Part-1

CS Executive | CMA Inter

Relevant For June 25 & Dec 25

REVISED EDITION

LET'S UNLOCK

Income Tax

Covering

- 100% ICSI and ICWAI Module
- All Amendments by Finance Act , 2024
- All Updated Questions and Examples

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(FCA, B.COM, CCTP)

PREFACE

The book adopts a fresh and new approach to understand and gain in-depth knowledge of the provision of **taxation relating to Income tax Act** in an illustrative manner for the students of **CA Inter, CS Executive, CMA Inter** and **other taxation students**. The **law** stated in the book is **as per the Finance Act 2024** and the **problems** are **solved** keeping in mind the **amended provision** of the act. The objective of the book is to present the law in **simple and easy language** so as to make **topics student friendly** by illustrating **provision in graphical and tabular manner**.

The book has been written keeping in view the new syllabus as notified by the ICSI and ICWAI.

KEY FEATURES OF THE BOOK

a) **Suitable for detailed discussion and in depth understanding of the topic**: The book covers entire syllabus at a place along with suitable illustration for concepts for better understanding.

b) **Includes most important solved problems**: The book contains practical question that will help students in the application of law.

c) **All concepts in simple and easy language**: All the provisions have been explained in easy language and also in graphical and tabular manner to make study easy and simple.

I would like to thank GOD for his constant courage, blessing and everything that has been provided by Almighty to each one of us. **I would also like to thank you MY Family and ALL My Teacher's for their constant support**, faith, blessing, encouragement and guidance.

I would like to Special thank **my Parents & My Wife** for their constant love, support, encouragement, blessing and for being a big source of inspiration.

I would like to acknowledge the efforts put in by **My Friends** who have always motivated and inspired me to do my best and give my maximum in each and every situation.

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Revised Edition

Amended by Finance ACT, 2024

Book Dedicated to -

MY Parents

&

ALL My Students

"Your Taxation Paper is MY Responsibility "

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PART -A

INDEX

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CHAPTER - 1 Basic Concepts

INTRODUCTION

1.1 What is the meaning of tax?

Let us begin by understanding the meaning of tax.

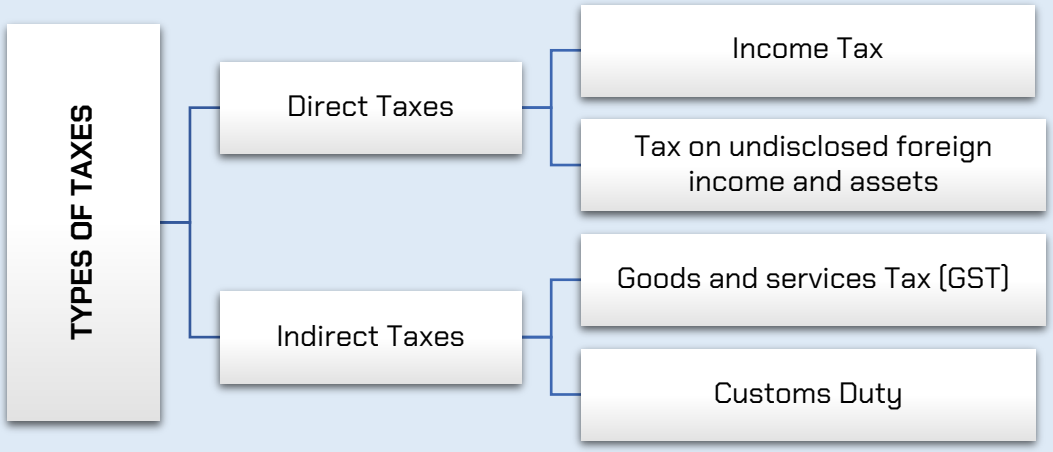
Article 366(28) of the Constitution of India defines the term "Taxation" as follows –

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

Taxes are considered to be the "cost of living in a society". Taxes are levied by the Governments to meet the common welfare expenditure of the society.

There are two types of taxes - direct taxes and indirect taxes.

- **Direct Taxes:** If tax is levied directly on the income or wealth of a person, then, it is a direct tax. The person who pays the tax to the Government cannot recover it from somebody else i.e. the burden of a direct tax cannot be shifted. E.g., Income tax.
- **Indirect Taxes:** If tax is levied on the price of a good or service, then, it is an indirect tax e.g. Goods and Services Tax (GST) or Custom Duty. In the case of indirect taxes, the person paying the tax passes on the incidence to another person.



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Why are taxes levied?

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

Power to levy taxes

The Constitution of India, in Article 265 lays down that "No tax shall be levied or collected except by authority of law." Accordingly for levy of any tax, a law needs to be framed by the government.

Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and the State Government. 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.

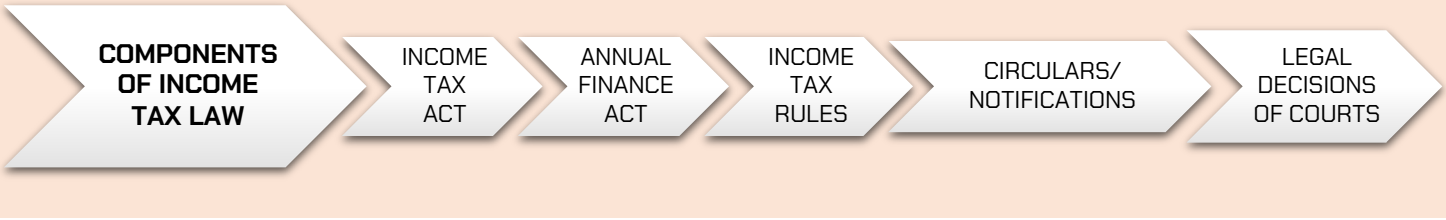
The following are the lists:

- **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 Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.

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

Overview of Income-tax law in India

In this material, we would be introducing the students to the Income-tax law in India. The income-tax law in India consists of the following components –



The various instruments of law containing the law relating to income-tax are explained below.

Income-tax Act, 1961

The levy of income-tax in India is governed by the Income-tax Act, 1961. In this book, we shall briefly refer to this as the Act.

- It extends to the whole of India.
- It came into force on 1st April, 1962.
- It contains sections 1 to 298 and schedules I to XIV.
  - ➢ A section may have sub-sections or clauses and sub-clauses.
    - When each part of the section is independent of each other and one is not related with other, such parts are called a "Clause". "Sub section", on the other hand refers to such parts of a section where each part is related with other and all sub sections taken together completes the concept propounded in that section.

EXAMPLE

- The clauses of section 2 define the meaning of terms used in the Income-tax Act, 1961. Clause (1A) defines "agricultural income", clause (1B) defines "amalgamation" and so on. Each one of them is independent of other clause of the same section.
- Likewise, the clauses of section 10 contain the exemptions in respect of certain income, like clause (1) provides for exemption of agricultural income and clause (2) provides for exemption of share income of a member of a Hindu Undivided Family and so on.

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

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

Sections 80GGB and 80GGC provides for deduction from gross total income in respect of contributions made by companies and other persons, respectively, to political parties or an electoral trust.

- The Income-tax Act, 1961 undergoes change every year with additions and substitutions brought in by the Annual Finance Act passed by Parliament. Sometimes, the Income-tax Act, 1961 is also amended through other legislations like Taxation Laws (Amendment) Act.

The 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. Accordingly, Part I of the First Schedule to the Finance (No. 2) Act, 2024 specifies the rates of tax for F.Y. 2023-24.
- **Part II** specifies the rates at which tax is deductible at source for the current Financial Year. Accordingly, Part II of the First Schedule to the Finance Act, 2024 specifies the rates at which tax is deductible at source for F.Y. 2024-25.
- **Part III** gives the rates for calculating income-tax for deducting tax from income chargeable under the head "Salaries" and computation of advance tax for F.Y. 2024-25 where the assessee exercises the option to shift out of the default tax regime provided under section 115BAC(1A).
- **Part IV** gives the rules for computing net agricultural income.

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.

- Rules also have sub-rules, provisos and Explanations. The proviso to a Rule/ Sub-rule spells out the exception to the limits, conditions, guidelines, basis of valuation, as the case may be, spelt out in the Rule/ Sub-rule. The Explanation gives clarification for the purposes of the Rule.
- It is important to keep in mind that along with the Income-tax Act, 1961, these rules should also be studied.

Circulars and Notifications

Circulars

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

Notifications

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

Legal decisions of Courts

Case Laws refer to decision given by courts. The study of case laws is an important and unavoidable part of the study of Income-tax law. 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 assessees 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.

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

CHARGE OF INCOME TAX

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

I. Tax shall be charged at the rates prescribed for the year by the Annual Finance Act or the Income-tax Act, 1961 or both.

II. The charge is on every person specified under section 2(31);

III. Tax is chargeable on the total income earned during the previous year and not the assessment year. (There are certain exceptions provided by sections 172, 174, 174A, 175 and 176);

IV. Tax shall be levied in accordance with and subject to the various provisions contained in the Act.

This section is the back bone of the law of income-tax in so far as it serves as the most operative provision of the Act. The tax liability of a person springs from this section.

A person includes an individual, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI), a firm, a company etc.

