person – Upto ₹10 Lakh | | | |
| <p>Property</p> | <p>A capital asset of the assessee, namely, -</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> - Immovable property being land or building or both, - Shares and securities, - Jewellery, - Archaeological collections, </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> - Drawings, - Paintings, - Sculptures, - Any work of art or bullion - Virtual Digital Asset </td> </tr> </table> | | <ul style="list-style-type: none"> - Immovable property being land or building or both, - Shares and securities, - Jewellery, - Archaeological collections, | <ul style="list-style-type: none"> - Drawings, - Paintings, - Sculptures, - Any work of art or bullion - Virtual Digital Asset |
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| | | | |
|-----------------|----------|--|---|
| Relative | | | |
| | 1 | Spouse of | Individual Lineal ascendant / descendant of Individual Lineal ascendant / descendant of Spouse of Individual Brother / Sister of Individual Brother / Sister of Spouse of Individual Brother / Sister of Parents of Individual |
| | 2 | Brother or Sister of | Individual Spouse Parents of Individual |
| | 3 | Lineal ascendant or descendant of | Individual Spouse |
| | 4 | In case of HUF | Any member of HUF |

SECTION 56(2)(VIIB) – SHARES ISSUED AT PREMIUM BY CLOSELY HELD COMPANIES TO RESIDENT PERSON

Where consideration received

- From any Person (resident / *Non-Resident*)
- 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

Such excess is to be treated as the

- Income of a closely held company taxable under section 56(2) under the head IFOS,
- In cases where consideration received for issue of shares exceeds the face value of shares i.e. where shares are issued at a premium.

Issue price (Face Value + Premium) > FMV of Shares

Taxable Amount under IFOS = Issue Price less FMV of Shares, Taxable in the hands of Company.

If shares issued at Discount or Face Value, this section not attracted though issue price > FMV

FMV of the shares shall be the *higher of*, the value as may be

- 1) Determined in accordance with the **prescribed method** [Rule 11UA]; or
- 2) Substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets on the date of issue of shares.

For the purpose of computation of FMV, the value of assets would include the value of intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

SECTION 57 – DEDUCTIONS ALLOWED

The income chargeable under the head "Income from other sources" shall be computed after making the **following deductions**, namely

- 1) **In the case of dividends or Income in respect of a mutual fund**
 - Interest expenditure to earn such income is allowed as deduction subject to a **maximum of 20% of such income included** in the total income, without deduction under this section
- 2) **In the case of Interest on Securities**
 - Any **reasonable sum** paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee.
- 3) **Income consists of recovery from employees as contribution to any provident fund etc. in terms of section 2(24)(x):**
 - A deduction will be allowed in accordance with the provisions of section 36(1)(va) i.e. to the extent the contribution is remitted before the due date under the respective Acts
- 4) **Where the income to be charged under this head is from letting on hire of machinery, plant and furniture, with or without building:**
 - The following items of deductions are allowable in the computation of such income:
 - The amount paid on account of any **current repairs** to the machinery, plant or furniture.
 - The amount of any **premium** paid in respect of insurance against risk of damage or destruction of the machinery or plant or furniture.
 - The **normal depreciation** allowance in respect of the machinery, plant or furniture, due thereon.
- 5) **In the case of income in the nature of family pension: [Deduction also allowed default tax regime 115BAC]**
 - A deduction of a sum equal to
 - $33\frac{1}{3}$ percent of such income or
 - ₹ 15,000, whichever is **less**, is allowable.

For the purposes of this deduction "family pension" means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death

Exemption in respect of family pension

- a) 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 u/s 10(19).

- b) 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 other notified gallantry awards would be exempt u/s 10(18)(ii).

6) Any other expenditure

- Not being in the nature of **capital / Personal expenditure** laid out or
- Expended wholly and exclusively for the purpose of making or earning such income.

7) In case of interest on compensation/ enhanced compensation u/s 56(2)(viii):

- Deduction of **50% of such income**.
- No deduction would be allowable under any other clause of section 57 in respect of such income

SECTION 58 – DEDUCTIONS NOT ALLOWABLE

No deduction shall be made in computing the IFOS of an assessee in respect of the following items of expenses:

In the case of any assessee

- Any personal expense of the assessee;
- Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
- Any payment taxable in India as salaries, if it is payable outside India unless tax has been paid thereon or deducted at source

Any expenditure in respect of which a payment is made to a related person or made in cash in excess of ₹ 10,000

- 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 AO, 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 IFOS as well

Non deduction/deposit of TDS

- 30% of expenditure shall be disallowed,
- 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;
 - After deduction has **not been paid on or before the due date of return** specified u/s 139

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.

Exception, In case of **owner** of Race Horses

- 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.

SECTION 59 – DEEMED INCOME

The provisions of section 41(1) are made applicable, so far as may be, to the computation of income under this head. Accordingly,

- Where a deduction has been made in respect of a loss, expenditure or liability and
- Subsequently any amount is received or benefit is derived
- In respect of such expenditure incurred or loss or trading liability allowed as deduction,
- Then it shall be deemed as income in the year in which the amount is received or the benefit is accrued.

The Invictus

SECTION 60 – TRANSFER OF INCOME WITHOUT TRANSFER OF ASSET

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**.
- It is **immaterial** whether the transfer is **revocable** or **irrevocable** and whether it was made before the commencement of this Act or after its commencement.

SECTION 61 TO 63 – INCOME ARISING FROM REVOCABLE TRANSFER OF ASSET

All income arising to any person by virtue of a **revocable transfer** of **assets** is to be **included** in the total income of the **transferor**.

Revocable Transfer [Section 63]

Transfer is **deemed** to be **revocable** if

- a) It contains any provision for the **re-transfer**, 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 re-assume** power, directly or indirectly, over the whole or any part of the income or the assets.

This clubbing provision will operate **even if only part of income** of the transferred asset had been **applied** for the **benefit** of the **transferor**.

Once the transfer is **revocable**, the **entire income** from the transferred asset is includible in the total income of the **transferor**.

Exceptions, i.e. Clubbing provision shall not apply in case of revocable transfer [Section 62]

Section 61 will **not apply** to any income arising to any person in the following cases

- If there is a transfer of asset which is **not revocable** during the **life time** of the transferee, 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 transferee.

In the above case, 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 **even if actually** not **revoked**

Section 64 – Clubbing of Income of Spouse

Remuneration

[64(1)(ii)]

Income by way of remuneration from a concern in which the individual has substantial interest

- Income which 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 shall be included in the hands of Individual
- Exception**, clubbing provision shall not apply if spouse possesses qualification
- Clubbing provisions, however, does not apply where the spouse of the said individual
 - Possesses technical or professional qualifications and
 - The income to the spouse is solely attributable to the application of his/her technical or professional knowledge or experiences.
 - In such an event, the income arising to such spouse is to be assessed in his/her hands

Substantial Interest

| In case of Company | In any other case |
|--|--|
| <ul style="list-style-type: none"> – If equity shares carrying $\geq 20\%$ voting power are beneficially owned by such person or – Partly by such person and partly by one or more of his relatives at any time during the P.Y. | <ul style="list-style-type: none"> – If such person is entitled or – Such person and one or more of his relatives are entitled in the aggregate, – To receive 20% or more profit of such concern at any time during the P.Y |

Relative

- Husband, Wife, Brother or Sister or any Lineal Ascendant or Descendant of that Individual [2(41)].

Where Husband & Wife both have substantial interest in a concern

- Where both husband and wife have substantial interest in a concern and
- Both are in receipt of income by way of salary etc. from the said concern,
- Such income will be includible in the hands of that spouse,
- Whose total income, excluding such income (i.e. Salary) is higher.

Where any such income is once included in the total income of either spouse, income arising in the succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary to do so.

Transfer of Asset

[64(1)(iv)]

Income arising to spouse from an asset transferred without adequate consideration

- Where there is a transfer of an asset (other than house property covered u/s 27), directly or indirectly, from one spouse to the other,
- Otherwise than for adequate consideration
- Any income arising to the transferee-spouse from the transferred asset, either directly or indirectly,
- Shall be included in the total income of the transferor-spouse.

| | |
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| | <ul style="list-style-type: none"> – Asset Transferred with adequate consideration or in connection with an agreement to live apart, Clubbing Provision will not apply. – Relationship must subsist at time of transfer of the asset or at time of accrual of income. <p>Income from accretion of transferred asset</p> <ul style="list-style-type: none"> – It may be noted that any income from the accretion of the transferred asset is not to be clubbed with the income of the transferor. – The income arising on transferred assets alone have to be clubbed. However, income earned by investing such income (arising from transferred asset) cannot be clubbed <p>Transferred Asset Invested in business</p> <ul style="list-style-type: none"> – Where the assets transferred, directly or indirectly, by an individual to his spouse are invested by the transferee in the business, – Proportionate income arising from such investment is to be included in the total income of the transferor. – The investment is in the nature of contribution of capital, proportionate interest on capital will be clubbed with the income of the transferor. – Such proportion has to be computed by taking into account the value of the aforesaid investment as on the FIRST DAY OF THE PREVIOUS YEAR to the total investment in the business or – By way of capital contribution in a firm as a partner, as the case may be, by the transferee as on that day. |
| For benefit of Spouse [64(1) (vii)] | <p>Transfer of assets for the benefit of spouse</p> <ul style="list-style-type: none"> – All income arising directly or indirectly to any persons or AOP, – From the assets transferred, directly or indirectly, to such person or AOP – By an individual without adequate consideration – Is includible in the income of the transferor – to the extent such income is used by the transferee for the immediate or deferred benefit of the transferor's spouse |
| In case of Loss | <p>Income includes loss [Explanation 2 to section 64]</p> <ul style="list-style-type: none"> – It is significant to note that 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). |

Section 64 – Clubbing of Income arising to Son's Wife

| | |
|---|--|
| Transfer of Asset [64(1) (vi)] | <p>Income arising to son's wife from an asset transferred without adequate consideration by Father-in-Law or Mother-in-Law</p> <ul style="list-style-type: none"> – Where there is a transfer of an asset directly or indirectly, – By an individual to his or her son's wife – Otherwise than for adequate consideration – Any income arising to the son's wife from the transferred asset, either directly or indirectly, – Shall be included in the total income of the transferor <p>Transferred Asset Invested in business</p> <ul style="list-style-type: none"> – Where the assets transferred, directly or indirectly, by an individual to son's wife are invested by the transferee in the business, – Proportionate income arising from such investment is to be included in the total income of the transferor. – The investment is in the nature of contribution of capital, proportionate interest on capital will be clubbed with the income of the transferor. – Such proportion has to be computed by taking into account the value of the aforesaid investment as on the first day of the previous year to the total investment in the business or – By way of capital contribution in a firm as a partner, as the case may be, by the transferee as on that day. |
| For benefit of Son's wife [64(1) (viii)] | <p>Transfer of assets for the benefit of son's wife</p> <ul style="list-style-type: none"> – All income arising directly or indirectly to any persons or AOP, – From the assets transferred, directly or indirectly, to such person or AOP – By an individual without adequate consideration – Is includible in the income of the transferor to the extent such income is used by the transferee for the immediate or deferred benefit of the transferor's son's wife |

SECTION 64 (1A) – CLUBBING OF INCOME ARISING TO MINOR

All **income** of a **minor** is to be included in the income of his **parent**.

- However, the income derived by the minor **from manual work** or from any **activity** involving **his skill, talent** or **specialised knowledge** or experience will **not be included** in the income of **his parent**.
- The **income** of the minor will be **included** in the income of that **parent**, whose total income is **greater**.
- Once clubbing of minor's income is done with that of one parent, it will **continue to be clubbed** with that parent only, in subsequent years. The **Assessing Officer**, may, however, club the minor's income with that of the **other parent**, if, after giving the **other parent an opportunity** to be heard, **he is satisfied** that it is necessary to do so.
- Where the **marriage** of the **parents does not subsist**, the income of the minor will be **includible** in the **income** of **that parent** who maintains the **minor child** in the relevant previous year.
- However, the income of a **minor child** suffering from any **disability** of the **nature** specified in section 80U shall **not be included** in the hands of the **parent** but shall be assessed in the hands of the child.
- It may be noted that the **clubbing provisions** are attracted even in respect of **income of minor married daughter**

Exemption in respect of clubbed income of minor [10(32)]

- Parent shall be entitled to exemption of ₹ 1,500 in respect of each child
- However, if income of any minor so includible is less than ₹ 1,500, then the entire income shall be exempt

SECTION 64(2) – CONVERSION OF SELF-ACQUIRED PROPERTY INTO PROPERTY OF HUF**Members converts property into property of HUF**

- Where an individual, who is a member of the HUF, converts at any time after 31-12-1969, his individual property into property of the HUF of which he is a member or
- Throws such property into the common stock of the family or otherwise transfers such individual property, directly or indirectly, to the family
- Otherwise than for adequate consideration, the income from such property shall continue to be included in the total income of the individual

Converted property received by spouse in case of partition

- Where the converted property has been partitioned, either by way of total or partial partition,
- The income derived from such converted property as is received by the spouse on partition will be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and consequently,
- Such income shall also be included in the total income of the individual who effected the conversion of such property.

Converted property received by other member in case of partition

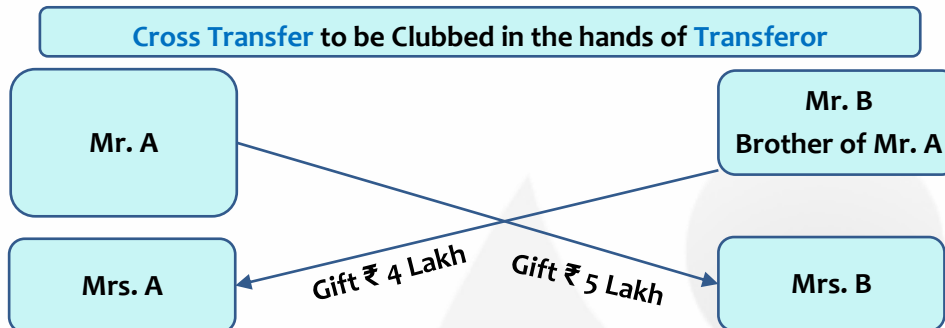
- Where income from the converted property is included in the total income of an individual under section 64(2),
- it will be excluded from the total income of the family or, as the case may be, of the spouse of the individual.