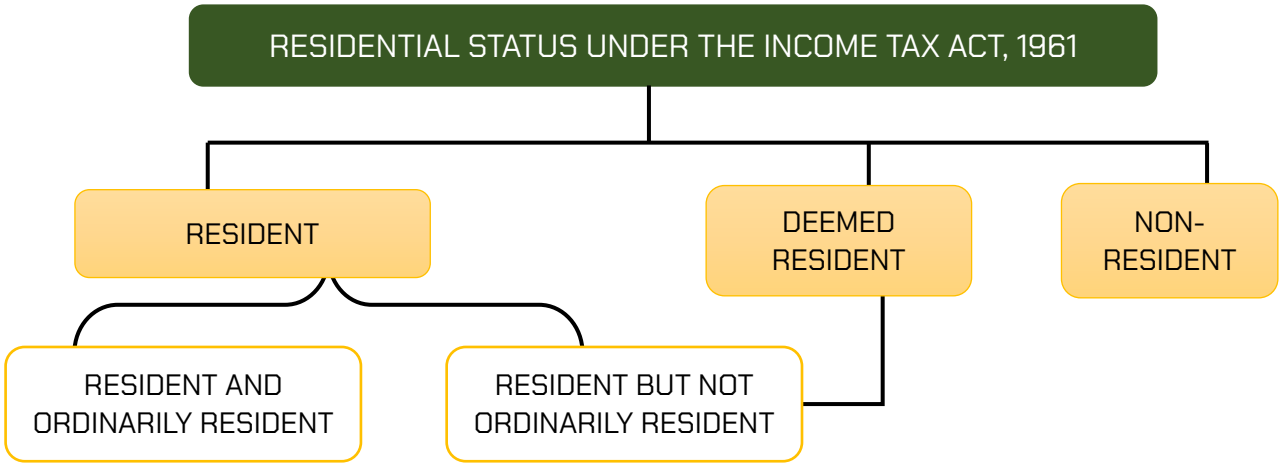
1. Total Income and Tax Payable

Income-tax is levied on an assessee's total income. Such total income has to be computed as per the provisions contained in the Income-tax Act, 1961.

Let us go step by step to understand the procedure for computation of total income of an individual for the purpose of levy of income-tax –

Step 1 – Determination of residential status

The residential status of a person has to be determined to ascertain which income is to be included in computing the total income. The residential status as per the Income-tax Act, 1961 can be classified as under –



In the case of an individual, the duration for which he is present in India in the relevant previous year or relevant previous year and the earlier previous years determines his residential status. Based on the days spent by him in India, he may be (a) resident and ordinarily resident, (b) resident but not ordinarily resident, or (c) non-resident.

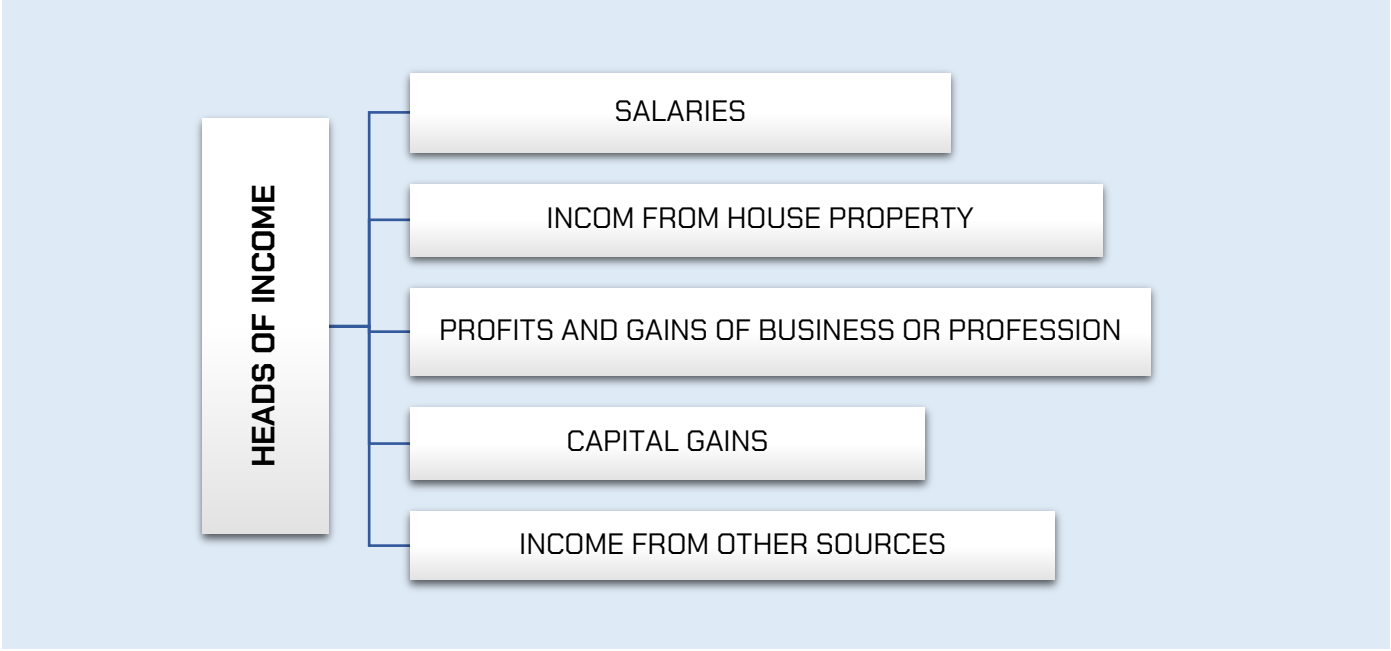
The residential status of a person determines the taxability of the income. For e.g., income earned and received outside India will not be taxable in the hands of a non- resident but will be taxable in case of a resident and ordinarily resident.

There is also a concept of deemed resident for which presence of individual in India is not required. A deemed resident is always a resident but not ordinarily resident in India. Determination of residential status has been discussed in Chapter 2.

Step 2 – Classification of income under different heads

A person may earn income from different sources. For example, a salaried person earns income by way of salary. He also gets interest from bank savings account/ fixed deposit. Apart from this, if he has invested in shares, he would be getting dividend and when he sells these shares, he may earn profit on such sale. If he owns a residential property which he has let out, he would earn rental income.

Under the Income-tax Act, 1961, for computation of total income, all income of a tax payer are classified into five different heads of income. These are shown below –



There is a charging section under each head of income which defines the scope of income chargeable under that head. These heads of income exhaust all possible types of income that can accrue to or be received by the tax payer. Accordingly, income earned is classified as follows:

1. Salary, pension etc. earned is taxable under the head “Salaries”.
2. Rental income is taxable under the head “Income from house property”.
3. Income derived from carrying on any business or profession is taxable under the head “Profits and

gains of business or profession".

4. Profit from sale of a capital asset (like land, building and shares) is taxable under the head "Capital Gains".
5. The fifth head of income is the residuary head. Income which is chargeable to tax under the Income-tax Act, 1961 but not taxable under the first four heads will be taxed under the head "Income from other sources".

The tax payer has to classify the income earned under the relevant head of income.

Step 3 – Computation of income under each head

Income is to be computed in accordance with the provisions governing a particular head of income.

Exemptions: There are certain incomes which are wholly exempt from income-tax e.g., agricultural income. These incomes have to be excluded and will not form part of total income.

Also, some incomes are partially exempt from income-tax e.g., Commuted pension. These incomes are excluded only to the extent of the limits specified in the Act. The balance income over and above the prescribed exemption limits would enter computation of total income and have to be classified under the relevant head of income.

Deductions: There are deductions and allowances prescribed under each head of income. For example, while calculating income from house property for let out property, municipal taxes and interest on loan are allowed as deduction. Similarly, deductions and allowances are prescribed under other heads of income. These deductions etc. have to be considered before arriving at the net income chargeable under each head.

These exemptions and deductions would be available to the individual depending upon the regime in which he pays tax. Tax regime under section 115BAC is the default tax regime which provides for concessional rates of tax to individuals/HUFs/ AoPs/BoIs/Artificial juridical persons. However, certain exemptions and deductions are not allowed under the default tax regime. Such assessees have an option to opt out of the said regime and pay tax under normal provisions of the Act. These tax regimes i.e., the default tax regime under section 115BAC and optional tax regime under the normal provisions of the Act are discussed in detail later on in this Chapter.

For detailed discussion on exemptions and deductions under each head, refer to Chapter 3: Heads of Income.

Disallowance of expenditure in relation to exempt income [Section 14A]

- As per section 14A, notwithstanding anything to the contrary, 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 method for determining expenditure in relation to exempt income for the purpose of disallowance of such expenditure under section 14A is prescribed by the CBDT.
- The provisions of section 14A regarding disallowance of expenses would apply even in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.

Step 4 – Clubbing of income of spouse, minor child etc.

In case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e., as the income increases, the applicable rate of

tax increases. Some taxpayers in the higher income bracket have a tendency to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden.

In order to prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability. For detailed discussion, refer to Chapter 4: Income of other persons included in assessee's total income.

Step 5 – Set-off or carry forward and set-off of losses

An assessee may have different sources of income under the same head of income. He may have profit from one source and loss from the other. For instance, an assessee may have profit from his textile business and loss from his printing business. This loss can be set-off against the profits of textile business to arrive at the net income chargeable under the head "Profits and gains of business or profession".

Similarly, an assessee can have loss under one head of income, say, profits and gains of business or profession and profits under another heads of income, say, income from house property. There are provisions in the Income-tax Act, 1961 for allowing inter-head adjustment in certain cases.

However, there are also restrictions in certain cases, like business loss is not allowed to be set-off against salary income. Default tax regime under section 115BAC puts further more restrictions like loss from house property cannot be set off from income under any other head. Further, losses which cannot

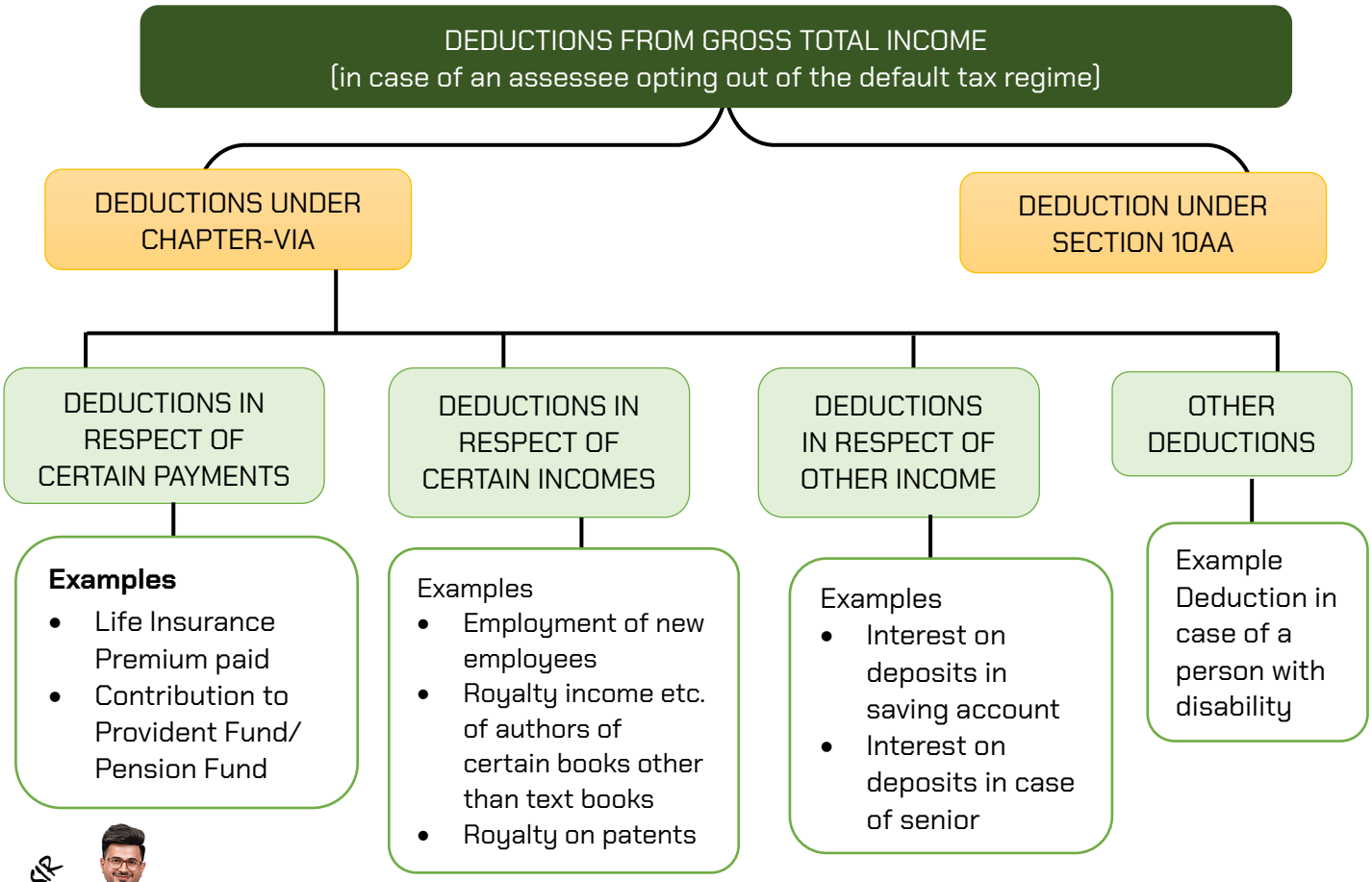
be set-off in the current year due to inadequacy of eligible profits can be carried forward for set-off in the subsequent years as per the provisions contained in the Act. Generally, brought forward losses under a particular head cannot be set-off against income under another head i.e., brought forward business loss cannot be set-off against income from house property of the current year. For detailed discussion, refer to Chapter 5: Aggregation of income, set-off and carry forward of losses.

Step 6 – Computation of Gross Total Income

The final figures of income or loss under each head of income, after allowing the eligible deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.

Step 7 – Deductions from Gross Total Income

There are deductions prescribed from Gross Total Income. Two types of deductions are allowable from Gross Total Income - Deductions under Chapter VI- A and deduction under section 10AA. These deductions would be allowable to the assessee who opts out of the default tax regime and pays tax under the optional tax regime as per normal provisions of the Act, subject to fulfillment of requisite conditions stipulated thereunder



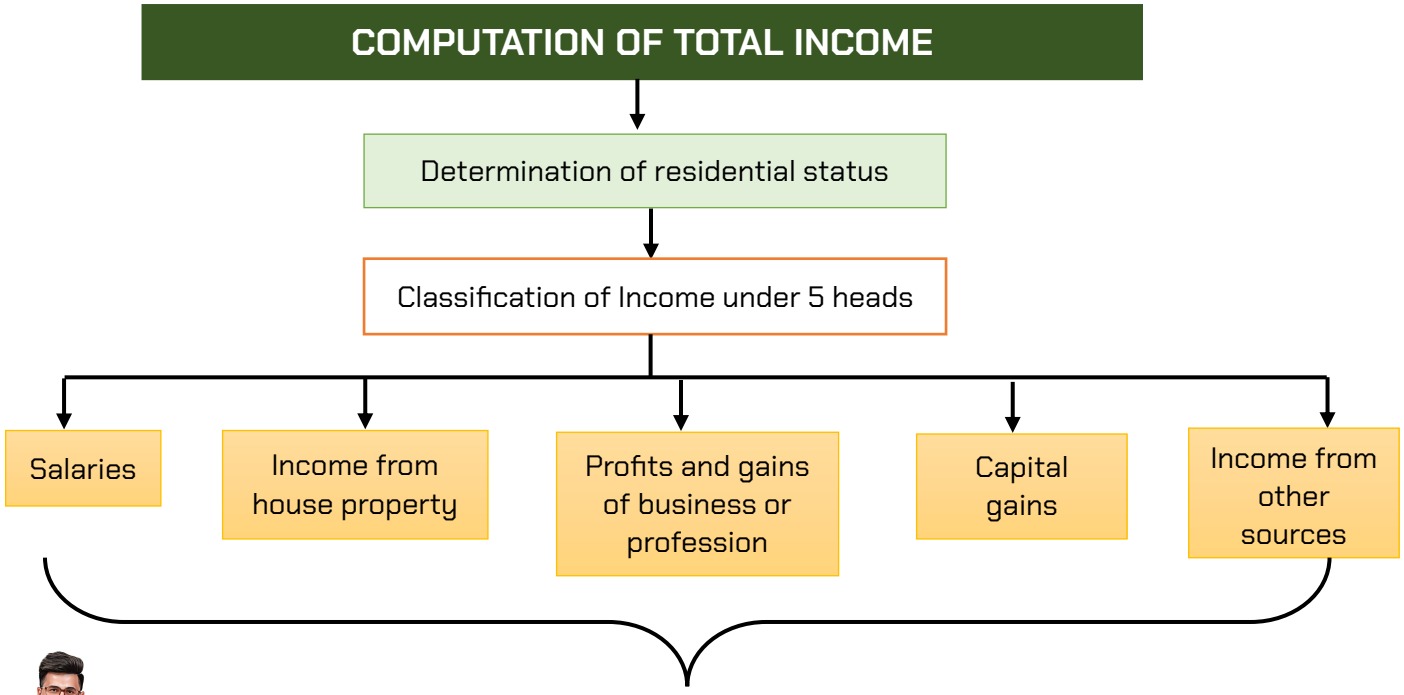
Examples

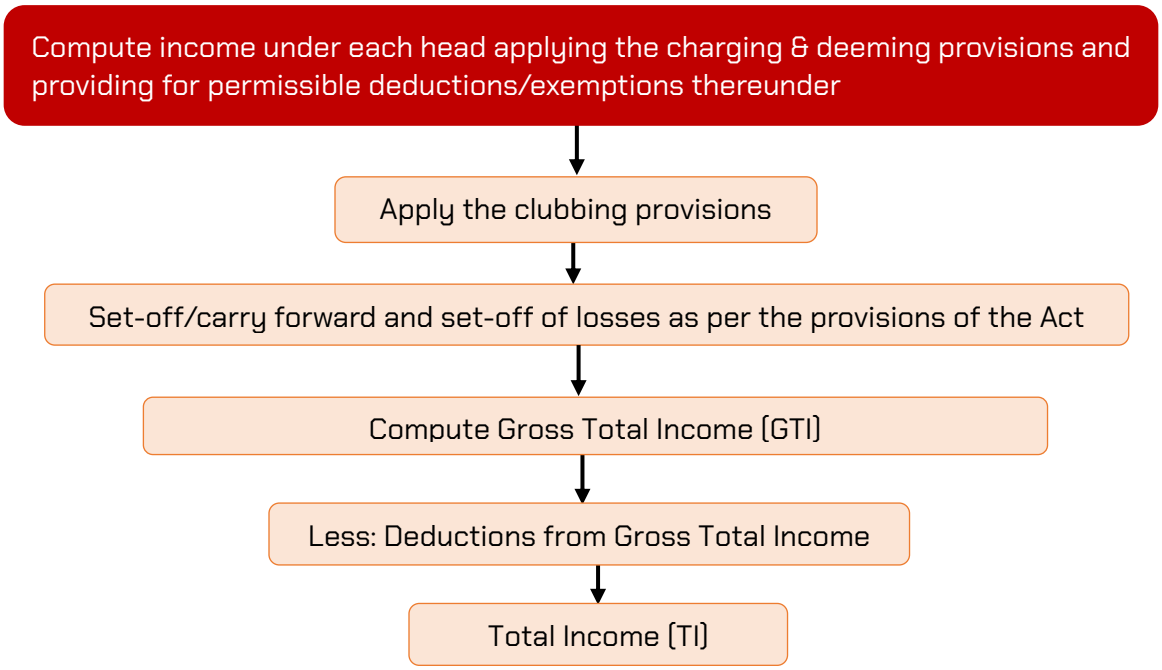
- Medical insurance premium paid
- Payment of interest on loan taken for higher education
- Payment of interest on loan taken for residential house
- Payment of interest on loan taken for purchase of electric vehicle
- Rent paid
- Donation to certain funds, charitable institutions, etc.
- Contributions to political

However, under the default tax regime under section 115BAC, only select deductions are permissible. For detailed discussion, refer to Chapter 6: Deductions from Gross Total Income.