SECTION 65 – LIABILITY OF TRANSFEREE IN RESPECT OF INCOME CLUBBED IN THE HANDS OF TRANSFEROR

- Sections 61 to 64 provide for clubbing of income of one person in the hands of the other in circumstances specified therein.
- However, service of notice of demand (in respect of tax on such income) may be made upon the person to whom such asset is transferred (i.e. the transferee). In such a case, the transferee is liable to pay that portion of tax levied on the transferor which is attributable to the income so clubbed.
- Similar provision will be applicable in case of deemed ownership of house property under section 27 i.e., transfer of house property otherwise than for adequate consideration to spouse, not being in connection with agreement to live apart or to minor child not being a minor married daughter.

CROSS TRANSFER

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



- Interest @ 9% earned by Mrs. A ₹ 36,000 and Mrs. B ₹ 45,000 by Investing such amount
- Amount to the extent of ₹ 4,00,000 shall be considered as Cross Transfer in this case
- Hence, Interest of ₹ 36,000 shall be clubbed in the hands of Mr. A and Mr. B (not ₹ 45,000)

The Invictus

AGGREGATION OF INCOME

SECTION 68 – UNEXPLAINED CASH CREDIT

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 PY.

SECTION 69 – UNEXPLAINED INVESTMENT

Where in the FY immediately preceding the AY,

- the assessee has made investments which are not recorded in the books of account
- 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 is taxed as deemed income of the assessee of such financial year.

SECTION 69A – UNEXPLAINED MONEY ETC.

Where in any FY 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.
- Ownership is important and mere possession is not enough

SECTION 69B – AMOUNT OF INVESTMENTS ETC., NOT FULLY DISCLOSED IN THE BOOKS OF ACCOUNT

Where in any FY 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.

SECTION 69C – UNEXPLAINED EXPENDITURE

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

SECTION 69D – AMOUNT BORROWED OR REPAID ON HUNDI

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 PY in which the amount was **borrowed or repaid**, as the case may be.
- However, where any amount **borrowed** on a hundi has been **deemed** to be the **income** of any person,
- he will **not** be **again liable** to be assessed in respect of such amount **on repayment** of such amount.
- The **amount repaid** shall **include interest** paid on the amount borrowed

SECTION 115 BBE – RATE OF TAX ON UNEXPLAINED MONEY, INVESTMENTS ETC.

The unexplained money, investment, expenditure, etc. deemed as income under section 68/69/A/B/C/D would be taxed at the rate of

Tax @ 60% + Surcharge @ 25% + HEC @ 4% = Effective Tax Rate 78%

No BEL or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.

Further, **no set off** of **any loss** shall be allowable against income brought to tax under sections 68/69/A/B/C/D.

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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 the losses cannot be set off due to inadequacy of eligible profits, then such losses are carried forward to the next assessment year. (it is mandatory to set off the loss, if eligible profits are available)

| SECTION 70 TO 79 – INTER HEAD ADJUSTMENTS, SET OFF & CARRY FORWARD OF LOSSES | | | | |
|--|------------------------------------|---|--|--------------|
| Sr. No. | Loss under the Head | Current Year Loss can be set-off AGAINST [in Same AY] [Inter SOURCE or Inter HEAD] | Carried Forward Loss (Inter SOURCE Only) | |
| | | | Set off Against | No. of Years |
| 1 | House Property | IFHP – Full Loss All Other Head – Upto ₹ 2 Lakh | IFHP | 8 Years |
| Loss under IFHP cannot be set off against any other income under default tax regime u/s 115BAC | | | | |
| 2 | PGBP | | | |
| | – Normal Business | Any Head except Salary Salary ⊗ IFHP ✓ Normal Business ✓ Speculative Profit ✓ Specified Business Profit ✓ LTCG / STCG ✓ IFOS ✓ | Normal Business ✓ Speculative Profit ✓ Specified Business Profit ✓ | 8 Years |
| | – Speculation Business | Only Speculative Income | Speculative Income | 4 Years |
| | – Business Specified u/s 35AD | Specified Business u/s 35AD | Specified Business u/s 35AD | Indefinite |
| | – Owning & Maintaining Race Horses | Income from O & M of Race Horses only | Income from O & M of Race Horses | 4 Years |
| 3 | Capital Gains | | | |
| | – STCL | Only LTCG or STCG | LTCG or STCG | 8 Years |
| | – LTCL | Only LTCG | Only LTCG | 8 Years |
| 4 | IFOS | Any Income | No Carry Forward | |

- Loss from exempt source cannot be set off against taxable source of income
- B/F Loss can also be set-off even if it relates to business which is discontinued.

Following brought forward losses/ depreciation is not allowed to be set off while computing total income under default tax regime under section 115BAC

- 1) Brought forward loss from SOP
- 2) Brought forward business loss of Specified Business u/s 35AD
- 3) Brought forward business loss on account of deduction u/s 35 for Contribution given for Scientific Research
- 4) Unabsorbed depreciation attributable to additional depreciation u/s 32(1)(ia).

SECTION 80 – SUBMISSION OF RETURN FOR LOSSES

Assessee must have filed a **return of loss** under section 139(3) in order to carry forward and set off of

- **Business loss** to be carried forward under section 72(1)
- **Speculation business loss** to be carried forward under section 73(2)
- **Loss from specified business** to be carried forward under section 73A(2)
- **Loss under the head “Capital Gains”** to be carried forward under section 74(1) and
- **Loss** incurred in the activity of **owning** and **maintaining race horses** to be carried forward under section 74A(3)

In other words, the **non-filing** of a return of loss **disentitles** the assessee from **carrying forward** the above specified losses sustained by him. Such a **return** should be **filed within the time allowed** under section 139(1).

However, this condition does not apply to a **Loss from House Property** to be carried forward under section 71B and **Unabsorbed Depreciation** can be **carried forward** even if **return of loss has not been filed** as required under section 139(3)

The Invictus

HEADING B – PAYMENT BASED DEDUCTIONS

SECTION 80C – DEDUCTION IN RESPECT OF PREMIUM, HOUSING LOAN ETC.
[TO INDIVIDUAL OR HUF ONLY]

- 1 **PREMIUM PAID IN RESPECT OF LIFE INSURANCE POLICY**
- Premium paid for **life policy** or **endowment policy**
 - **In case of Individual** - Self, Spouse, Child (Major/Minor), Parents are not covered,
 - **In case of HUF** - Any Member

Deductions and Exemption Summary

| Policy Issue Date | Max Deduction u/s 80C | Exemption u/s 10(10D) |
|---|---|--|
| Before 01-04-2003 | Max 20% of Actual Capital Sum Assured | Any sum received under a LIP + Bonus is exempt |
| Between 01-04-2003 and 31-03-2012 | Max 20% of Actual Capital Sum Assured | Any sum received under a LIP + Bonus is exempt However, Exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 20% of “actual capital sum assured” and TDS @ 5% u/s 194DA is Applicable if Amount exceeds ₹ 1,00,000 |
| After 01-04-2012 but before 01-04-2013 | Max 10% of Actual Capital Sum Assured | Any sum received under a LIP + Bonus is exempt |
| On or After 01-04-2013 | In case of Person suffering from severe disability/ decease as referred to in Section 80U/80DDB <ul style="list-style-type: none"> ▪ 15% of Actual Capital Sum Assured Any Other Case <ul style="list-style-type: none"> ▪ 10% of Actual Capital Sum Assured | Any sum received under a LIP + Bonus is exempt However, Exemption would not be available if the premium payable for any of the years during the term of the policy exceeds 10% / 15% as the case may be of “actual capital sum assured” and TDS @ 5% u/s 194DA is Applicable if Amount exceeds ₹ 1,00,000 |

Any sum received under LIP including the sum allocated by way of bonus on **death** of a person is exempt

| | |
|---|--|
| | <p>Explanation –</p> <p>In calculating any such actual capital sum assured, no accounts shall be taken –</p> <ul style="list-style-type: none"> ▪ of the value of any premiums agreed to be returned, or ▪ of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person. <p>Withdrawal of Deduction – Deduction claimed earlier will be taxable.</p> <ul style="list-style-type: none"> – if assessee terminates his contract of insurance by not paying the premium or by not reviving the contract of insurance, - <ul style="list-style-type: none"> ▪ Within two years after the date of commencement of insurance - In case of any single premium policy or ▪ Before premiums have been paid for two years - In any other case, or |
| 2 | <p>PREMIUM PAID IN RESPECT OF CONTRACT OF DEFERRED ANNUITY</p> <ul style="list-style-type: none"> – Premium paid to effect and keep in force a contract for a deferred annuity on the life of the <ul style="list-style-type: none"> ▪ Individual – Self, spouse or any child, – provided such contract does not contain any provision for the exercise by the insured of an option to receive cash payments in lieu of the payment of the annuity. |
| 3 | <p>AMOUNT DEDUCTED FROM SALARY OF GOVT. EMPLOYEE FOR DEFERRED ANNUITY</p> <ul style="list-style-type: none"> – Amount deducted from the salary of government employee in accordance with the conditions of service – for securing a deferred annuity or making provision for his spouse or his children. <ul style="list-style-type: none"> ▪ Max. Allowable deduction – 1/5th of the Salary |
| 4 | <p>CONTRIBUTION OF PPF/SPF/RPF</p> <ul style="list-style-type: none"> – Contributions to any provident fund to which the Provident Funds Act, 1925 applies and recognized provident fund qualifies for deduction under section 80C <ul style="list-style-type: none"> ▪ Individual Only – Contribution made to any Provident Fund set up by the Central Government and notified in his behalf i.e. Public Provident Fund (PPF) <ul style="list-style-type: none"> ▪ In case of Individual – Self, spouse or any child ▪ In case of HUF – Any Member of HUF |
| 5 | <p>CONTRIBUTION TO AN APPROVED SUPERANNUATION FUND</p> |
| 6 | <p>ANY SUM PAID OR DEPOSITED IN SUKANYA SAMRIDDHI ACCOUNT</p> <ul style="list-style-type: none"> – Accordingly, Sukanya Samriddhi Scheme has been notified to provide that any sum paid or deposited during the previous year in the said Scheme, by an individual in the name of – <ul style="list-style-type: none"> ▪ the individual himself or herself; ▪ any girl child of the individual; or ▪ any girl child for whom such individual is the legal guardian <p>Exemption : Any Interest Accruing to Account shall be exempt u/s 10(11A)</p> |
| 7 | <p>SUBSCRIPTION TO NATIONAL SAVINGS CERTIFICATES VIII</p> |
| 8 | <p>CONTRIBUTION IN UNIT-LINKED INSURANCE PLAN, 1971 (ULIP) & ULIP of LIC MUTUAL FUND</p> <ul style="list-style-type: none"> – Contributions for participation in the Unit-linked Insurance Plan, 1971. of LIC Mutual Fund <ul style="list-style-type: none"> ▪ In case of Individual – Self, spouse or any child |

| | |
|----|---|
| | <ul style="list-style-type: none"> ▪ In case of HUF – Any Member of HUF |
| 9 | CONTRIBUTION TO APPROVED ANNUITY PLAN OF LIC or OTHER INSURER |
| 10 | SUBSCRIPTION TOWARDS NOTIFIED UNITS OF MUTUAL FUND OR UTI (TAX SAVER UNITS) |
| 11 | CONTRIBUTION TO NOTIFIED PENSION FUND SET UP BY MUTUAL FUND OR UTI |
| 12 | <p>TUITION FEES WHETHER AT THE TIME OF ADMISSION OR THEREAFTER, —</p> <ul style="list-style-type: none"> – Excluding any payment towards any development fees or donation or payment of similar nature – to any university, college, school or other educational institution situated within India; <ul style="list-style-type: none"> ▪ For TWO children of Individual |
| 13 | <p>PRINCIPAL REPAYMENT OF HOUSING LOAN</p> <ul style="list-style-type: none"> – Any payment made for the purchase or construction of a residential house property the income from which is <ul style="list-style-type: none"> ▪ Chargeable to tax under the head "Income from house property" or ▪ would have been chargeable to tax under the head "Income from house property" had it not been used for the assessee's own residence [If asset used for the purpose of Business, Deduction is not allowed] <p>Admissible Payments</p> <ul style="list-style-type: none"> – Any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or – Any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or – Stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee <p>Repayment of the amount borrowed by the assessee from—</p> <ol style="list-style-type: none"> 1) the Central Government or any State Government, or 2) any bank, including a co-operative bank, or 3) the Life Insurance Corporation, or 4) the National Housing Bank, or 5) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under clause (viii) of sub-section (1) of section 36, or 6) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or 7) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or 8) the assessee's employer where such employer is a public company or a public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society; or |

| | |
|---|---|
| | <p>Exclusions / Inadmissible Payments</p> <ul style="list-style-type: none"> – The admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or – The cost of any addition or alteration to, or renovation or repair of, the house property which is carried out <ul style="list-style-type: none"> ▪ after the issue of the completion certificate in respect of the house property by the authority competent to issue such certificate or ▪ after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or ▪ been let out – Any expenditure in respect of which deduction is allowable under the provisions of section 24; i.e. Interest on Housing Loan – Allowed as deduction under IFHP |
| 14 | <p>SUBSCRIPTION TO CERTAIN UNITS OF MUTUAL FUND</p> <ul style="list-style-type: none"> – Units of any mutual fund referred to in section 10(23D) and approved by the Board on an application made by such mutual fund in the prescribed form. – It is necessary that such units should be subscribed only in the eligible issue of capital of any company. – Meaning of “eligible issue of capital” is same as assigned above. |
| 15 | <p>FIVE YEAR TERM DEPOSIT WITH SCHEDULED BANK</p> <ul style="list-style-type: none"> – Investment in term deposit – for a fixed period of not less than five years with a scheduled bank; and – which is in accordance with a scheme framed and notified, by the Central Government, in the Official Gazette for the purposes of this clause. |
| 16 | FIVE YEAR TIME DEPOSIT WITH POST OFFICE |
| 17 | SUBSCRIPTION OF NOTIFIED BONDS ISSUED BY NABARD |
| 18 | DEPOSIT IN SENIOR CITIZENS SAVINGS SCHEME |
| 19 | <p>CONTRIBUTION TO ADDITIONAL ACCOUNT UNDER NPS</p> <ul style="list-style-type: none"> – 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. |
| <p>WITHDRAWAL OF DEDUCTIONS IN CERTAIN CASES</p> <p>Where, in any previous year, an assessee:</p> <p>Participation in ULIP referred to in (8) & (9) above</p> <ul style="list-style-type: none"> – Terminates his participation in any ULIP – by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, – before contributions in respect of such participation have been paid for five years, | |

Transfers the house property referred to in (13) above

- before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or
- receives back, whether by way of refund or otherwise, any sum specified in (16) above,

Consequences of termination/transfer

- No deduction will be allowed to the assessee in respect of sums paid during such previous year and
- total amount of deductions of income allowed in respect of the previous year or years preceding such previous year,
- shall be deemed to be income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

Withdrawal amount from Senior Citizen Savings Scheme or Post Office Time Deposit

- Further, where any amount is withdrawn by the assessee from his account under the
 - Senior Citizens Savings Scheme or
 - Post Office Time Deposit Rules
- before the expiry of a period of 5 years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn.
- Accordingly, the amount so withdrawn would be chargeable to tax in the assessment year relevant to such previous year.
- The amount chargeable to tax would also include that part of the amount withdrawn which represents interest accrued on the deposit.
- However, if any part of the amount relating to interest so received or withdrawn has been subject to tax in any of the earlier years, such amount shall not be taxed again.
- If any amount has been received by the nominee or legal heir of the assessee, on the death of such assessee, the amount would not be chargeable to tax.
- But if the amount relating to interest on deposit was not included in the total income of the assessee in any of any earlier years, then such interest would be chargeable to tax.

SECTION 80CCC – CONTRIBUTION TO CERTAIN PENSION FUNDS [INDIVIDUAL ONLY]

Any amount deposited out of income chargeable to tax to effect or keep in force

- a contract for any annuity plan of LIC of India or
- any other insurer
- for receiving pension from the fund set up by LIC or such other insurer,
- he shall be allowed a deduction in the computation of his total income.
 - **Maximum Deduction = ₹ 1,50,000** [within overall limit specified u/s 80CCE]

For this purpose, the interest or bonus accrued or credited to the assessee's account shall not be reckoned as contribution.

Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section, a deduction under section 80C shall not be allowed with reference to such amount.

Deemed Income

- Where any amount standing to the credit of the assessee in the fund in respect of which a deduction has been allowed,

- together with interest or bonus accrued or credited to the assessee's account is received by the assessee or his nominee
- on account of the **surrender of the annuity plan in any previous year** or as **pension received** from the annuity plan,
- such amount will be **deemed to be the income** of the assessee or the nominee in that previous year in which such withdrawal is made or pension is received. It will be chargeable to tax as income of that previous year

SECTION 80CCD – CONTRIBUTION TO PENSION SCHEME NOTIFIED BY CG [INDIVIDUAL ONLY]

CG has notified 'Atal Pension Yojana' as a pension scheme

Deduction Amount

80CCD (1) – Employee's Contribution

- **Employees of CG on or after 01-04-2004** = 10% of Salary
- **Other Employees** = 10% of Salary
- **Any other Individual (Self Employed)** = 20% of Gross Total Income

80CCD (1B) – Employee's Contribution

- Deduction **upto ₹ 50,000** [Over & above limit of ₹ 1,50,000 specified u/s 80CCE]
- However, any amount claimed and allowed as deduction u/s **80CCD(1) shall be excluded**

80CCD (2) – CG or Employer's Contribution

- CG or Employer's Contribution shall be **included as Salary u/s 17(1)(viii)**
- **Deduction Allowed** shall be restricted to
 - **14% of Salary** in case of Contribution made by **CG**
 - **10% of Salary** in case of Contribution made by **Other Employer**

Salary = Basic Salary + Dearness Allowance (if terms of employment so provide)

Deemed Income

- Where any amount standing to the credit of the assessee in the fund in respect of which a deduction has been allowed,
- together with accretions to such **amounts received by the assessee** or **his nominee** on
 - a) **Closure** of Account
 - b) His **opting out** of the said scheme
 - c) **Receipt of pension** from the annuity plan purchased or taken on such closure or opting out
- However, the amount received by the nominee on the **death of the assessee** under the circumstances referred to in (a) and (b) above, shall **not be deemed to be the income** of the **nominee**.
- Further, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year

SECTION 80CCE – CEILING LIMIT

- **Maximum** Deduction Allowed
- **80C + 80CCC + 80CCD(1) = ₹ 1,50,000**

SECTION 80CCH – DEDUCTION IN RESPECT OF AGNIPATH SCHEME

[FA 2023]

80CCH(1) – Any Contribution by **Agniveer (Employee)** to Agniveer Corpus Fund
[No deduction under default regime 115BAC]

80CCH(2) – Any Contribution by **Central Govt.** to Agniveer Corpus Fund
[Deduction **allowed** under **BOTH** regime 115BAC]

Exemption – Any payment from the Agnipath Corpus Fund to a **person enrolled** under the Agnipath Scheme or to **his nominee** would be exempt from tax. [Section 10(12C)]

SECTION 80D – MEDICAL INSURANCE PREMIUM [INDIVIDUAL & HUF ONLY]

- Any amount to effect or keep in force an **insurance on the health** or
- any **contribution** made to the Central Government Health Scheme (**CGHS**) or
- Contributory Health Service Scheme of the Department of Atomic Energy (Notified by CG)

Deduction Allowable**Medical Insurance Premium [Paid by any mode OTHER THAN CASH]**

- For Self, Spouse, **Dependent** Child or Member of HUF = ₹ 25,000
- For **Parents** (either or both parents) = ₹ 25,000
- If above persons are **RESIDENT & Senior Citizen** = ₹ 50,000

Preventive Health Check-up [Paid by any mode INCLUDING CASH]

- For Self, Spouse, **Dependent** Child, **Parents** or **Member** of HUF = ₹ 5,000
- If above persons are **RESIDENT Senior Citizen &** = ₹ 50,000

No payment has been **made for Medical Insurance** Premium

Aggregate payment of medical **premium** and **preventive health check-up** shall be subject to **overall limit** of ₹ 25,000 and ₹ 50,000 as the case may be

Lump sum payment of medical insurance premium [Section 80D(4A)]

- In a case where **Mediclaim premium is paid in lump sum** for more than one year by:
 - An individual, to effect or keep in force an insurance on his health or health of his spouse, **dependent** children or parents; or
 - A HUF, to effect or keep in force an insurance on the health of any member of the family,
- then, the deduction allowable under this section for each of the relevant previous year would be equal to the **appropriate fraction** of such lump sum payment

Appropriate Fraction = $1 \div \text{Total Number of relevant previous years}$

Relevant Previous Year = The **PY** in which lump sum amount is paid **and subsequent PYs** during which the insurance would be in force

SECTION 80DD – MAINTENANCE & MEDICAL TREATMENT OF DEPENDENT DISABLED [RESI. INDI. & HUF]**Eligible Payments**

- Medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability, or
- Paid or deposited under a scheme framed in this behalf by the LIC or any other insurer
- Payment of annuity or a lump sum amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual or member of the HUF, in whose name subscription was made and the assessee must nominate either the dependant, being a person with disability or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.
- The benefit of deduction under this section is also available to assessee incurring expenditure on maintenance including medical treatment of persons suffering from autism, cerebral palsy and multiple disabilities

Quantum of Deductions

- Normal Disability = ₹ 75,000
- Severe Disability (80% or more disability) = ₹ 1,25,000

Meaning of Dependent [Mainly or Wholly Dependent]

- Individual = Spouse, Children, Parents, Brother or Sister of Individual
- HUF = Member of HUF
- Above dependents are not claiming deductions u/s 80U

SECTION 80DDB – DEDUCTION IN RESPECT OF MEDICAL TREATMENT ETC. [RESI. INDI. & HUF]**Eligible Payments**

- Any amount actually paid for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board for himself or a dependant, in case the assessee is an individual or for any member of a HUF, in case the assessee is a HUF will qualify for deduction

Quantum of Deductions

- Amount actually paid during the previous year for such treatment as reduced by the amount received, if any, under insurance from an insurer, or reimbursed by an employer
- Maximum deduction allowable
 - A Resident Senior Citizen = ₹ 1,00,000
 - Other than Senior Citizen = ₹ 40,000

Meaning of Dependent [Mainly or Wholly Dependent]

- Individual = Spouse, Children, Parents, Brother or Sister of Individual or any of them
- HUF = Member of HUF – Wholly or Mainly dependent
- Above dependents are not claiming deductions u/s 80U

SECTION 80E – INTEREST ON LOAN TAKEN FOR HIGHER EDUCATION [INDIVIDUAL]**Eligible Payments**

- Interest on loan taken for the purpose of pursuing **higher education** or **himself** or **his relative**
- The loan must have been taken from any **financial institution** or **approved charitable institution**

Period of Deductions

- The deduction is allowed in computing the total income in respect of the **initial AY** (i.e. the AY relevant to the PY, in which the assessee starts paying the interest on the loan)
- **and 7 AYs immediately succeeding** the initial AY or
- **until the interest is paid in full** by the assessee,
- whichever is **earlier**.

Meaning of Certain Terms**Relative**

- **Spouse** or **Children** of the Individual
- **Student** for whom the Individual is the **legal guardian**

Higher Education

- It means any course of study (including **vocational studies**) pursued after passing the **Senior Secondary Examination** or its equivalent
- from any **school, board** or **university** recognised by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so.
- Therefore, interest on loan taken for pursuing any course after **Class XII** or its equivalent, **will qualify** for deduction under section 80E.

Approved charitable institution

- It means an institution established for charitable purposes and approved by the prescribed authority under section 10(23C) or an institution referred to in section 80G(2)(a)

Financial institution

- A **banking company** or
- Any other financial institution which the **CG** may specify in this behalf

SECTION 80EE – INTEREST ON LOAN FOR ACQUISITION OF SELF OCCUPIED PROPERTY [INDIVIDUAL]**Eligible Payments**

- Interest on loan taken by an individual for acquisition of **residential house property** from any **Financial Institution** or A **Housing Finance Company (HFC)**

Quantum of Deduction

- **Maximum** Deduction = ₹ 50,000
- **Over and above** deduction of ₹ 2,00,000 specified **u/s 24(b)**
- **Deduction** under this section would be available **till the repayment of loan**

Conditions for Deductions

- Value of House \leq ₹ 50 Lakhs
- Amount of Loan \leq ₹ 35 Lakhs
- Loan should be sanctioned during the PY 2016-17
- The assessee should not own any residential house on the date of sanction of loan

Meaning of Certain Terms**Financial Institution or Housing Finance Company (HFC)**

- A Banking company
- HFC is company with main object of providing long term finance for construction of purchase of houses in India

SECTION 80EEA – INTEREST PAYABLE ON LOAN TAKEN FOR ACQUISITION OF RESIDENTIAL HOUSE PROPERTY [INDIVIDUAL]**Eligible Payments**

- Interest on loan taken by an individual for acquisition of residential house property from any Financial Institution or A HFC

Quantum of Deduction

- Maximum Deduction = ₹ 1,50,000
- Over and above deduction of ₹ 2,00,000 specified u/s 24(b)
- Deduction under this section would be available till the repayment of loan

Conditions for Deductions

- Stamp Duty Value of House \leq ₹ 45 Lakhs
- Loan should be sanctioned during the Period between 1st April 2019 to 31st March 2022
- The assessee should not own any residential house on the date of sanction of loan

No deduction allowed under any other provision of the act

The interest allowed as deduction under section 80EEA will not be allowed as deduction under any other provision of the Act for the same or any other assessment year

Deduction u/s 80EEA vis-à-vis deduction u/s 24(b)

In respect of self-occupied house property, interest deduction under section 24(b) is restricted to ₹ 2,00,000. In case of let out or deemed to be let out property, even though there is no limit under section 24(b), section 71(3A) restricts the amount of loss from house property to be set-off against any other head of income to ₹ 2,00,000. Accordingly, if interest payable in respect of acquisition of eligible house property is more than ₹ 2,00,000, the excess can be claimed as deduction under section 80EEA, subject to fulfilment of conditions

Meaning of Certain Terms**Financial Institution or Housing Finance Company (HFC)**

- A Banking company
- HFC is company with main object of providing long term finance for construction of purchase of houses in India

SECTION 80EEB – INTEREST PAYABLE ON LOAN TAKEN FOR PURCHASE OF ELECTRIC VEHICLE [INDIVIDUAL ONLY]

Eligible Payments

- Interest on loan taken by an individual for purchase of an electric vehicle from any financial institution

Quantum of Deduction

- Maximum Deduction = ₹ 1,50,000
- Deduction under this section would be available till the repayment of loan

Conditions for Deductions

- Loan should be sanctioned during the period between 01-04-2019 to 31-03-2023
- Loan should be sanctioned by a Financial Institution (Bank or Specified NBFCs)

No deduction allowed under any other provision of the act

The interest allowed as deduction under section 80EEB will not be allowed as deduction under any other provision of the Act for the same or any other assessment year

Meaning of Certain Terms

Financial Institution

- A Banking company
- Any deposit taking NBFC
- A systematically important non-deposit taking NBFC (i.e. NBFC not accepting or holding public deposit and total assets of not less than ₹ 500 cr. as per the last audited balance sheet and it is registered with RBI)

SECTION 80G – DONATION [ANY ASSESSEE]

Eligible Payments

- Any sum as donation to eligible funds or institutions, he is entitled to a deduction, subject to certain limitations, from the gross total income

Quantum of Deduction

- **A1 Category** = Donation qualifying for 100% deduction, without any qualifying limit
- **A2 Category** = Donation qualifying for 50% deduction, without any qualifying limit
- **B1 Category** = Donation qualifying for 100% deduction, subject to qualifying limit
- **B2 Category** = Donation qualifying for 50% deduction, subject to qualifying limit

Qualifying Limit

| Step-1 | Compute Adjusted Total Income (ATI) | |
|--------|--|------|
| | Gross Total Income | XXXX |
| | Less: Deductions under Chapter VI-A, except under section 80G | XXXX |
| | STCG (section 111A) | XXXX |
| | LTCC (section 112 & 112A) | XXXX |
| | Any income on which income-tax is not payable | XXXX |
| | Income referred to in section 115A(1)(a), 115AB, 115AC, 115AD and 115D | XXXX |

| | | |
|--------|---|------|
| Step-2 | Calculate 10% of ATI | XXXX |
| Step-3 | Calculate the actual donation, which is subject to qualifying limit (Total of Category B1 and B2 donations) | XXXX |
| Step-4 | Lower of Step 2 or Step 3 is the Maximum Permissible Deduction. | XXXX |
| Step-5 | The said deduction is adjusted First against donations qualifying for 100% deduction (B1 Category) Thereafter, 50% of balance qualifies for deduction for B2 Category | XXXX |

Conditions for Deductions

Donation to any institution or fund established in India for charitable purposes fulfilling prescribed conditions under section 80G (5).