Step 8 – Computation of Total income

The income arrived at, after claiming the above deductions from the Gross Total Income is known as the Total Income. It should be rounded off to the nearest multiple of ₹10 as per section 288A. The process of computation of total income is shown hereunder –





Step 9 – Application of the rates of tax on the total income

Rates prescribed under section 115BAC of the Income-tax Act for default tax regime

Section 115BAC of the Income-tax Act, 1961 provides for concessional rates of tax to individuals/HUF/AoPs/BoIs and artificial juridical persons. Under this regime certain exemptions/deductions are, however, not available like Leave Travel Concession, interest on housing loan on self-occupied property, deductions under Chapter VI-A [other than section 80CCD(2), 80CCH(2) or section 80JJAA] etc. The rates given under section 115BAC are the default tax rates unless the assessee exercises an option to shift out of the said regime. The basic exemption limit under section 115BAC is ₹3,00,000. This means that no tax is payable by an assessee with total income of upto ₹3,00,000. The tax rates under section 115BAC is as follows -

S. No.	Total Income	Rate of tax
1.	Upto ₹3,00,000	Nil
2.	From ₹3,00,000 to ₹7,00,000	5%
3.	From ₹7,00,000 to ₹10,00,000	10%
4.	From ₹10,00,000 to ₹12,00,000	15%
5.	From ₹12,00,000 to ₹15,00,000	20%

6.	Above ₹15,00,000	30%

Rates prescribed by the Annual Finance Act under the optional tax regime

Individuals/HUF/AoPs/BoIs and artificial juridical persons, who exercise the option to opt out of the default tax regime under section 115BAC, have to pay tax as per normal provisions of the Act. Under the normal provisions of the Act, the rates of tax are prescribed by the Annual Finance Act of the year.

For individuals, HUF etc., the basic exemption limit is ₹2,50,000. This means that, as per the normal provisions of the Act, no tax is payable by individuals with total income of upto ₹2,50,000. Those individuals whose total income is more than ₹2,50,000 but less than or equal to ₹5,00,000 have to pay tax on their total income in excess of ₹2,50,000@5%. Total income between ₹5,00,000 and ₹10,00,000 attracts tax @20%. The highest rate is 30%, which is attracted in respect of income in excess of ₹10,00,000. The tax rates have to be applied on the total income to arrive at the income-tax liability.

However, resident individuals enjoy rebate under section 87A in both the tax regimes which are discussed later on in this chapter.

For certain income (like Long Term Capital Gains, Lottery Income, Specified Short Term Capital Gains etc.), slab rates are not applicable under both the tax regimes. These incomes are taxable at special rates of taxation under both the tax regimes. These special rates are contained in the Income-tax Act, 1961 itself.

Step 10 - Surcharge / Rebate under section 87A

Surcharge: Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax, where total income exceeds ₹50 lakhs. The rates of surcharge applicable for different slabs of total income are discussed later on in this chapter.

Rebate under section 87A: In order to provide tax relief to the individual tax payers, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed ₹7,00,000 under the default tax regime under section 115BAC or ₹5,00,000 under the normal provisions of the Act if he opts out of the default tax regime. Under the default tax regime, an individual whose total income exceeds ₹7 lakhs marginally is also entitled to a rebate of the difference between tax on total income and the amount by which the total income exceeds ₹7 lakhs, when the former is greater than the latter.

Step 11 – Health and education cess on income-tax

The income-tax, as increased by the surcharge or as reduced by the rebate under section 87A, if

applicable, is to be further increased by an additional surcharge called health and education cess on income-tax @4% of income-tax plus surcharge, if applicable.

Step 12 – Alternate Minimum Tax (AMT)

The Income-tax Act, 1961 contains certain profit-linked and investment linked deductions under normal provisions of the Act to promote investment in various sectors. These tax benefits help to reduce the tax liability of the taxpayers who exercise the option to opt out of the default tax regime under section 115BAC and become eligible to claim such deductions. In order to preserve the tax base vis-a- vis profit linked and investment linked deductions, the Income-tax Act, 1961 provides for levy of alternate minimum tax. Section 115JC provides for minimum tax to be paid by the taxpayers on their total income without providing profit linked and investment linked deductions. However, the taxpayer can claim the tax credit of the excess tax paid over the regular income-tax payable.

Individuals/HUF/AoPs/BoIs and artificial juridical persons paying tax under default tax regime under section 115BAC, are not liable to alternate minimum tax under section 115JC.

For detailed discussion, refer to Chapter 9: Income-tax liability – Computation and Optimisation.

Step 13 – Examine whether to pay tax under the default tax regime under section 115BAC or pay tax under the optional tax regime as per the regular provisions of the Act

Total income and tax liability of individuals/HUF/AoPs/BoIs and artificial juridical persons may be computed in accordance with both the default tax regime under section 115BAC and as per the regular provisions of the Act including provisions relating to AMT, if applicable. Then, such persons can determine which is more beneficial and accordingly decide whether or not to opt out of the default tax regime under section 115BAC.

Individuals/HUF/AoPs/BoIs not having income from business or profession can choose whether or not to exercise the option of shifting out of the default tax regime in each previous year. They may choose to pay tax under default tax regime under section 115BAC in one year and exercise the option to shift out of default tax regime in another year.

Step 14 – Advance tax and tax deducted/ collected at source

Although the tax liability of an assessee is determined only at the end of the year, tax is required to be paid in advance in four installments on the basis of estimated income i.e., on or before 15th June, 15th September, 15th December and 15th March. However, residents declaring profits under presumptive taxation scheme (where business or professional income is computed as a percentage of gross receipts/turnover) can pay advance tax in one installment on or before 15th March instead of four installments. In certain cases, tax is required to be deducted at source from the income by the payer

at the rates prescribed in the Income-tax Act,

1961 or the Annual Finance Act. Such deduction should be made either at the time of accrual or at the time of payment, as prescribed by the Act.

EXAMPLE

In the case of salary income, the obligation of the employer to deduct tax at source arises only at the time of payment of salary to the employees. However, in respect of other payments like, fees for professional services, fees for technical services, interest payable to residents, the person responsible for paying is liable to deduct tax at source at the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier. Such tax deducted at source has to be remitted to the credit of the Central Government through any branch of the RBI, SBI or any authorized bank within the statutory due dates.

For detailed discussion, refer to Chapter 7: Advance tax, tax deduction at source and tax collection at source.

Step 15: Tax Payable/Tax Refundable

After adjusting the advance tax and tax deducted/ collected at source, the assessee would arrive at the amount of net tax payable or refundable. Such amount should be rounded off to the nearest multiple of ₹10 as per section 288B.

The assessee has to pay the amount of tax payable (called self-assessment tax) on or before the due date of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.

2. Return of Income

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information as to his total income and tax payable. The format for filing of returns by different assessees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are required to be furnished in the return of income. In short, a return of income is the declaration of income by the assessee in the prescribed format.

The Act has prescribed due dates for filing return of income in case of different assessees. Companies and firms have to mandatorily file their return of income before the due date. Other assessees are required to file a return of income subject to fulfilling of certain conditions.

IMPORTANT DEFINITIONS

In order to understand the provisions of the Act, one must have a thorough knowledge of the meanings of certain key terms like 'person', 'assessee', 'income', etc. To understand the meanings of these terms we have to first check whether they are defined in the Act.

Terms defined in the Act: Section 2 gives definitions of the various terms and expressions used therein. If a particular definition is given in the Act itself, we have to be guided by that definition. For e.g. the term 'perquisite' has been defined under section 17(2) for the purpose of taxation of salaries.

Terms not defined under the Act: If a particular definition is not given in the Act, reference can be made to the General Clauses Act or dictionaries.

Students should note this point carefully because certain terms like "dividend", "transfer", etc. have been given a wider meaning in the Income-tax Act, 1961 than they are commonly understood. Some of the important terms defined under section 2 are given below:

Assessee [Section 2(7)]

"Assessee" means a person by whom any tax or any other sum of money is payable under this Act. In addition, it includes –

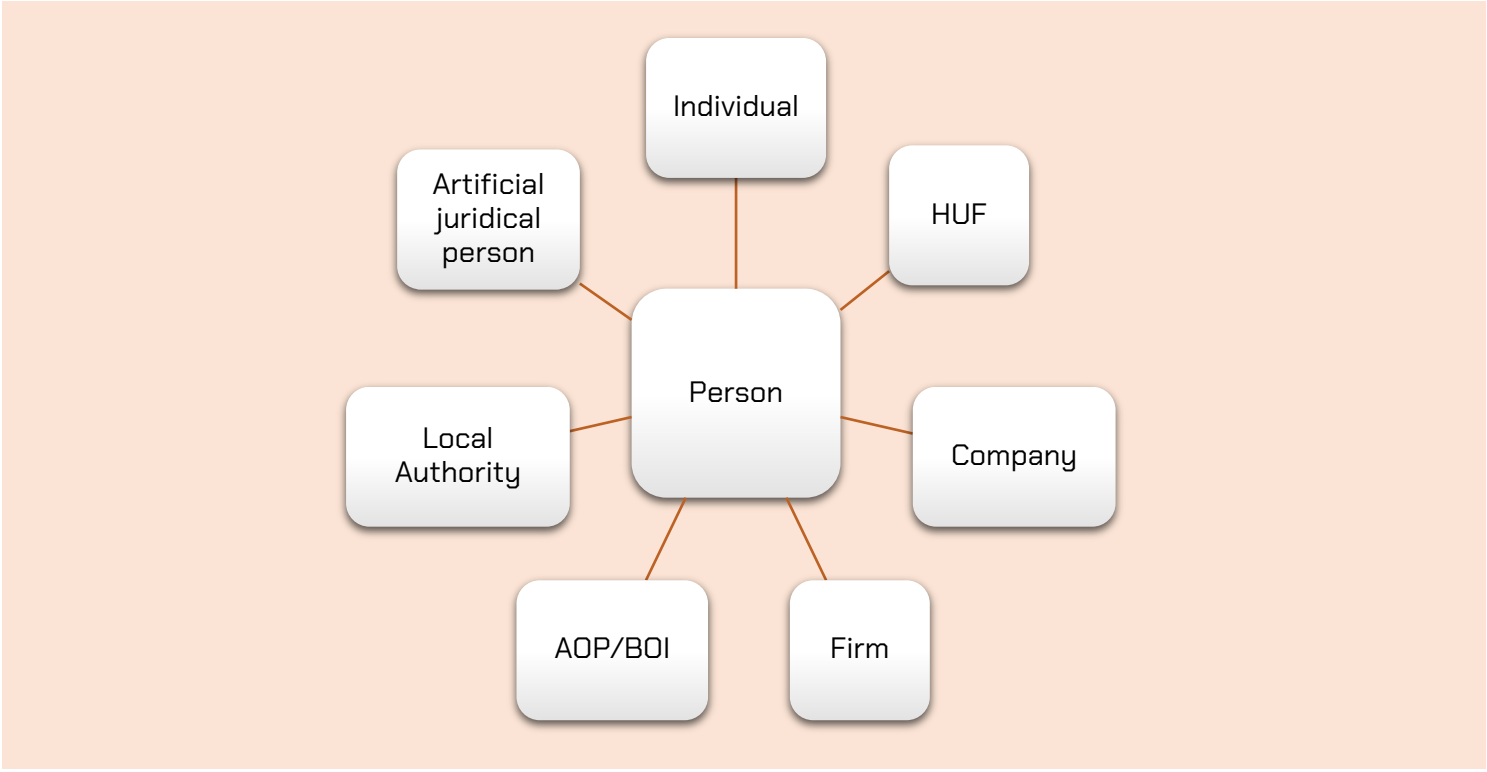
- Every person in respect of whom any proceeding under this Act has been taken for the assessment of
  - his income; or
  - the income of any other person in respect of which he is assessable; or
  - the loss sustained by him or by such other person; or
  - the amount of refund due to him or to such other person.
- Every person who is deemed to be an assessee under any provision of this Act;
- Every person who is deemed to be an assessee-in-default under any provision of this Act.
- Every assessee is a 'person', but every 'person' need not be an assessee.

Assessment [Section 2(8)]

This is the procedure by which the income of an assessee is determined. It may be by way of a normal assessment or by way of reassessment of an income previously assessed. Assessment Procedure will be dealt with in detail at the Final level.

Person [Section 2(31)]

The definition of 'assessee' leads us to the definition of 'person' as the former is closely connected with the latter. The term 'person' is important from another point of view also viz., the charge of income-tax is on every 'person'.



We may briefly consider some of the above seven categories of person each of which constitutes a separate unit of assessment or a separate tax entity.

i. Individual

The term 'individual' means only a natural person, i.e., a human being.

- It includes both males and females.
- It also includes a minor or a person of unsound mind. But the assessment in such a case may be made on the guardian or manager of the minor or lunatic

who is entitled to receive his income. In the case of deceased person, assessment would be made on the legal representative.

ii. HUF

Under the Income-tax Act, 1961, a Hindu undivided family (HUF) is treated as a separate entity for the purpose of assessment. It is included in the definition of the term "person" under section 2(31). The levy of income-tax is on "every person". Therefore, income-tax is payable by a HUF.

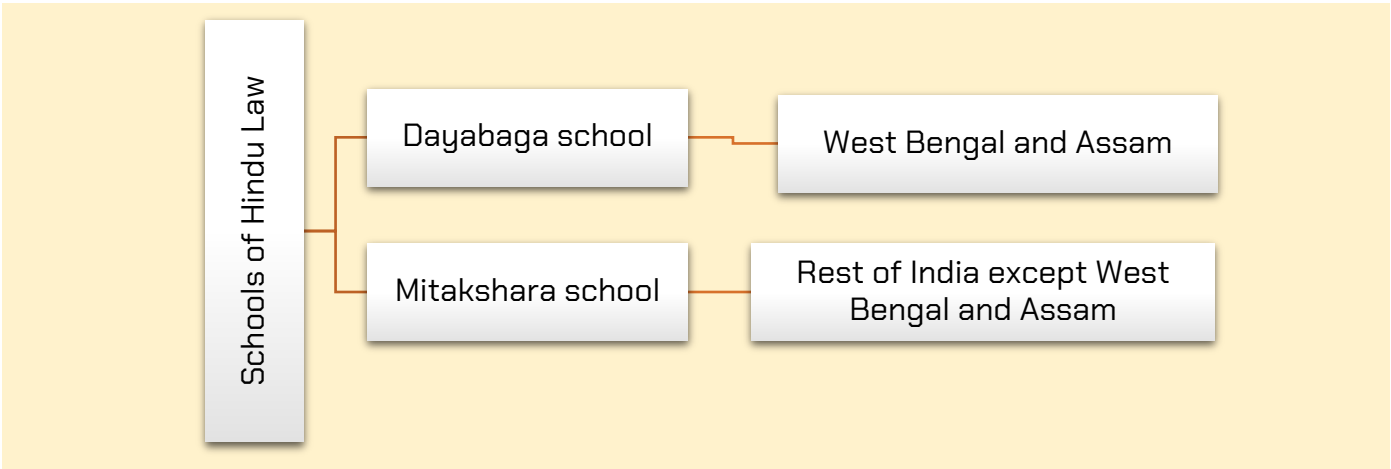
"Hindu undivided family" has not been defined under the Income-tax Act, 1961. The expression is, however, defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.

Some members of the HUF are called co-parceners. They are related to each other and to the head of the family. HUF may contain many members, but members within four degrees including the head of the family (Karta) are called co-parceners. A Hindu Coparcenary includes those persons who acquire an interest in joint family property by birth. Earlier, only male descendants were considered as coparceners. With effect from 6th September, 2005, daughters have also been accorded coparcenary status. It may be noted that only the coparceners have a right to partition.

A daughter of coparcener by birth shall become a coparcener in her own right in the same manner as the son. Being a coparcener, she can claim partition of assets of the family. The rights of a daughter in coparcenary property are equal to that of a son. However, other female members of the family, for example, wife or daughter- in-law of a coparcener are not eligible for such coparcenary rights.

The relation of a HUF does not arise from a contract but arises from status. There need not be more than one male member or one female coparcener w.e.f. 6th September, 2005 to form a HUF. The Income-tax Act, 1961 also does not indicate that a HUF as an assessable entity must consist of at least two male members or two coparceners.

Under the Income-tax Act, 1961, Jain undivided families and Sikh undivided families would also be assessed as a HUF.



The basic difference between the two schools of Hindu law with regard to succession is as follows:

Dayabaga school of Hindu law	Mitakshara school of Hindu law
Prevalent in West Bengal and Assam	Prevalent in rest of India
Nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property.	One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.
Hence, the father and his brothers would be the coparceners of the HUF.	

iii. Company [Section 2(17)]

For all purposes of the Act, the term 'Company', has a much wider connotation than that under the Companies Act, 2013. Under the Act, the expression 'Company' means:

a) any Indian company as defined in section 2(26); or

b) any body corporate incorporated by or under the laws of a country outside India, i.e., any foreign company; or

c) any institution, association or body which is assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 or for any assessment year commencing on or before 1.4.1970 under the present Act; or

d) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by a general or special order of the CBDT to be a company for such assessment years as may be specified in the CBDT's order.