- 1) The institution or fund is:
 - Constituted as a public charitable trust, or
 - Registered under the Societies Registration Act, 1860 or under any corresponding law or under section 8 of the Companies Act, 2013, or
 - A University established by law or
 - Any other educational institution recognized by the Government or by a university established by law or affiliated to any university established by law
 - An institution financed wholly or in part by the Government or a local authority.
- 2) Where such institution or fund derives any income, such income should not be liable to inclusion in its total income under the provisions of section 10(23AA), 10(23C) or 11 or 12.
- 3) Such institution or fund must be approved by the Commissioner in accordance with the rules made in this behalf

Other Points

- Where an assessee has claimed and has been allowed any deduction under this section in respect of any amount of donation, the same amount will **not qualify for deduction under any other provision** of the Act for the same or any other assessment year.
- Donations **in kind shall not qualify** for deduction.
- **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.**
- **The deduction under section 80G can be claimed whether it has any nexus with the business of the assessee or not.**

Categories of Deduction

| A1 | DONATION QUALIFYING FOR 100% DEDUCTION, WITHOUT ANY QUALIFYING LIMIT |
|----|--|
| 1 | The National Defence Fund set up by the Central Government |
| 2 | Prime Minister's National Relief Fund. |
| 3 | Prime Minister's Armenia Earthquake Relief Fund |
| 4 | The Africa (Public Contributions-India) Fund |
| 5 | The National Children's Fund |
| 6 | The National Foundation for Communal Harmony |
| 7 | Approved University or educational institution of national eminence |
| 8 | Chief Minister's Earthquake Relief Fund, Maharashtra |
| 9 | Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of the Gujarat earthquake |

| | |
|-----------|---|
| 10 | Any Zila Saksharta Samiti for primary education in villages and towns and for literacy and post-literacy activities |
| 11 | National Blood Transfusion Council or any State Blood Transfusion Council whose sole objective is the control, supervision, regulation or encouragement of operation and requirements of blood banks |
| 12 | Any State Government Fund set up to provide medical relief to the poor |
| 13 | 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 dependants. |
| 14 | The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996 |
| 15 | The National Illness Assistance Fund |
| 16 | The Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund in respect of any State or Union Territory |
| 17 | The National Sports Fund set up by the Central Government |
| 18 | The National Cultural Fund set up by the Central Government |
| 19 | The Fund for Technology Development and Application set up by the Central Government |
| 20 | National Trust for welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities |
| 21 | 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 |
| 22 | 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 |
| 23 | The National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985 |
| 24 | PM Cares Fund |
| A2 | Donation qualifying for 50% deduction, without any qualifying limit |
| 1 | The Jawaharlal Nehru Memorial Fund [Deleted FA 2023] |
| 2 | Prime Minister's Drought Relief Fund |
| 3 | Indira Gandhi Memorial Trust [Deleted FA 2023] |
| 4 | Rajiv Gandhi Foundation [Deleted FA 2023] |
| B1 | Donation qualifying for 100% deduction, subject to qualifying limit |
| 1 | The Government or to any such local authority, institution or association as may be approved for promotion of family planning |
| 2 | 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 established <ul style="list-style-type: none"> - For the development of infrastructure for sports or games, or - The sponsorship of sports and games in India |
| B2 | Donation qualifying for 50% deduction, subject to qualifying limit |
| 1 | Any Institution or Fund established in India for charitable purposes fulfilling prescribed conditions under section 80G(5). |
| 2 | The Government or any local authority for utilisation for any charitable purpose other than the purpose of promoting family planning. |

| | |
|---|--|
| 3 | An authority constituted in India by or under any other law enacted either for the purpose <ul style="list-style-type: none"> – of dealing with and satisfying the need for housing accommodation or – of planning, development or improvement of cities, towns and villages, or both. |
| 4 | Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community as referred in section 10(26BB). |
| 5 | for renovation or repair of any such temple, mosque, gurdwara, church or other place as notified by the Central Government to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States. |

SECTION 80GG – DEDUCTION IN RESPECT OF RENT PAID

Eligible Payments

- Deduction in respect of **rent paid**

Quantum of Deduction

Lower of the following

- **Actual Rent Paid less 10% of Total Income** of the Assessee before deduction under this section
- **25% of such total income** (arrived at after making all deductions under Chapter VI-A but before making any deduction under this section),
- **₹ 5,000 p.m.**

Conditions for Deductions

- The assessee should **not be receiving any HRA** exempt under section 10(13A).
- The accommodation should be **occupied** by the assessee for the purposes of **his own residence**.
- The **assessee** or his **spouse** or **his minor child** or **an HUF** of which he is a member **should not own** any accommodation **at the place where he ordinarily resides or perform duties** of his office or employment or carries on his business or profession; or
- If the assessee **owns** any accommodation at **any place other than that referred to above**, such accommodation **should not be in the occupation of the assessee** and its **annual value is not required** to be determined under section 23(2)(a) or section 23(4)(a).
- The assessee **should file a declaration** in the prescribed form, confirming the details of rent paid and fulfilment of other conditions, with the return of income.

SECTION 80GGA – DEDUCTION IN RESPECT OF DONATIONS FOR SCIENTIFIC RESEARCH & RURAL DEVELOPMENT

Donation for Scientific Research & Rural Development By assessee **not** having income from **PGBP**

- **No deductions** allowed in respect of sum paid in Cash
- **Exceeding ₹ 2,000**

SECTION 80GGB – CONTRIBUTIONS GIVEN BY COMPANIES TO POLITICAL PARTIES [ONLY COMPANIES]

Contributions given by **companies** to **Political Parties** or **Electoral Trust** or

Expenditure incurred on **advertisement** in publication of political party

- **No deductions** allowed in respect of sum paid in **cash**
- Expenditure incurred shall be **disallowed u/s 37** and **allowed as deductions u/s 80GGB**

SECTION 80GGC – CONTRIBUTIONS GIVEN BY ANY PERSON TO POLITICAL PARTIES [ANY PERSON]

Contributions given person to Political Parties or Electoral Trust or Expenditure incurred on advertisement in publication of political party

- No deductions allowed in respect of any amount paid in cash
- Local Authorities or AJP wholly or partly funded with Govt. are not eligible

HEADING C – DEDUCTIONS IN RESPECT OF CERTAIN INCOME

| | |
|--|--|
| 80JJAA (Assessee to whom section 44AB applies) | Deductions in respect of employment of New Employees <ul style="list-style-type: none"> ▪ Quantum of Deductions: 30% of the additional employee cost ▪ Period of Deductions: 3 Ays including the year in which employment provided <p>– Additional Employee = Total Employees employed during the PY <i>excluding</i></p> <ul style="list-style-type: none"> ▪ Casual Employees or Employees who do not participate in RPF or ▪ Employees whose emoluments > 25,000 pm. or ▪ An employee employed for less than 240 days (Apparel or Footwear or Leather Products Business 150 days) during PY ▪ If an employee is employed during the previous year for less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year. ▪ Accordingly, the employer would be entitled to deduction of 30% of additional employee cost of such employees in the succeeding year |
| 80QQB (Resi. Individual) | Royalty from the books of literacy, artistic or scientific nature <ul style="list-style-type: none"> ▪ Deductions : Eligible royalty (Max 3,00,000) <p>Eligible royalty:</p> <ul style="list-style-type: none"> ▪ Where lump sum royalty received – Amount of royalty received ▪ Other case – 15% of value of books sold |
| 80RRB (Resi. Individual) | Royalty from Patents <ul style="list-style-type: none"> ▪ Deductions : Actual Royalty (Max 3,00,000) <p>If royalty is earned outside India, then deduction allowed only if such royalty brought to India in convertible foreign exchange within 6 months from the end of PY or such period allowed by RBI</p> |
| 80TTA (Individual & HUF) | Interest earned in saving account with Banks/Co-Op Societies/Post Office <ul style="list-style-type: none"> ▪ Deductions : Actual Interest (Max 10,000) ▪ Eligible assessee shall be Individual & HUF <i>excluding</i> Senior Citizen |
| 80TTB [Newly Inserted Section by FA 2018] | Deduction in respect of interest on deposits [Saving + FD] in case of RESIDENT senior citizens <ul style="list-style-type: none"> ▪ Having income by way of interest on deposits with Bank/Co-Op Societies/Post Office ▪ Deduction allowed = Max 50,000 of aggregate interest |

OTHER DEDUCTIONS

| | |
|------------------------------|--|
| 80U (Resident Individual) | Deductions in respect of person with disability <ul style="list-style-type: none"><li data-bbox="379 277 1145 315">▪ Deductions : 75,000 or 1,25,000 in case of severe disability |
|------------------------------|--|



The Invictus

SECTION 190 – DEDUCTION AT SOURCE AND ADVANCE PAYMENT

Income shall be assessed in AY however, tax on such income shall be recovered in PY through TDS or TCS or Advance Tax

Any balance tax payable shall be paid by Self-Assessment tax u/s 140A in AY

SECTION 191 – DIRECT PAYMENT

- Tax shall be directly paid by assessee if,
 - Income in respect of which tax not required to be deducted at source
 - Tax liable to be deducted but not deducted at source
- If person responsible to deduct tax including principal officer of the company,
 - Fails to deduct the tax or after deducting fails to pay the same
 - And assessee also fails to pay tax directly
 - Such person shall be deemed to be an assessee in default u/s 201(1)
- Income includes Specified Securities or Sweat Equity Shares by Employer being an Eligible Start Up u/s 80 IAC, Tax shall be paid by assessee directly within 14 days from the earliest of following dates [191(2)]
 - After the expiry of 48 months from the end of relevant AY or
 - From date of sale of such specified securities or sweat equity shares or
 - From date of assessee ceasing to be employee of the employer who allotted or transferred such shares

TAX DEDUCTION AT SOURCE (TDS)**SECTION 192 – TDS ON SALARY**

| | |
|-----------------|--|
| Deductor | Employer |
| Deductee | Employee (Resident/Non Resident) |
| Rate | At Average Tax Rate = Total Tax Computed / Total Income |
| Time | At the time of Payment |
| Notes | <ul style="list-style-type: none"> ▪ Total Income = Taxable Salary Income plus Other income/Loss from HP only less Deductions of chapter VI-A as reported by employee ▪ Employer is responsible for genuineness of any claim of exemption or deduction hence employer shall obtain necessary proof for such purpose ▪ Employer shall furnish to the employee, a statement in Form No. 12BA giving correct and complete particulars of perquisites or profits in lieu of salary where salary exceeds ₹ 1,50,000 ▪ If employer do not intimate tax regime, Employer will deduct tax according to default tax regime u/s 115BAC |

SECTION 192A – TDS ON PREMATURE WITHDRAWAL FROM EMPLOYEES PROVIDENT FUND

| | |
|--------------------------|---|
| Deductor | Trustees of EPF Scheme |
| Deductee | Resident/ Non Resident |
| Rate | 10% of Amount paid or MMR if PAN is not furnished [Omitted - FA 2023] |
| Time | At the time of Payment |
| Non Applicability | <ul style="list-style-type: none"> ▪ Payment < 50,000 or ▪ Employee completes Continuous service of 5 Years or ▪ Employee could not complete continuous service of 5 years due to ill health, contraction or discontinuance of business, cessation of employment etc. |

SECTION 193 – INTEREST ON SECURITIES

| | |
|--------------------------|--|
| Deductor | Any Person paying Interest on Securities |
| Deductee | Resident Person |
| Rate | 10% |
| Time | Payment or Credit whichever is earlier |
| Non Applicability | <ul style="list-style-type: none"> ▪ Interest on Govt. Securities ▪ Interest paid to LIC/GIC/Other Insurer ▪ Interest on Listed securities in DEMAT form ▪ Interest on debentures paid by Account payee cheque to Residential Individual/HUF & Interest does not exceed ₹ 5,000 |