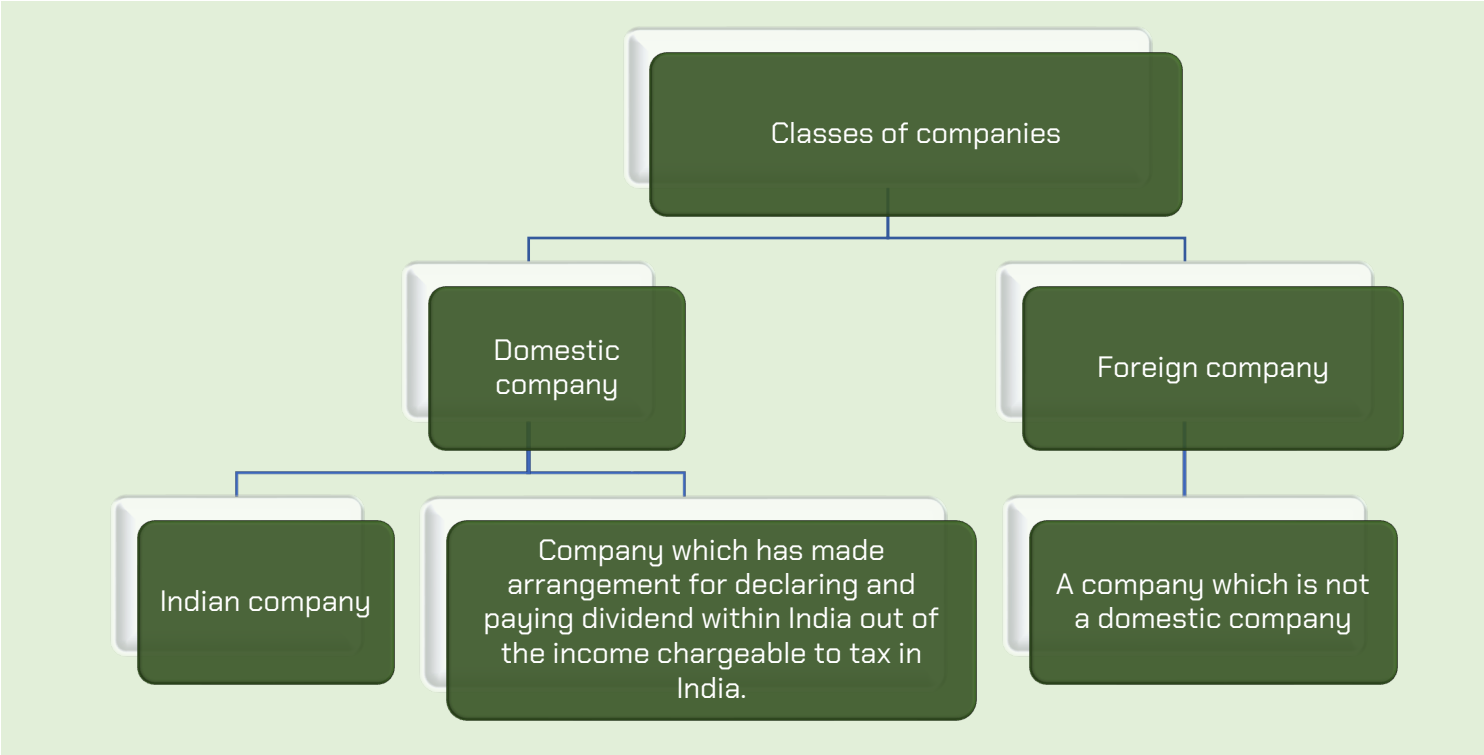
iv. Firm [Section 2(23)]

The terms 'firm', 'partner' and 'partnership' have the same meanings as assigned to them in the Indian Partnership Act, 1932. In addition, the definitions also include

the terms limited liability partnership and a partner of limited liability partnership as they have been defined in the Limited Liability Partnership Act, 2008.

In an LLP, since liability of the partners is limited to their agreed contribution therein, it contains elements of both a corporate structure as well as a partnership firm structure.

However, for income-tax purposes a minor admitted to the benefits of an existing partnership would also be treated as partner.



v. Association of Persons (AOP)

When persons combine together for promotion of joint enterprise they are assessable as an AOP, if they do not in law constitute a partnership. In order to constitute an association, persons must join for a common purpose or action and their object must be to produce income; it is not enough that the persons receive the income jointly. Co-heirs, co-legatees or co-donees joining together for a common purpose or action would be chargeable as an AOP.

For e.g., Mr. Yash, AB & Co. (Firm) and X (P) Ltd. join together to carry on construction activity otherwise than as a partnership firm, such an association will be recognized as an association of persons.

vi. Body of Individuals (BOI)

It denotes the status of persons like executors or trustees who merely receive the income jointly and who may be assessable in like manner and to the same extent as the beneficiaries individually. Thus, co-executors or co-trustees are assessable as a BOI as their title and interest are indivisible. Income-tax shall not be payable by an assessee in respect of the receipt of share of income by him from BOI

and on which the tax has already been paid by such BOI. For e.g., mutual trade associations, members club, etc.

Section 2(31) further explains that an association of persons or a body of individuals shall be treated as a person, whether or not it was formed with the object of deriving income, profits or gains. Accordingly, even if such entities have been formed not for earning any income/ profit still they are "person" for the purpose of the Act and are covered by the provisions of the Act.

Difference between AOP and BOI:

In case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

vii. Local Authority

The term "Local Authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.

Note: A local authority is taxable in respect of that part of its income which arises from any business carried on by it in so far as that income does not arise from the supply of a commodity or service within its own jurisdictional area. However, income arising from the supply of water and electricity even outside the local authority's own jurisdictional area is exempt from tax.

viii. Artificial Juridical Persons

Artificial Juridical Persons are the entities which are not natural persons but are separate entities in the eyes of law. This is a residual category could cover all artificial persons with a juristic personality not falling under any other category of persons. Deities, Bar Council, Universities are some important examples of Artificial Juridical Persons.

Income [Section 2(24)]

1. Definition of Income

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

Section 2(24) of the Act gives a statutory definition of income. The following items of receipts are specifically included in the said definition:–

i. Profits and gains;

ii. Dividends;

iii. The value of any perquisite or profit in lieu of salary taxable under section 17(2)/(3);

iv. Any special allowance or benefit, other than the perquisite included above, 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;

v. Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;

vi. 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;

vii. Profits and gains of business or profession chargeable to tax under section 28(ii)/(iii)/(iiia)/(iiib)/(iiic)/(v)/(va);

viii. Deemed profits chargeable to tax under section 41 or section 59;

ix. The value of any benefit or perquisite taxable under section 28(iv);

x. Any capital gains chargeable under section 45;

xi. Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,

- "Lottery" includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;
- "Card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;

xii. Any sum received by the assessee from his employees as contributions to any provident fund (PF) or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees;

xiii. Any sum received under a Keyman insurance policy including the sum allocated by way of bonus

on such policy will constitute income;

"Keyman insurance policy" means a life insurance policy taken by a person on the life of another person where the latter is or was an employee of former or is or was connected in any manner whatsoever with the former's business. It also includes such policy which has been assigned to a person with or without any consideration, at any time during the term of the policy.

xiv. Fair market value of inventory as on the date of its conversion into or treatment as a capital asset under section 28(via);

xv. Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [Section 56(2)(ix)];

xvi. Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)];

xvii. Any compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the term and conditions relating thereto [Section 56(2)(xi)];

xviii. Sum received, including the amount allocated by way of bonus, under a LIP other than under a ULIP and keyman insurance policy, which is not exempt u/s 10(10D), to the extent the same exceeds the aggregate of the premium paid during the term of the policy, and not claimed as deduction under any other provision of the Act [Section 56(2)(xiii)];

[For details, refer to Unit 5 of Chapter 3: Income from Other Sources]

xix. 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 is included in the definition of income.

However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the depreciable asset in accordance with Explanation 10 to section 43(1) shall not be included in the definition of income.

2. Concept of Income under the Income-tax Act, 1961

- Regular receipt vis-a-vis casual receipt: Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 1961, even certain casual receipts which do not arise regularly are treated as income for tax purposes e.g. Winnings from lotteries, crossword puzzles.
- Revenue receipt vis-a-vis Capital receipt: Income normally refers to revenue receipts. Capital receipts are generally not included within the scope of income in general parlance. However, the

Income-tax Act, 1961 has specifically included certain capital receipts within the definition of income e.g., Capital gains i.e., gains on sale of capital assets like land, jewellery.

- Net receipt vis-a-vis Gross receipt: Income means net receipts and not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts. The expenditure which can be deducted while computing income under each head is prescribed under the Income-tax Act, 1961. Income from certain eligible businesses/
- professions is also determined on presumptive basis i.e., as a certain percentage of gross receipts. [We will discuss in detail in Unit 3 of Chapter 3: Profits and gains of business or profession].
- Due basis vis-a-vis receipt basis: Income is taxable either on due basis or receipt basis. For computing income under the heads "Profits and gains of business or profession" and "Income from other sources", the method of accounting regularly employed by the assessee should be considered, which can be either cash system or mercantile system. Some receipts are taxable only on receipt basis, like, income by way of interest received on compensation or enhanced compensation.
- Application of Income vis-a-vis Diversion of Income: Application of income means to discharge an obligation (which is gratuitous or self- imposed) after such income reaches the assessee. Where by virtue of an obligation by overriding title, income is diverted before it reaches the assessee, it is known as diversion of income. In case of the former, the income would be taxable in the hands of the person who applies it, whereas in the case of the latter, it is not taxable (i.e., even if the assessee were to collect the income he does so on behalf of the person to whom it is payable).

3. Concept of revenue and capital receipts

Students should carefully study the various items of receipts included in the definition of income. Some of them like capital gains are not revenue receipts. However, since they have been included in the definition, they are chargeable as income under the Act. The concept of revenue and capital receipts is discussed hereunder -

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

The following are some of the important criteria which may be applied to distinguish between capital and revenue receipts.

Fixed capital or Circulating capital: A receipt referable to fixed capital would be a capital receipt whereas a receipt referable to circulating capital would be a revenue receipt. The former is not taxable while the latter is taxable. Tangible and intangible assets which the owner keeps in his possession for making profits are in the nature of fixed capital. The circulating capital is one which is turned over and yields income or loss in the process.