SECTION 194 – DIVIDEND

| | |
|--------------------------|---|
| Deductor | Domestic Company making payment of Dividend including Preference Dividend |
| Deductee | Resident Shareholders |
| Rate | 10% |
| Time | Before making payment of dividend Before making payment or distribution of Deemed Dividend u/s 2(22)(a) to (e) |
| Threshold Limit | No TDS if Dividend paid to Share holder being an Individual <ul style="list-style-type: none"> ▪ Dividend paid by any mode other than CASH ▪ Amount of Dividend distributed or likely to be distributed < 5,000 No Threshold for any other cases |
| Non Applicability | Dividend paid to LIC, GIC or Other Insurer provided shares owned by them and having full beneficial interest |

| SECTION 194A – INTEREST OTHER THAN INTEREST ON SECURITIES [GENERAL INTEREST] | |
|--|---|
| Deductor | Any Person except Individual/HUF whose turnover does not exceed limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | Resident Person |
| Rate | 10% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | <ul style="list-style-type: none"> ▪ 40,000 in case of Interest on deposit with Bank/Post Office etc. ▪ 50,000 in case of Interest on deposit with Bank/Post Office etc. – if Payee is RESIDENT Senior Citizen ▪ 5,000 in any other case |
| Non Applicability | <ul style="list-style-type: none"> ▪ Interest paid by Firm/Co-op Society to Partner/Member ▪ Interest paid by Central Government to Resident ▪ Interest paid by Credit Society/ Land Development Bank etc. ▪ Interest paid to Banks/Govt. Financial Corporations/LIC/Insurance Co. etc. |
| Notes | <ul style="list-style-type: none"> ▪ Threshold limit shall be reckoned with reference to total interest of all branch if Bank has adopted CBS System ▪ Bank, using CBS, calculates interest on daily/monthly basis. In such case TDS shall be deducted when Interest actually credited to Customer's Account |

| SECTION 194B AND 194BB – WINNINGS FROM LOTTERIES, CROSSWORD PUZZLES AND HORSE RACES | |
|---|--|
| Deductor | Any Person in case of Winnings from Lotteries, Crossword Puzzles etc. [194B] Book maker or Person holding license for horse racing [194BB] |
| Deductee | Resident/Non Resident |
| Rate | 30% |
| Time | At the time of Payment |
| Threshold Limit | ▪ 10,000 (Aggregate during the Year) |
| Notes | <ul style="list-style-type: none"> ▪ If winnings in nature of kind or partly cash and partly in kind but cash is not sufficient to deduct tax. In such cases payer shall ensure that payee has paid tax or recover the tax from payee before releasing the winnings [CIT v/s Hindustan Lever Ltd. (Karnataka High Court)] |

| SECTION 194BA – WINNINGS FROM ONLINE GAMES | |
|--|--|
| Deductor | Any Person who makes payment by way of winnings from online games |
| Deductee | Resident/Non Resident (User of Online Games) |
| Rate | 30% on Net Winning Amount |
| Time | At the time of withdrawal of winning amount by user during FY At the end of FY on remaining amount of winning in the use account. |
| Threshold Limit | ▪ No threshold |
| Notes | <ul style="list-style-type: none"> ▪ If winnings in nature of kind or partly cash and partly in kind but cash is not sufficient to deduct tax. In such cases payer shall ensure that payee has paid tax or recover the tax from payee before releasing the winnings |

[F.A. 2023]

| | |
|--|--|
| | <ul style="list-style-type: none"> ▪ TDS on Insignificant withdrawal Amount <ul style="list-style-type: none"> ✓ Tax not deducted if net winnings withdrawn does not exceed ₹100 in a month ✓ Tax not deducted on such small withdrawal shall be deducted when such withdrawal exceeds ₹100 in same or subsequent month or At the end of Financial Year, if there is no such withdrawal ✓ Deductor undertakes responsibility of paying difference if balance in user account is not sufficient to discharge tax deduction ▪ Winnings is in Kind <ul style="list-style-type: none"> ✓ Valuation of Winning in Kind shall be based on FMV except in following cases ✓ When goods is purchased by Game Intermediary, Purchase Price ✓ If it is manufactured, Price charged to customers shall be taken as value |
| | ▪ |

SECTION 194C – PAYMENT TO CONTRACTOR AND SUB-CONTRACTOR

| | |
|--------------------------|--|
| Deductor | Any Person except Individual/HUF whose turnover not exceed limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | Resident Contractor or Sub-Contractor |
| Rate | <ul style="list-style-type: none"> ▪ 1% in case of Deductee is Individual/HUF ▪ 2% in any other Deductee |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | <ul style="list-style-type: none"> ▪ 30,000 for Single Payment ▪ 1,00,000 in aggregate during FY |
| Non Applicability | <ul style="list-style-type: none"> ▪ Payment made by Individual/HUF exclusively for personal purpose ▪ Contract of ‘Sale’ ▪ Deductee is in business of Plying, Hiring or Leasing of goods carriages if, Owns ≤ 10 carriages and Furnish such declaration along with PAN |
| Notes | <ul style="list-style-type: none"> ▪ Work includes Manufacture/Supply of product as per specification using Material purchased from customer. <ul style="list-style-type: none"> – Tax deductible on Invoice Value excluding cost of such material if shown separately in invoice – In above case, if material purchase from person other than customer, it will be treated as contract of sale hence no TDS ▪ Payment by Broadcasters or TV Channels to Production Houses <ul style="list-style-type: none"> – For production of content/programme as per specification – Tax deductible – For purchase of content/programme already produced – No Contract, No TDS |

SECTION 194D - INSURANCE COMMISSION

| | |
|------------------------|--|
| Deductor | Any Person |
| Deductee | Resident Person |
| Rate | 5% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ 15,000 |

SECTION 194DA - PAYMENT IN RESPECT OF LIFE INSURANCE POLICY

| | |
|------------------------|---|
| Deductor | Any Person |
| Deductee | Resident Life insurance policy holder which does not fulfil condition u/s 10(10D) |
| Rate | 5% on Maturity Proceeds including Bonus less Aggregate premium paid |
| Time | At the time of Payment |
| Threshold Limit | ▪ 1,00,000 (Maturity Proceeds) |

SECTION 194E - PAYMENTS TO NON-RESIDENT SPORTSMEN OR SPORTS ASSOCIATION

| | |
|------------------------|--|
| Deductor | Any Person |
| Deductee | <ul style="list-style-type: none"> ▪ Non Resident Sportsman/Entertainer who is not Citizen of India for receipt of income in India ▪ Non Resident Sport Association or Institution |
| Rate | 20% plus Cess@4% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ No Limit |

SECTION 194EE - PAYMENTS IN RESPECT OF DEPOSIT UNDER NATIONAL SAVING SCHEME

| | |
|------------------------|---|
| Deductor | Any Person (Post Offices issue NSS Certificates) |
| Deductee | Any person except payment made to legal heirs of assessee |
| Rate | 10% |
| Time | At the time of Payment |
| Threshold Limit | ▪ 2,500 |

SECTION 194G – COMMISSION ETC. ON SALE OF LOTTERY TICKETS

| | |
|------------------------|--|
| Deductor | Any Person |
| Deductee | Any person |
| Rate | 5% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ 15,000 |

SECTION 194H – COMMISSION OR BROKERAGE

| | |
|--------------------------|--|
| Deductor | Any Person except Individual/HUF whose turnover does not exceed limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | Any person |
| Rate | 5% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ 15,000 |
| Non Applicability | ▪ TDS applicability on below transactions [Circular No. 05/2016, Dt 29-2-2016] |

| | |
|--|---|
| | <ul style="list-style-type: none"> – Payment by client to advertising agency - Section 194C applicable – Payment by Advertising agency to Newspaper company/Television – No TDS |
|--|---|

SECTION 194I – RENT

| | |
|--------------------------|---|
| Deductor | Any Person except Individual/HUF whose turnover not exceed limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | Resident |
| Rate | <ul style="list-style-type: none"> ▪ 2% in respect of rent for plant, machinery or equipment; ▪ 10% Any other Rental payment (Land, Building, Furniture Fittings etc.) |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ 2,40,000 (Aggregate amount of Plant, Machinery & Other Rental Payment) |
| Non Applicability | ▪ Rent payment to REIT in respect of any asset directly owned by it |
| Notes | <ul style="list-style-type: none"> ▪ Non-Refundable deposit shall also be liable to TDS ▪ Tax deductible even if asset not owned by Deductee ▪ Tax deductible on rent amount only excluding GST ▪ Payment made to cold storage owners for cooling charges – Section 194C applies ▪ Lump sum lease premium or one-time upfront lease charges – it is Not in nature of rent hence no TDS applicable [Circular 3/2016] |

SECTION 194IA - PAYMENT ON TRANSFER OF CERTAIN IMMOVABLE PROPERTY OTHER THAN RURAL AGRICULTURAL LAND

| | |
|--------------------------|---|
| Deductor | Any Person being transferee (Buyer) |
| Deductee | Resident Transferor (Seller) |
| Rate | 1% of Transaction Value or SDV whichever is Higher |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ 50,00,000 (includes all charges like maintenance, Parking Charges etc.) (Transaction Value or SDV whichever is Higher) |
| Non Applicability | <ul style="list-style-type: none"> ▪ Specified Transactions u/s 45(5A) where 194IC attracted ▪ Compulsory acquisition of immovable property covered u/s 194LA |

SECTION 194IB - PAYMENT OF RENT BY CERTAIN INDIVIDUALS OR HUF

| | |
|-----------------|--|
| Deductor | <ul style="list-style-type: none"> ▪ Any Individual/HUF receives any income from any source/head ▪ Excludes those whose turnover exceeds limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | Resident |
| Rate | 5% |
| Time | Payment or Credit of the rent of Last month of Previous year or Last month of Tenancy , if property is vacated whichever is earlier |

| | |
|------------------------|---|
| Threshold Limit | <ul style="list-style-type: none"> Amount of Rent exceeds 50,000 per month or part of month |
| Notes | <ul style="list-style-type: none"> If PAN is not furnished Tax shall be deducted @20% or Higher rate However such deductions shall not exceed rent amount of last month |

SECTION 194IC - PAYMENT UNDER SPECIFIED AGREEMENT U/S 45(5A)

| | |
|------------------------|--|
| Deductor | Any Person paying consideration as per Specified Agreement u/s 45(5A) |
| Deductee | Resident |
| Rate | 10% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | <ul style="list-style-type: none"> Any share, being land or building or both Part of such consideration may be in cash |
| Notes | <ul style="list-style-type: none"> Specified Transactions u/s 45(5A) refers to <ul style="list-style-type: none"> Owner of land or building allows another person to develop real estate project on such land or building |

SECTION 194J – FEES FOR PROFESSIONAL OR TECHNICAL SERVICE

| | | | | |
|--|---|--|--|---|
| Deductor | Any Person except Individual/HUF whose turnover does not exceed limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY [Individual HUF do not require to deduct tax on Royalty and Non-Compete Fees] | | | |
| Deductee | Resident | | | |
| Rate | <ul style="list-style-type: none"> 10% 2% in case of <ul style="list-style-type: none"> ✓ Technical Service (Not being Professional Service) or ✓ Royalty for Cinematographic film ✓ Business of Operation of Call Centre | | | |
| Time | Payment or Credit whichever is earlier | | | |
| Threshold Limit | <ul style="list-style-type: none"> 30,000 Limit is applicable separately for Professional Service, Technical Service, Royalty & Non-Compete Fees. However no threshold limit for payment to Director | | | |
| Non Applicability | <ul style="list-style-type: none"> Right to use of Computer Software amounts to Royalty however TDS not apply if, <ul style="list-style-type: none"> – Software acquired on subsequent transfer without modification and – Tax already deducted on previous transfer u/s 194J or 195 – Transferee obtains such declaration and PAN from transferor | | | |
| Notes | TDS applicable under this section on <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Professional Fees Technical Fees Royalty </td> <td style="width: 50%; vertical-align: top;"> <ul style="list-style-type: none"> Non-Compete Fees Payment of Director other than Salary </td> </tr> </table> | | <ul style="list-style-type: none"> Professional Fees Technical Fees Royalty | <ul style="list-style-type: none"> Non-Compete Fees Payment of Director other than Salary |
| <ul style="list-style-type: none"> Professional Fees Technical Fees Royalty | <ul style="list-style-type: none"> Non-Compete Fees Payment of Director other than Salary | | | |
| Meaning | Professional Service | Technical Service | | |
| | <ul style="list-style-type: none"> Profession as per Section 44AA Persons in relation to Sport Activity | <ul style="list-style-type: none"> Managerial/Technical/Consultancy Technical or Other Personnel | | |

SECTION 194K – INCOME IN RESPECT OF SPECIFIED UNITS

| | |
|--------------------------|--|
| Deductor | Person responsible for Paying any Income in respect of <ul style="list-style-type: none"> ▪ Units of a Mutual Fund Specified u/s 10(23D) ▪ Units from Administrator of Specified Undertaking ▪ Units from a Specified Company |
| Deductee | Resident |
| Rate | ▪ 10% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | ▪ 5,000 |
| Non-Applicability | ▪ Income distributed is in nature of Capital Gains |

SECTION 194LA - COMPENSATION ON COMPULSORY ACQUISITION OF CERTAIN IMMOVABLE PROPERTY

| | |
|--------------------------|---|
| Deductor | Any Person |
| Deductee | Resident |
| Rate | 10% on Compensation or Enhanced Compensation |
| Time | At the time of Payment |
| Threshold Limit | ▪ 2,50,000 |
| Non Applicability | ▪ Compulsory acquisition of any agricultural (Rural / Urban) land both Exempt |

SECTION 194M – PAYMENT IN RESPECT OF ANY WORK

| | |
|------------------------|---|
| Deductor | <ul style="list-style-type: none"> – Any Individual/HUF (other than those who are required to deduct income-tax as per the provisions of section 194C, section 194H or section 194J) – Responsible for paying any sum carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract, by way of commission (not being insurance commission referred to in section 194D) or brokerage or by way of fees for professional services during the financial year – Excludes those whose turnover EXCEEDS limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | Resident |
| Rate | 5% |
| Time | At the time of Payment or Credit whichever is earlier |
| Threshold Limit | ₹ 50,00,000 |
| Notes | Non requirement of TAN & Payment of Tax and Filing of Statement <ul style="list-style-type: none"> – Person responsible to deduct tax u/s 194IA is not required to Obtain TAN u/s 203A |