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.

India [Section 2(25A)]

The term 'India' means –

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

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

Agricultural income [Section 2(1A)]

Agricultural income definition is very wide and covers the income of not only the cultivators but also the land holders who might have rented out the lands. Agricultural income may be received in cash or in kind.

Agricultural income may arise in any one of the following three ways:-

1. It may be rent or revenue derived from land situated in India and used for agricultural purposes.

2. It may be income derived from such land by

(a) agriculture or

(b) 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

(c) the sale, by a cultivator or receiver of rent in kind, of such agricultural produce raised or received by him, in respect of which no process has been performed other than a process of the nature mentioned in point (b) above.

3. Lastly, agricultural income may be derived from any farm building required for agricultural operations.

Now let us take a critical look at the following aspects:

A. 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 to 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.

B. 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.

Note: The term 'agriculture' cannot be extended to all activities which have some distant relation to land like dairy farming, breeding and rearing of live stock, butter and cheese making and poultry farming. This aspect is discussed in detail later on in this chapter.

Basic Operations	Subsequent Operations
Those operations by agriculturists which are absolutely necessary for the purpose of effectively raising produce from the land are the basic operations.	Operations to be performed after the produce sprouts from the land (e.g., weeding, digging etc.) are subsequent opera- tions. These subsequent operations would be agricultural operations only when taken in conjunction with and as a continuation of the basic operations.

Whether income from nursery constitutes agricultural income?

Yes, as per Explanation 3 to section 2(1A), 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.

(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. For example, the process ordinarily employed by the cultivator to obtain the rice from paddy is to first remove the hay from the basic grain, and thereafter to remove the chaff from the grain. The grain has to be properly filtered to remove stones etc. and finally the rice has to be packed in gunny bags for sale in the market.

After such process, the rice can be taken to the market for sale. This process of making the rice ready for the market may involve manual operations or mechanical operations. All these operations constitute the process ordinarily employed to make the product fit for the market. The produce must retain its original character in spite of the processing unless there is no market for selling it in that condition.

However, if marketing process is performed on a produce which can be sold in its raw form, income derived therefrom is partly agricultural income and partly business income.

(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.

Apportionment of Income between business income and agricultural income: Rules 7, 7A, 7B & 8 of Income-tax Rules, 1962 provide the basis of apportionment of income between agricultural income and business income.

i. **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 - There are two possibilities here:

- 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.

ILLUSTRATION 1

Mr. B grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹10 lakhs, and the cost of cultivation of such sugarcane is ₹5 lakhs. The cost of cultivation of the balance sugarcane (70%) is ₹14 lakhs and the market value of the same is ₹22 lakhs.

After incurring ₹1.5 lakhs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹25 lakhs. Compute B's business income and agricultural income.

SOLUTION

Computation of Business Income and Agriculture Income of Mr. B

Particulars	Business Income	Agricultural Income	
	(₹)	(₹)	(₹)
Sale of Sugar			
Business income			
Sale Proceeds of sugar	25,00,000		
Less: Market value of sugar- cane (70%)	22,00,000		
Less: Manufacturing exp.	1,50,000		
	1,50,000		
Agricultural income			
Market value of sugarcane (70%)		22,00,000	
Less: Cost of cultivation		14,00,000	
Sale of sugarcane			8,00,000
Agricultural Income			
Sale proceeds of sugarcane (30%)		10,00,000	
Less: Cost of cultivation		5,00,000	
			5,00,000
			13,00,000

ii. Rule 7A – Income from growing and manufacturing of rubber

- This rule is applicable when income derived from the sale of centrifuged latex or cenex or latex based crepes or brown crepes or technically specified block rubbers manufactured or processed 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 which is exempt.

ILLUSTRATION 2

Mr. C manufactures latex from the rubber plants grown by him in India. These are then sold in the market for ₹30 lakhs. The cost of growing rubber plants is ₹10 lakhs and that of manufacturing latex is ₹8 lakhs. Compute his total income.

SOLUTION

The total income of Mr. C comprises of agricultural income and business income.

Total profits from the sale of latex= ₹30 lakhs – ₹10 lakhs – ₹8 lakhs= ₹12 lakhs.

Agricultural income	= 65% of ₹12 lakhs	= ₹7.8 lakhs
Business income	= 35% of ₹12 lakhs	= ₹4.2 lakhs

iii. Rule 7B – Income from growing and manufacturing of coffee

a) 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.

b) 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 flavoring 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.

iv. **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	Apportionment of income in certain cases	Agricultural Income	Business Income
7A	Income from sale of rubber products derived from rubber plant grown by the seller in India.	65%	35%
7B	Income from sale of coffee		
	- grown and cured by the seller in India	75%	25%
	- grown, cured, roasted and grounded by the seller in India	60%	40%

8	Income from sale of tea grown and manufactured by the seller in India	60%	40%

C. 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 arising from the use of such farm building for any purpose (including letting for residential purpose or for the purpose of business or profession) other than agriculture referred in (1) & (2) of para 3.6 in pages 1.36 & 1.37 would not be agricultural income.

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

a) The building should be on or in the immediate vicinity of the land; and

b) 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:

i. 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;

ii. Where the land is not so assessed to land revenue in India or is not subject to local rate:-

a) 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 or

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

	Shortest aerial distance from the local limits of a municipality or cantonment board referred to in item a.	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year
(i)	≤ 2 kms	> 10,000
(ii)	>2 kms but ≤ 6 kms	> 1,00,000
(iii)	>6 kms but ≤ 8kms	> 10,00,000

Example:

	Area	Shortest aerial Distance from the local limits of a municipality or cantonment board referred to in item a.	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year	Would Income derived from farm Building situated in this area be treated as agricultural income?
(i)	A	1 km	9,000	Yes
(ii)	B	1.5 kms	12,000	No
(iii)	C	2 kms	11,00,000	No
(iv)	D	3 kms	80,000	Yes
(v)	E	4 kms	3,00,000	No
(v)	F	5 kms	12,00,000	No
(vi)	G	6 kms	8,000	Yes
(vii)	H	7 kms	4,00,000	Yes
(viii)	I	8 kms	10,50,000	No
(ix)	J	9 kms	15,00,000	Yes

Would income arising from transfer of agricultural land situated in urban area be agricultural income?

No, as per Explanation 1 to section 2(1A), the capital gains arising from the transfer of urban agricultural land would not be treated as agricultural income under section 10 but will be taxable under section 45.

EXAMPLE

Suppose A sells agricultural land situated in New Delhi for ₹10 lakhs and makes a surplus of ₹8 lakhs over its cost of acquisition. This surplus will not constitute agricultural income exempt under section 10(1) and will be taxable under section 45.

For better understanding of the concept, certain examples of agricultural income and non-agricultural income are given below:

Example: Agricultural income

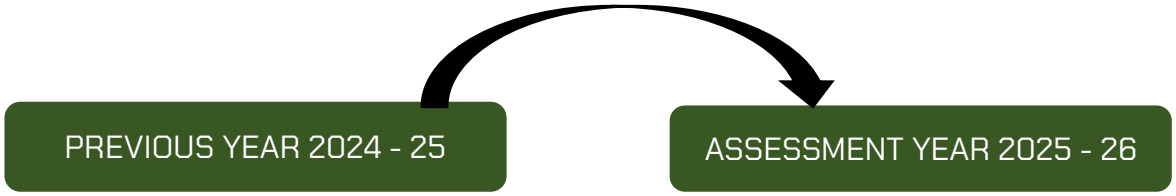
- Income derived from saplings or seedlings grown in a nursery.

- Income from growing of flowers and creepers.
- Rent received from land used for grazing of cattle required for agricultural activities.
- Income from growing of bamboo.

Example: Non-agricultural income

- Income from breeding of livestock.
- Income from poultry farming.
- Income from fisheries.
- Income from dairy farming.

PREVIOUS YEAR AND ASSESSMENT YEAR



Assessment year

The term has been defined under section 2(9). This means a period of 12 months commencing on 1st April every year. The year in which income is earned is the previous year and such income is taxable in the immediately following year which is the assessment year. Income earned in the previous year 2024-25 is taxable in the assessment year 2025-26.

Assessment year always starts from 1st April and it is always a period of 12 months.

Previous year

The term has been defined under section 3. It means the financial year immediately preceding the assessment year. As mentioned earlier, the income earned during the previous year is taxable in the assessment year.

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

If a source of income comes into existence in the said financial year, then, the previous year will commence from

the date on which the source of income newly comes into existence and will end with 31st March of the financial year.