SECTION 194N – PAYMENT OF CERTAIN AMOUNT IN CASH

| | |
|--------------------------|--|
| Deductor | <p>Every person, being,—</p> <ul style="list-style-type: none"> – A banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); – A co-operative society engaged in carrying on the business of banking; or – A post office, – who is responsible for paying any sum, or, as the case may be, aggregate of sums, in cash, <ul style="list-style-type: none"> ▪ in excess of one crore rupees during the previous year, to any person (herein referred to as the recipient) ▪ from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deducts an amount equal to two per cent of sum exceeding one crore rupees |
| Deductee | Any Person being recipient |
| Rate | <p>2% of such sum exceeding ₹ 1 Crore</p> <p>Person who has NOT FILED return of income of LAST 3 YEARS (w.e.f. 01-07-2020)</p> <p>2% of such sum > 20 Lakhs but ≤ ₹ 1 Crore</p> <p>5% of such sum exceeding ₹ 1 Crore</p> |
| Time | At the time of Payment of such sum |
| Threshold Limit | <p>₹ 1,00,00,000 (All assesseees)</p> <p>₹ 3,00,00,000 (in case of Recipient is Co-Operative Society)</p> |
| Non Applicability | <p>This section is not applicable in case of payment made to</p> <ul style="list-style-type: none"> – The Government; – Any banking company or co-operative society engaged in carrying on the business of banking or a post office; – 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 RBI Act, 1934 – Any white label ATM 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 – Commission agent or trader, operating under Agriculture Produce Market Committee (APMC) – 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. |

| Section 194O – Certain payment by E-Commerce Operator to E-Commerce Participant [01-10-2020] | |
|--|--|
| Deductor | E-Commerce Operator |
| Deductee | E-Commerce Participant |
| Rate | 1% |
| Time | Payment or Credit whichever is earlier |
| Threshold Limit | Any Amount |
| Non Applicability | E-Commerce Participant being Individual or HUF (who has furnished PAN/Aadhar), Where gross amount of such sale or service < 5 Lakh |

| Section 194P – Deduction of tax by a specified bank in case of specified senior citizen [01-04-2021] | |
|--|--|
| Deductor | Specified Banks [Scheduled Banks] |
| Deductee | Specified Senior Citizen <ul style="list-style-type: none"> ▪ Age : 75 Years or more at ANY TIME during PY ▪ Income : Pension Income & Interest Income from Accounts maintained with Same Bank (No Other Income apart from this) ▪ Declaration : Furnish declaration in FORM 12BBA Exempted from Filing of ITR for PY in which Tax deducted under this Section |
| Rate | Rates in Force (Slab Rates) On TOTAL INCOME after considering <ul style="list-style-type: none"> ▪ Deduction of Chapter VI-A (Proofs to be verified by Banks) ▪ Rebate allowable u/s 87A |

| SECTION 194Q – DEDUCTION OF TAX AT SOURCE ON PAYMENT OF CERTAIN SUM FOR PURCHASE OF GOODS [w.e.f. 01-07-2021] | |
|---|--|
| Deductor | Buyer, whose total sales, gross receipts or turnover FROM THE BUSINESS carried on by him exceed TEN CRORE RUPEES during the IMMEDIATELY PRECEDING THE FINANCIAL YEAR in which the purchase of goods is carried out This provision DOES NOT apply to Buyer being NON-RESIDENT and NOT CONNECTED with PE in INDIA |
| Deductee | RESIDENT Seller No Deduction if ENTIRE Income of Seller is Exempt (e.g. Section 10 or any under any other act) |
| Rate | 0.1% of Sum Exceeding ₹ 50 Lakhs (5% if PAN not furnished) |
| Threshold Limit | Value or Aggregate value exceeding ₹ 50 Lakhs (GST Amount shall be Excluded) |
| Time | Payment or Credit whichever is earlier |
| Other Points | <ul style="list-style-type: none"> ▪ Transactions on which Provisions of Section 194-O (E-Commerce Operator) applies, NO DEDUCTION requires under this section again. ▪ If Seller has collected tax u/s 206C(1H) before buyer could deduct tax, NO DEDUCTION requires under this section again ▪ If Tax is required to be DEDUCTED under ANY OTHER Provision OR Tax required to be COLLECTED under ANY OTHER Provision of Act, NO DEDUCTION requires under this section again |

| | |
|--------------------------|--|
| | <ul style="list-style-type: none"> In case of PURCHASE RETURN - if Tax already deducted, It shall be adjusted against Next Transactions. |
| Non-Applicability | <ul style="list-style-type: none"> Transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre (IFSC) Transactions in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges. |

| SECTION 194R – TDS ON BENEFIT OR PEQUISITE IN RESPECT OF BUSINESS [w.e.f. 01-07-2022] | |
|---|---|
| Deductor | ANY PERSON who pays such benefit or Perquisite, In Cash or In Kind Except Individual/HUF whose turnover does not exceed limit prescribed (1 Cr / 50 Lakh) for Audit u/s 44AB during preceding FY |
| Deductee | RESIDENT Person who carries Business or Profession and Receives Benefit or Perquisite |
| Rate | 10% of Value of Such Benefit/Perquisite |
| Threshold Limit | Value or Aggregate value exceeding ₹ 20,000 |
| Time | At the time of Payment |
| Notes | <ul style="list-style-type: none"> If Benefit/Perquisite in nature of kind or partly cash and partly in kind but cash is not sufficient to deduct tax. In such cases payer shall ensure that payee has paid tax or recover the tax from payee before releasing the benefit/perquisite [Similar Provision to Lottery Winnings] |

SECTION 195A – INCOME PAYABLE NET OF TAX

- When any payment is to be made ‘Net of Tax’
- Amount of payment shall be **grossed up** and Tax shall be deducted on Grossed up amount
- Exception**, Income Tax payable by employer on **Non-Monetary perquisite** shall **not be grossed up**

Example

| | | |
|-----------------------------|------------------|-------------------|
| ‘Net of Tax’ Payment amount | = 90,000 | Rate of TDS = 10% |
| Grossed up Amount | = 90,000/100-10 | = 1,00,000 |
| TDS on Grossed up Amount | = 1,00,000 × 10% | = 10,000 |

SECTION 197 – CERTIFICATE FOR DEDUCTION AT LOWER OR NIL RATE

- Recipient of Income can make **application** containing PAN to **AO** to grant such certificate
- If **AO satisfies** that **income justifies such lower deduction**, he will issue such certificate
- Person making payment shall deduct tax at rate specified in certificate while making payment

SECTION 198 – TAX DEDUCTED SHALL BE DEEMED TO BE INCOME RECEIVED

- All sums deducted under forgoing provision shall be deemed to be the **income received**
- Except**, Tax paid by **employer** on **non-monetary perquisite** shall **not be treated** as income

| Section 200 – Duty of person deducting tax | | | | | |
|--|-------------------------------|---|--------------------------------|--|---|
| Payment of TDS through Challan | | Quarterly Statement [24Q / 26Q / 27Q] | | Issue of TDS Certificates | |
| Income Paid/ Credited in | Due Date | Quarter Ending | Due Date | Section 192 | Other Case |
| March | 30 th April | 31 st Mar | 31 st May | Form 16 | Form 16A |
| Any other Month | 7 th of Next Month | Any other Quarter | 31 st of Next Month | 15 th Jun of immediately following FY | Within 15 days from due date of filing of Quarterly Statement |
| if Govt. Office, Pays tax by direct credit without challan | | | | | |
| On same day | | Submit Monthly statement in 24G on 30 th April for March/ within 15 days other month | | | |
| <ul style="list-style-type: none"> – AO with prior approval of JCIT may permit to deposit TDS u/s 192, 194A/D/H quarterly – TDS u/s 194 IA, 194IB and 194M shall be deposited through Challan-cum-Statement (Form No. 26QB / 26QC / 26QD) within 30 days from end of month of deduction and furnish Certificate in 16B/16C/16D within 15 days from due date of filing of Challan-cum-Statement | | | | | |

| Section 201 – Consequences of failure to deduct or pay | | | |
|---|------------------|--------------------------|--------------------------|
| Assessee shall be deemed to be in default & Simple Interest shall be levied per month or part of the month | | | |
| Default | Rate of Interest | Starting from | Ending with |
| Late deduction | 1% | Date on which deductible | Date of actual deduction |
| Late deposit | 1.5% | Date of deduction | Date of actual payment |
| <ul style="list-style-type: none"> – Exception, Assessee shall not be deemed to be in default if, <ul style="list-style-type: none"> ▪ Payee has furnished return of income u/s 139 ▪ Payee has taken such income for computing his income and paid the tax due thereon ▪ Payer shall furnish certificate to this effect from CA | | | |

- SECTION 206AA – NON-FURNISHING OF PAN BY PAYEE**
- Non furnishing or furnishing wrong PAN, Tax shall be deducted at Higher of
 - Rate prescribed in Income Tax Act
 - 20% [5% in case of TDS u/s 194-O]
 - Rate mentioned in Finance Act
 - Non Applicability, if Deductee is Non-Resident and furnish the prescribed details such as Name, Contact Number, e-mail id etc.

SECTION 206AB – SPECIAL PROVISION FOR DEDUCTION OF TAX AT SOURCE FOR NON-FILERS OF INCOME-TAX RETURN [w.e.f. 01-07-2021]

- Non furnishing or furnishing **wrong** PAN, by **SPECIFIED PERSON** (i.e. Non Filers) Tax shall be deducted at Higher of
 - **TWICE** of rate prescribed in the Provisions of Act
 - **TWICE** of the Rate mentioned in Annual Finance Act
 - 5%
- If Section 206AA is also applicable, HIGHER Rates in this section and 206AA shall be applicable
- This Section is not applicable for TDS u/s 192, 192A, 194B, 194BB, 194BA or 194N

Meaning of Specified Person (Non-Filers)

- A Person who has **not filed** Return of Income
 - for **AY** relevant to the PY immediately prior to the PY in which tax is required to be deducted, for which the time limit of filing return of income under section 139(1) has expired, **and**
 - the **aggregate** of TDS and TCS in his case is ₹ 50,000 or more in the said PY
- Specified person DOES NOT include
 - Non-Resident who does not have PE in India
 - 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 the Official Gazette in this behalf.

The Invictus

TAX COLLECTION AT SOURCE

Section 206C – Tax Collection at Source (TCS)

| | | | | |
|---|---|--|--|--|
| 206C (1) | TCS by seller of certain goods Collection of Tax on Debit or Receipt whichever is earlier Excludes , Buyer being Public Sector Company, Government or Govt agencies, any buyer who buys the goods for personal consumption Exception , No TCS if Goods purchased for Manufacture of article/thing or Generation of power and Buyer shall furnish declaration in Form 27C to seller , such goods to be used for specified purpose | | | |
| | <ul style="list-style-type: none"> ▪ Liquor for human consumption ▪ Tendu Leaves ▪ Scrap ▪ Minerals being Coal/Lignite/Iron Ore | <ul style="list-style-type: none"> 1% 5% 1% 1% | <ul style="list-style-type: none"> ▪ Timber under forest lease ▪ Timber other than above ▪ Any other forest produce | <ul style="list-style-type: none"> 2.5% 2.5% 2.5% |
| 206C (1C) | Sale on lease /license in respect of Parking Lot/Toll Plaza/Mine or Quarry Collection of Tax on Debit or Receipt whichever is earlier Excludes , Buyer as mentioned above | | 2% | |
| 206C (1F) | Retail Sale of any Motor Vehicle Value > 10 Lakh Collection of Tax on Receipt Excludes , Buyer being Government, Govt. Agencies and Public Sector Co. engaged in business of carrying passengers | | 1% | |
| Excludes Seller being Individual/HUF whose turnover < limit prescribed u/s 44AB in all above cases Not Required to collect tax at source | | | | |
| 206C (1G) | Overseas Remittance through an Authorised Dealer or Purchase of an overseas tour package [w.e.f. 01-10-2020] Person Responsible for Collection Authorised Dealer who receives amount under LRS of RBI A Seller of overseas tour programme package Time of Collection Collection of Tax on debit or receipt whichever is earlier | | | |
| | Rate of Collection | Upto 30-09-2023 | On or After 01-10-2023 | |
| 1 | Amount is for purchase of overseas tour programme | 5% (No threshold) | 5% till 7 Lakh 20% thereafter | |
| 2 | Amount remitted for the purpose of education or medical treatment AND Aggregate Amount < 7 Lakhs in FY | NIL | | |
| 3 | Amount remitted for the purpose OTHER THAN education or medical treatment AND Aggregate Amount < 7 Lakhs in FY | NIL | | |
| 4 | Amount remitted for the purpose of education or medical treatment AND Aggregate Amount in excess of 7 Lakhs in FY | 5% of aggregate amount in excess of 7 Lakh | | |

| | | | |
|--|--|--|---|
| 5 | Amount remitted for the purpose OTHER THAN education or medical treatment AND Aggregate Amount in excess of 7 Lakhs in FY | 5% of aggregate amount in excess of 7 Lakh | 20% of aggregate amount in excess of 7 Lakh |
| 6 | Amount remitted out is a Education Loan AND Aggregate Amount in excess of 7 Lakhs in FY | 0.5% of aggregate amount in excess of 7 Lakh | |
| <p>Non Applicability (No TCS by Authorised Dealer)</p> <p>1) TCS already collected by Seller 2) Buyer is liable to Deduct Tax (TDS) 3) Person who is NON RESIDENT and who is Visiting India CG / SG / Local Authority / Embassy etc.</p> | | | |
| 206C (1H) | <p>Sale of Goods Value > 50 Lakh [w.e.f. 01-10-2020] Person Responsible for Collection A Seller whose total sales > 10 Crore during immediately preceding FY and who receives amount for Sale of Goods aggregating > 50 Lakh in FY [Other than Exported Goods or Goods already covered in above provisions]</p> <p>Time of Collection At the time of Receipt</p> <p>Rate of Collection 0.1% of Sale Consideration exceeding Rs. 50 Lakh</p> <p>Non Applicability If buyer is liable to Deduct Tax (TDS) u/s 194-O and 194-Q</p> <p>Non furnishing of PAN or Aadhar</p> <ul style="list-style-type: none"> ▪ Twice the rate specified or ▪ 1% <p>Whichever is higher</p> | | |

| DIFFERENCE BETWEEN TDS & TCS | |
|---|--|
| TDS | TCS |
| TDS is tax deduction at source | TCS is tax collection at source |
| Person responsible for paying is required to deduct tax at source at the prescribed rate. | <p>a) Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer.</p> <p>b) Person who grants licence or lease (in respect of any parking lot, toll plaza, mine or quarry) is responsible for collecting tax at source at the prescribed rate from the licensee or lessee, as the case may be.</p> <p>c) Authorised dealer receiving amount for remittance out of India under the LRS of the RBI or seller of an overseas tour program package is responsible for collecting tax at source at the prescribed rate from the buyer.</p> |

| | |
|--|--|
| <p>Generally, tax is required to be deducted at the time of credit to the account of the payee or at the time of payment, whichever is earlier.</p> <p>However, in case of payment of salary, payment in respect of life insurance policy etc. tax is required to be deducted at the time of payment</p> | <p>Generally, tax is required to be collected at source at the time of debiting of the amount payable by the buyer of certain goods to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier.</p> <p>However, in case of sale of motor vehicle of the value exceeding ₹ 10 lakhs and sale of goods exceeding ₹ 50 lakhs other than exported goods and goods mentioned in section 206C(1), tax collection at source is required at the time of receipt of sale consideration.</p> |
|--|--|

SECTION 206CC – NON-FURNISHING OF PAN BY PAYEE

- Non furnishing or furnishing **wrong PAN** by collectee, Tax shall be collected at **Higher of**
 - **Twice** Rate prescribed in **Income Tax Act** or
 - **5%**
- Maximum rate of TCS under this section shall not exceed 20%

SECTION 206CCA – SPECIAL PROVISION FOR DEDUCTION OF TAX AT SOURCE FOR NON-FILERS OF INCOME-TAX RETURN [w.e.f. 01-07-2021]

- Non furnishing or furnishing wrong PAN, by **SPECIFIED PERSON (i.e. Non Filers)** Tax shall be deducted at **Higher of**
 - **TWICE** of rate prescribed in the Provisions of Act
 - **TWICE** of the Rate mentioned in Annual Finance Act
 - **5%**
- If Section 206CC is also applicable, HIGHER Rates in this section and 206CCA shall be applicable

Meaning of Specified Person (Non-Filers)

- A Person who has **not filed** Return of Income
 - for **AY** relevant to the PY immediately prior to the PY in which tax is required to be deducted, for which the time limit of filing return of income under section 139(1) has expired, **and**
 - the **aggregate** of TDS and TCS in his case is ₹ 50,000 or more in the said PY
- Specified person DOES NOT include
 - Non-Resident who does not have PE in India
 - 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 the Official Gazette in this behalf.

ADVANCE TAX AND INTEREST

SECTION 208 – PAYMENT OF ADVANCE TAX

- Obligation to pay Advance Tax arises where Advance Tax payable $\geq 10,000$
Exception, Senior Citizen not having any income under PGBP is not liable to pay advance tax
- Amount of Advance Tax = Total tax on estimated earnings less TDS actually deducted less TCS actually Collected
- Advance tax shall be paid in instalments

| Due Date | Instalment Payable |
|---|---|
| 15 th June | Min 15% of Advance Tax |
| 15 th September | Min 45% of Advance Tax less Amount paid earlier instalments |
| 15 th December | Min 75% of Advance Tax less Amount paid earlier instalments |
| 15 th March | 100% of Advance Tax less Amount paid earlier instalments |
| Person declaring income on Presumptive basis (u/s 44AD & 44ADA) is need to pay 100% Advance tax in one instalment on 15 th March | |
| Any amount paid by way of advance tax on or before 31 st March shall also be treated as advance tax paid during each financial year ending on 31 st March | |

Section 234B – Default in Payment of Advance Tax

Interest, per month or part of the month, levied on shortfall if, Advance tax paid $< 90\%$ of Assessed tax
Shortfall = Assessed Tax less Advance Tax paid
Assessed Tax = Total tax less TDS/TCS

| Default | Rate of Interest | Starting from | Ending with |
|-----------|------------------|-----------------------------|------------------------|
| Shortfall | 1% | 1 st April of AY | Date of actual Payment |

Section 234C – Deferment in payment of instalments

Interest @ 1% per month levied on shortfall in instalment
Shortfall = Specified % of Assessed Tax less Instalment of Advance Tax paid
Assessed Tax = Total tax less TDS/TCS less Any relief less MAT Credit u/s 115JAA/JD

| Specified Date | Specified % | Shortfall | No. of Month |
|----------------------------|-------------|---|--------------|
| 15 th June | 15% | 15% of Assessed Tax less Tax paid upto 15 th Jun No Interest, if Min 12% tax paid | 3 |
| 15 th September | 45% | 45% of Assessed Tax less Tax paid upto 15 th Sep No Interest, if Min 36% tax paid | 3 |
| 15 th December | 75% | 75% of Assessed Tax less Tax paid upto 15 th Dec | 3 |
| 15 th March | 100% | 100% of Assessed Tax less Tax paid upto 15 th | 1 |

Exception, No Interest on shortfall levied if shortfall on account of under-estimate or failure to estimate

- Amount of Capital gain
- Income from Lotteries, Puzzle etc.
- Income under PGBP arise first time
- Amount of Dividend other than deemed dividend

However assessee should have paid **whole advance tax** on above income by **31st March**
 Assessee who declares income under **presumptive basis u/s 44AD and 44ADA** need to pay entire advance tax in Last Instalment i.e. 15th March

| Section 234A – Default in furnishing Return of Income (Late Filing of ITR) | | | |
|---|------------------|----------------------|----------------------------------|
| Simple Interest on Tax payable shall be levied per month or part of the month | | | |
| Exception, No interest, if Self-Assessment Tax paid on or before the due date of return [Circular 2/2015] | | | |
| Default | Rate of Interest | Starting from | Ending with |
| Late Filing | 1% | Next day of due date | Date of actual Filing |
| Non Filing | | Next day of due date | Completion of Assessment u/s 144 |

| Section 234F – Fess for late filing Income Tax Return | |
|---|---|
| 5,000 | After due date but or before 31st December of AY (only 5,000 Fees applicable) |
| 10,000 | After due date in any other case i.e. After 31st December of AY (DELETED) |
| 1,000 | If Total Income \leq 5,00,000 in all cases when return filed after due date |

CHAPTER – 13
INCOME TAX LIABILITY – COMPUTATION & OPTIMIZATION

INCOME TAX RATES FOR A.Y. 2024-25 [FINANCE ACT 2023]

| Assessee | Total Income | Rate |
|---|---|--|
| ❖ Individual/HUF/AOP/BOI/AJP | | |
| – Income Tax | | |
| <ul style="list-style-type: none"> All Individual < 60 Years & HUF/AOP/BOI/AJP Non-Resident of Any Age | BEL = 2,50,000 | NIL |
| <ul style="list-style-type: none"> Resident Individual Age ≥ 60 Years but < 80 Years | BEL = 3,00,000 | NIL |
| <ul style="list-style-type: none"> Resident Individual Age ≥ 80 Years | BEL = 5,00,000 | NIL |
| | Above BEL but upto 5,00,000 | 5% |
| | 5,00,001 to 10,00,000 | 20% |
| | > 10,00,000 | 30% |
| <ul style="list-style-type: none"> Rebate to Resident Individual (Sec 87A) | if Total Income ≤ 5,00,000 No Rebate on LTCG taxable @10% u/s 112A | Lower of 12,500 or Actual Tax |
| Default Tax Regime – Concessional Tax Rates [Section 115BAC] | | |
| <ul style="list-style-type: none"> Individuals & HUF [Other than Income Chargeable at Special Rates] | Upto 3,00,000 | NIL |
| | 3,00,001 to 6,00,000 | 5% |
| | 6,00,001 to 9,00,000 | 10% |
| | 9,00,001 to 12,00,000 | 15% |
| | 12,00,001 to 15,00,000 | 20% |
| | Above 15,00,000 | 30% |
| <ul style="list-style-type: none"> Rebate to Resident Individual (Sec 87A) | if Total Income ≤ 7,00,000 No Rebate on LTCG taxable @10% u/s 112A | Lower of 25,000 or Actual Tax |
| Assessee exercising option u/s 115BAC is not liable to AMT u/s 115JC | | |
| ▪ Deductions Exemptions not Available | | |
| 10(5) – Leave Travel Concession | 10(13A) – House Rent Allowance | 10(14) – Special Allowance or Benefit to meet exps. for duties or personal exps. |
| 10(17) – Daily allowance / constituency allowance of MPs and MLAs | 10(32) – Exemption in respect of Clubbing of Minor Income | 16 – Deductions under Salary Prof Tax & Ent. All. Std. Ded. (std. deduction is now allowed) |

| | | |
|--|--|---|
| 10AA – Tax Holidays in SEZ | 24(b) – Interest on Loan of SOP | 32(1)(iia) – Additional Depre. |
| 35 – Contribution Given for Scientific Research | 35AD – Investment Linked Deductions | |
| <p>80C to 80U – No Deductions allowed under Chapter VI-A except below. Allowed Deductions : 80CCD(2) Employers Contribution towards NPS 80CCH(2) CG contribution to Agneepath Scheme 80JJAA Deduction in case of new employment</p> | | |
| <p>▪ Losses not allowed to be Set Off</p> | | |
| <p>✓ Carried forward losses attributable to any deductions above ✓ Loss under the head IFHP with any other head of Income (IFHP – Inter Head not allowed)</p> | | |
| <p>▪ Time Limit for Exercise of Option</p> | | |
| <p>✓ Individual / HUF having NO Business Income – Along with ITR, Option to choose in one year and change in another year ✓ Individual / HUF having Business Income – Along with ITR, NO option to change in subsequent AY Option can be withdrawn only once. Where it was exercised by Assessee having business income for PY other than the year in which it was exercised. Once withdrawn Assessee shall never be eligible to exercise the option again except assessee ceases to have business income</p> | | |
| <p>Where the person born on 1st April would be considered to have attained the particular age on 31st March i.e. day preceding the anniversary of his birthday [circular 28/2016] e.g. if person born on 1st April 1964, he will be considered to have attained the age of 60 years (i.e. become senior citizen in FY 2023-24) on 31st March 2024</p> | | |
| ❖ Specific Rates as per IT Act 1961 | | (Refer respective Chapter for details) |
| – Unexplained Income u/s 68/69/A/B/C/D | Any Assessee : 60% Income Tax + 25% surcharge on Income Tax | |
| – Long Term Capital Gain | 20% (Section 112) | |
| – Long Term Capital Gain on transfer of <ul style="list-style-type: none"> ▪ Equity Share in a company (STT paid on acquisition & transfer both) ▪ Unit of Equity Oriented Fund (STT paid on transfer only) ▪ Unit of Business Trust (STT paid on transfer only) | 10% (Section 112A) Above tax is applicable only when LTCC > ₹ 1,00,000 LTCC upto ₹ 1,00,000 is exempt (It will be included in Total Income but ONLY TAX WILL NOT BE levied) | |
| – STCG on Share/Securities subject to STT | 15% (Section 111A) | |
| – Casual Income i.e. Lottery income etc. | 30% (Section 115BB) | |
| – Net winnings from Online Games. | 30% (Section 115BBJ) | |
| – Health & Education Cess | @ 4% on Income Tax + Surcharge as the case may be | |
| – Rounding of Total Income (288A) | Rounded off to the nearest multiple of Ten Rupees | |
| – Rounding of Tax (288B) | Rounded off to the nearest multiple of Ten Rupees | |

❖ Marginal Relief

- In case any assessee having total income exceeding 50 Lakh/1 Crore/10 Crores as the case may be,
- Total amount of Income Tax Including Surcharge should not exceed
- Income Tax Including Surcharge, if any, payable on total income upto 50 Lakh/1 Crore/10 Crores by more than the amount of Income that exceeds 50 Lakh/1 Crore/10 Crores

Example of marginal relief

| Sr. | Particulars (₹ in Lakh) | Individual/HUF/AOP/BOI/AJP | | | Companies | | | |
|-----|--|----------------------------|-------|-------|-----------|--------|----------|----------|
| A | Total Income | 50.00 | 51.00 | 52.00 | 100.00 | 101.00 | 1,000.00 | 1,010.00 |
| B | Income Tax | 13.13 | 13.43 | 13.73 | 30.00 | 30.30 | 300.00 | 303.00 |
| C | Surcharge | NA | 1.34 | 1.37 | NA | 2.12 | 21.00 | 36.36 |
| D | Income Tax + Surcharge (B+C) | 13.13 | 14.77 | 15.10 | 30.00 | 32.42 | 321.00 | 339.36 |
| E | Additional Tax over Tax on Income of 50/100/1000 Lakh | - | 1.64 | 1.97 | - | 2.42 | - | 18.36 |
| F | Additional Income over 50/100/1000 Lakh | - | 1.00 | 2.00 | - | 1.00 | - | 10.00 |
| G | Marginal Relief where Additional Tax > Additional Income (E-F) | NA | 0.64 | NA | NA | 1.42 | NA | 8.36 |
| H | Tax Payable = Income Tax + Surcharge - Marginal Relief (B + C - G) | 13.13 | 14.13 | 15.10 | 30.00 | 31.00 | 321.00 | 331.00 |
| I | Add : HEC @ 4% (H × 4%) | 0.53 | 0.57 | 0.60 | 1.20 | 1.24 | 12.84 | 13.24 |
| J | Total Tax Payable (H + I) | 13.66 | 14.70 | 15.70 | 31.20 | 32.24 | 333.84 | 344.24 |

| ❖ Co-Operative Society | | |
|---|------------------------|-------------------|
| - Income Tax | ≤ 10,000 | 10% |
| | 10,001 to 20,000 | 20% |
| | > 20,000 | 30% |
| - Surcharge | Total Income > 1 Crore | 12% of Income Tax |
| Concessional Tax Rates [Section 115BAD] [Similar to 115BAA in case of Companies] | | |
| 25.168 % [22% Tax + 10% Surcharge + 4% HEC] | | |
| ❖ Firm / LLP / Local Authority | | |
| - Income Tax | Flat Rate | 30% |
| - Surcharge | Total Income > 1 Crore | 12% of Income Tax |

| ❖ Surcharge in case of Individual / HUF / AOP / BOI / AJP | | | | |
|---|-----------------|------------------|------------------|--------|
| – Under Default Regime 115BAC | | | | |
| Nature of Income | >50 L to ≤1 Cr. | >1 Cr. to ≤2 Cr. | >2 Cr. | |
| STCG (111A) | 10% | 15% | 15% | |
| LTCG (112 & 112A) | 10% | 15% | 15% | |
| Dividend Income | 10% | 15% | 15% | |
| Any Other Income | 10% | 15% | 25% | |
| – Shifting out of Default Tax Regime | | | | |
| Nature of Income | >50 L to ≤1 Cr. | >1 Cr. to ≤2 Cr. | >2 Cr. to ≤5 Cr. | >2 Cr. |
| STCG (111A) | 10% | 15% | 15% | 15% |
| LTCG (112 & 112A) | 10% | 15% | 15% | 15% |
| Dividend Income | 10% | 15% | 15% | 15% |
| Any Other Income | 10% | 15% | 25% | 37% |

The Finance (No. 2) Act, 2019 has been amended to withdraw the enhanced surcharge, i.e., 25% or 37%, as the case may be, from income chargeable to tax under [section 111A, 112, 112A and 115AD](#).

Hence, the **maximum rate** of surcharge on tax payable on such incomes shall be 15%.

However, where **Any other income** of a person **does not exceed ₹ 2 crores** but after including the incomes as referred to in section 111A, 112, 112A and 115AD, the total income exceeds Rs. 2 crores then irrespective of the amount of other income, surcharge shall be **levied at the rate of 15% on the amount of tax payable on both normal income as well as income referred to in section 111A, 112, 112A and 115AD**

Example

Amount (₹ in Lakhs)

| Sr. | LTCG, STCG & Dividend | Other Income | Total Income | Surcharge on STCG, LTCG, DIVI. | Surcharge on Other Income | |
|-----|-----------------------|--------------|--------------|--------------------------------|---------------------------|--------------------|
| | | | | | Default Regime | Not Default Regime |
| 1 | 10 | 45 | 55 | 10% | 10% | 10% |
| 2 | 30 | 90 | 120 | 15% | 15% | 15% |
| 3 | 40 | 210 | 250 | 15% | 25% | 25% |
| 4 | 30 | 190 (≤2 Cr) | 220 | 15% | 15% | 15% |
| 5 | 200 | 310 (>2 Cr) | 510 (>5 Cr) | 15% | 25% | 37% |
| 6 | 350 | 160 (≤2 Cr) | 510 (>5 Cr) | 15% | 15% | 15% |

AVERAGE RATE & MAXIMUM MARGINAL RATE OF TAX

- Average Rate = Total Tax Calculated / Total Income
- Maximum Marginal Rate = Highest Rate in Slab plus Highest Surcharge plus Cess

SECTION 115JC – ALTERNATE MINIMUM TAX ON PERSON OTHER THAN COMPANIES

In case of person other than company, Income Tax computed as per Income Tax Act < 18.5% of Adjusted Total Income (ATI)

- ATI shall be deemed Total Income & AMT Rate = 18.5% plus Applicable Surcharge & Cess
- If unit located in IFSC & derives income solely in convertible forex, MAT Rate = 9%
- Adjusted Total Income (ATI)
 - Total Income of an Assessee
 - Plus: Deductions u/s Section 80-IA to 80RRB other than deductions u/s 80P
 - Plus: Deductions u/s 10AA “SEZ Unit”
 - Plus: Deductions u/s 35AD as reduced by Depreciation assuming deductions not allowed
- Other provisions of act are also applicable such as Interest, penalty etc.
- In case of Individual/HUF/AOP/BOI/AJP, if ATI ≤ 20 Lakh this provision is not applicable
- In case of Person who has opted for 115BAC or 115 BAD, this provision is not applicable

Section 115JD – AMT Credit & Set off

- Person is allowed to carry forward AMT Credit for 15 AY
 - AMT Credit allowable = Tax paid as per AMT less Tax as per Normal Provision
- Set-off against tax liability in the year in which company pays tax as per normal provision
 - Set-off allowable = Tax as per normal provision less Tax as per AMT Provision
- Credit relates to Difference = FTC allowed against AMT less FTC allowed against normal tax shall not allowed to carry forward or set off
- Credit can be set off even if ATI ≤ 20 Lakh in the year of set off
- In case of Person who has opted for 115BAC or 115 BAD, Not eligible to claim AMT Credit

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| COMPUTATION OF TOTAL INCOME & TAX | | |
|-----------------------------------|---|-------------|
| | PARTICULARS | AMOUNT |
| | Income from Salary | XXXX |
| | Income from House Property | XXXX |
| | Profit & Gain from Business or Profession | XXXX |
| | Capital Gains | XXXX |
| | Income from Other Sources | XXXX |
| | Set Off & Carry Forward of Losses | XXXX |
| | Clubbing of Income | XXXX |
| | GROSS TOTAL INCOME | XXXX |
| <i>Less:</i> | Deductions under Chapter VI-A | XXXX |
| | TOTAL INCOME | XXXX |
| | Tax on Income Taxable at Special Rates | XXXX |
| | Tax on Income Taxable at Normal Rates | XXXX |
| | TOTAL TAX PAYABLE | XXXX |
| <i>Less:</i> | Rebate u/s 87A | XXXX |
| | TAX PAYABLE AFTER REBATE | XXXX |
| <i>Add:</i> | Surcharge | XXXX |
| | TAX + SURCHARGE | XXXX |
| <i>Add:</i> | Health & Education Cess @ 4% | XXXX |
| | GROSS TAX LIABILITY | XXXX |
| <i>Add:</i> | Interest & Fees | XXXX |
| | AGGREGATE LIABILITY | XXXX |
| <i>Less:</i> | TDS | XXXX |
| <i>Less:</i> | TCS | XXXX |
| <i>Less:</i> | Advance Tax | XXXX |
| | NET TAX PAYABLE [Paid as Self-Assessment Tax] | XXXX |

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CHAPTER – 14
FILING OF RETURN & SELF ASSESSMENT

| SECTION 139 – FILLING OF INCOME TAX RETURN | | | | | | | | | | | | |
|--|---|--|----------|----------|---------|--------------------------|---|---------------------------|--|---------------------------|----------------|-----------------------|
| 139(1) | Compulsory Filing on or before due date | <ul style="list-style-type: none"> – In case of Companies/ Firm – Compulsory Filing – In any other case (Individual / HUF / AOP / BOI / AJP) – <ul style="list-style-type: none"> ▪ if Total Income > BEL or ▪ Deposited amount or aggregate of amount > 1 Crore in one or more current account with Bank or ▪ Deposited amount or aggregate of amount > 50 Lakh in one or more Saving account with Bank or ▪ Expenditure of amount or aggregate of amount > 2 Lakh for himself/other person for travel to foreign country or ▪ Expenditure of amount or aggregate of amount > 1 Lakh towards consumption of electricity or ▪ If total Turnover from BUSINESS > 60 Lakh during PY or ▪ If total Gross Receipts from PROFESSION > 10 Lakh during PY or ▪ If Aggregate of TDS and TCS > 25,000 during PY (50,000 in case of Resident Senior Citizen) – In case of Ordinary Resident Not covered above shall file return if <ul style="list-style-type: none"> ▪ Beneficial Owner of any asset/ Signing authority in any account located outside India or ▪ Beneficiary of the any asset located outside India | | | | | | | | | | |
| | Due Date | <table border="1"> <thead> <tr> <th>Assessee</th> <th>Due Date</th> </tr> </thead> <tbody> <tr> <td>Company</td> <td rowspan="3">31st October</td> </tr> <tr> <td>Other Assesses required to get accounts Audited</td> </tr> <tr> <td>Partner of Auditable Firm</td> </tr> <tr> <td>Assessee required to furnish Transfer Pricing Report u/s 92E</td> <td>30th November</td> </tr> <tr> <td>Any Other Case</td> <td>31st July</td> </tr> </tbody> </table> | Assessee | Due Date | Company | 31 st October | Other Assesses required to get accounts Audited | Partner of Auditable Firm | Assessee required to furnish Transfer Pricing Report u/s 92E | 30 th November | Any Other Case | 31 st July |
| Assessee | Due Date | | | | | | | | | | | |
| Company | 31 st October | | | | | | | | | | | |
| Other Assesses required to get accounts Audited | | | | | | | | | | | | |
| Partner of Auditable Firm | | | | | | | | | | | | |
| Assessee required to furnish Transfer Pricing Report u/s 92E | 30 th November | | | | | | | | | | | |
| Any Other Case | 31 st July | | | | | | | | | | | |
| | Total Income | Total Income without considering deductions as per the provisions of Section 54 / 54B / 54D / 54EC / 54F / 54G / 54GA / 54GB or under chapter VI-A | | | | | | | | | | |
| 139(3) | Return of Loss | Return of loss need to be filed on or before due date mentioned above. It will enable assessee to carry forward losses as per Section 80 (Only IFHP loss & Unabsorbed Depreciation can be carried forward if Return is not filed within Due Date / Even if Return is not filed) | | | | | | | | | | |
| 139(4) | Belated Return | If return of income is not furnished u/s 139(1). Belated return can be filed earlier of <ul style="list-style-type: none"> – Before 3 months prior to end of Relevant AY (31st DEC) or – Before completion of assessment | | | | | | | | | | |

| | | |
|---------|---|--|
| 139(5) | Revised Return It will replace all return filed earlier | If any omission or wrong statement found, Assessee may furnish revised return any no. of times earlier of <ul style="list-style-type: none"> - Before 3 months prior to end of Relevant AY (31st DEC) or - Before completion of assessment |
| 139(8A) | Updated Return | <ul style="list-style-type: none"> - Person who has Filed or Not Original Return / Revised Return / Belated Return can file updated ITR within 24 Months from the end of relevant AY - No updated return is allowed to file <ul style="list-style-type: none"> ▪ If It is Return of Loss (Updated Return cannot be a Return of Loss even if Original / Revised Return is of Return of Loss) ▪ If It results in decreasing Tax Liability on the basis of Original / Revised / Belated Return ▪ If It results in Refund or Increasing Refund on the basis of Original / Revised / Belated Return ▪ If An Updated Return has already been submitted ▪ If Any assessment proceeding is pending or completed ▪ By Such other person notified by CBDT |
| 139(9) | Defective Return | <ul style="list-style-type: none"> - AO has power to call upon assessee to rectify defective return - Assessee need to rectify defect within 15 days from date of receipt of intimation otherwise return shall be treated as invalid |

SECTION 140 – PERSON AUTHORISED TO VERIFY RETURN

| Sr. | Assessee | Competent person to verify the Return |
|-----|-------------------|--|
| 1 | Individual | Individual himself / Authorised Person / POA holder / Guardian as the case may be |
| 2 | HUF | Karta / Any Adult member (Male / Female) If Karta is absent from India |
| 3 | Firm / LLP | Partnership Firm - Any Partner / LLP - Designated Partner / Other Partner if Designated Partner is not able to verify or where there is no Designated Partner |
| 4 | Company | Managing Director / Any Director / Insolvency Professional under IBC 2016 |
| 5 | Local Authorities | Principal Officer |
| 6 | Political Party | Chief Executive Officer / Secretary |
| 7 | AOP | Principal Officer / Member of AOP |

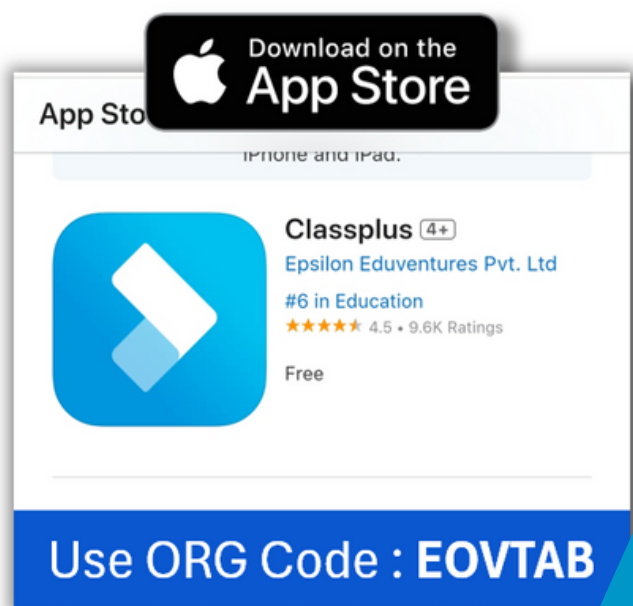
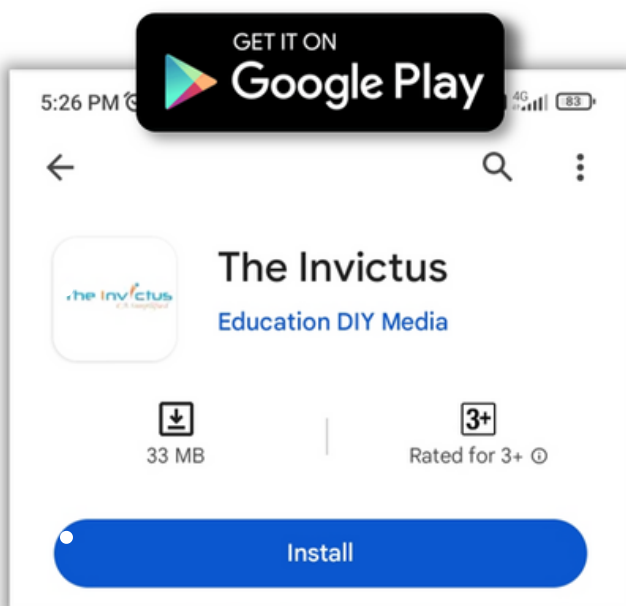
Section 140A – Self-Assessment

- Assessee himself assess his tax liability and pay the tax before filing return of income
- Balance amount of tax after taking into account TDS, TDS, Advance Tax, MAT/AMT Credit or relief shall be paid as self-assessment tax
- Assessee shall pay such tax together with interest and fees payable for default in furnishing return, if any. Amount paid shall be first adjusted towards interest and fees and balance shall be adjusted towards tax payable.

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