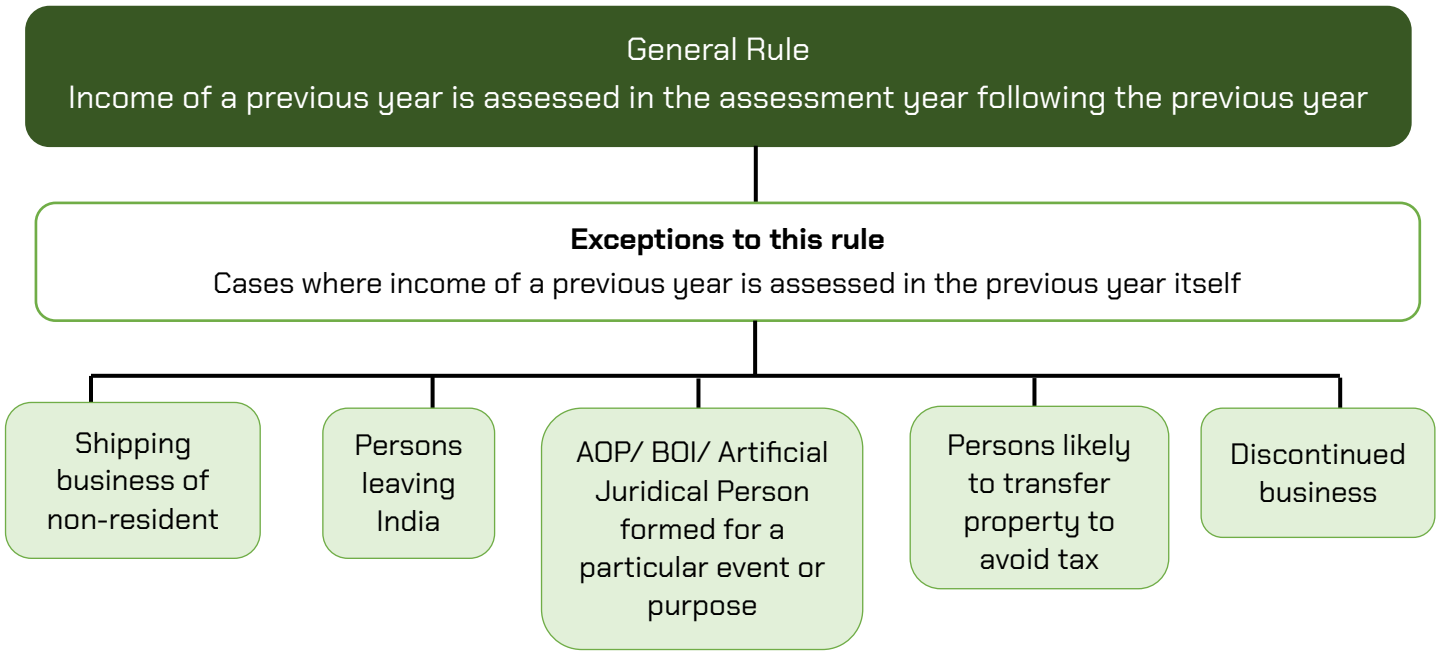
EXAMPLE

A is running a business from 1993 onwards. Determine the previous year for the assessment year 2025-26.
Ans. The previous year will be 1.4.2024 to 31.3.2025.

A chartered accountant sets up his profession on 1st July, 2024. Determine the previous year for the assessment year 2025-26.

Ans. The previous year will be from 1.7.2024 to 31.3.2025.

Certain cases when income of a previous year will be assessed in the previous year itself



The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. For instance, income of previous year 2024-25 is assessed during 2025-26. Therefore, 2025-26 is the assessment year for assessment of income of the previous year 2024-25.

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

i. Shipping business of non-resident [Section 172]

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

ii. Persons leaving India [Section 174]

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

EXAMPLE

Suppose Mr. X is leaving India for USA on 10.6.2024 and it appears to the Assessing Officer that he has no intention to return. Before leaving India, Mr. X may be asked to pay income-tax on the income earned during the P.Y. 2023-24 as well as on the total income earned during the period 1.4.2024 to 10.06.2024.

iii. AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 174A]

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

iv. Persons likely to transfer property to avoid tax [Section 175]

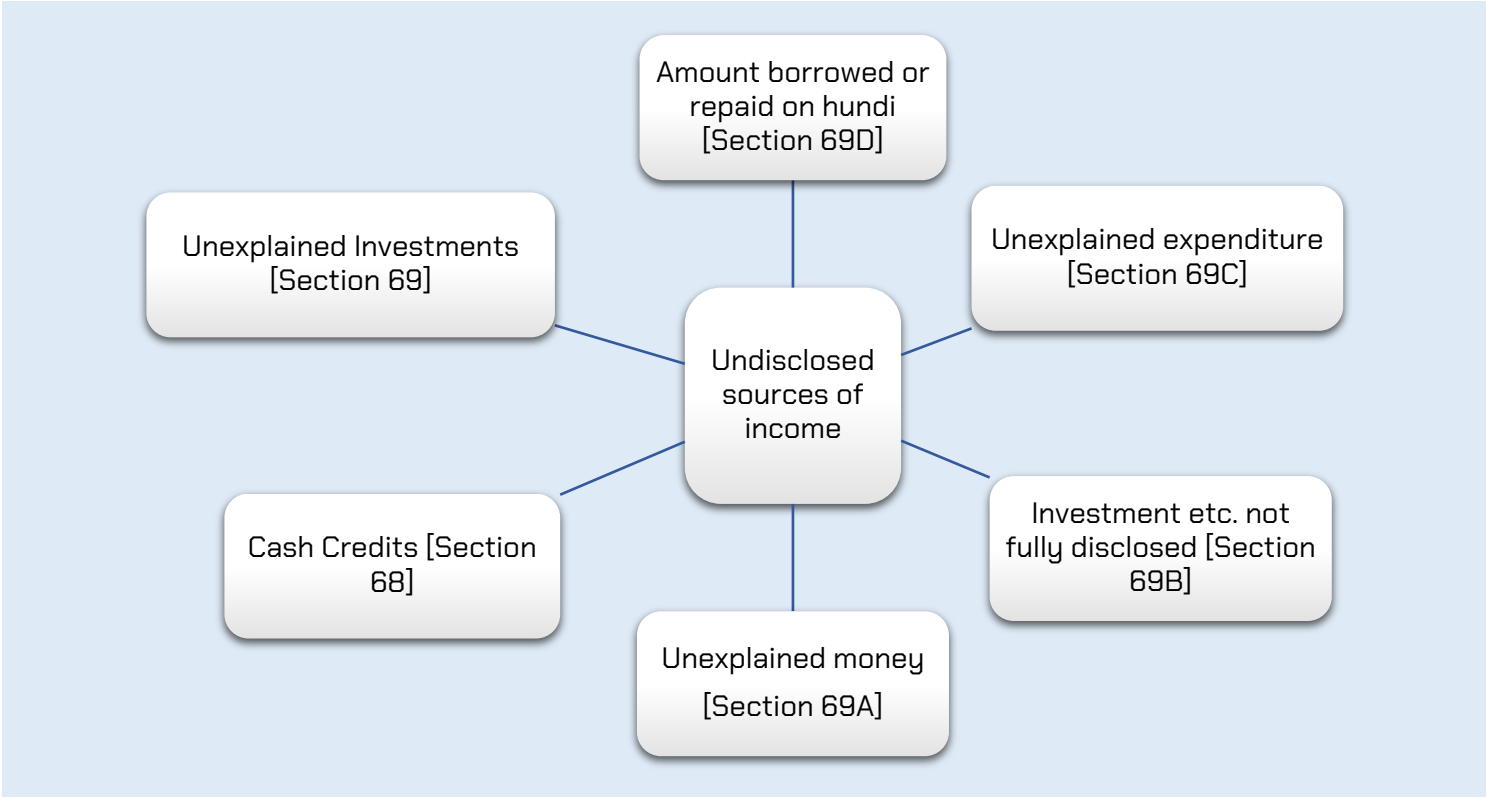
During the current assessment year, if it appears to the Assessing Officer that a person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets to avoid payment of any liability under this Act, the total income of such person for the period from the expiry of the previous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

v. Discontinued business [Section 176]

Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year up to the date of such discontinuance may, at the discretion of the

Assessing Officer, be charged to tax in that assessment year.

UNDISCLOSED SOURCES OF INCOME



i. Cash Credits [Section 68]

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

Unexplained loan or borrowing - Where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by the assessee in whose books such sum is credited shall not be deemed to be satisfactory, unless -

- the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and
- such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

Unexplained Share Capital/ Premium- Any explanation offered by a closely held company in respect of any sum credited as share application money, share capital, share premium or any such amount, by whatever name called, in the accounts of such company shall be deemed to be not satisfactory, unless

- the person, being a resident, in whose name such credit is recorded in the books of such company also explains about the nature and the source of such sum so credited and
- such explanation in the opinion of the Assessing Officer has been found to be satisfactory

Non-applicability to Venture Capital Fund or Venture Capital Company –These additional conditions would not apply if the person, in whose name the sum is recorded, is a Venture Capital Fund or Venture Capital Company registered with SEBI.

ii. Unexplained Investments [Section 69]

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

iii. Unexplained money etc. [Section 69A]

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

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

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

EXAMPLE

If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹25,000) during the financial year ending 31.3.2025 but he has recorded to have spent ₹15,000 in acquiring it, the Assessing Officer can add ₹10,000 (i.e., the difference of the market value of such gold and ₹15,000) as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

vi. Unexplained expenditure [Section 69C]

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

vii. Amount borrowed or repaid on hundi [Section 69D]

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

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

RATES OF TAX, SURCHARGE & CESS

Income-tax

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

Surcharge

Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax. Surcharge is presently being levied beyond a particular threshold of income for different persons. Also, higher rates of surcharge are prescribed for higher thresholds of income. However, under the special tax regimes for domestic companies and co-operative societies, a uniform surcharge is prescribed

irrespective of the level of total income.

"Health and Education cess" on Income-tax

The amount of income-tax as increased by the union surcharge, if applicable, should be further increased by an additional surcharge called the "Health and Education cess on income-tax", calculated at the rate of 4% of such income-tax and surcharge, if applicable. Health and education cess is leviable in the case of all assessees i.e. individuals, HUF, AOPs/BOIs, Artificial Juridical Persons, firms, local authorities, co-operative societies and companies.

It is leviable to fulfill the commitment of the Government to provide and finance quality health services and universalised quality basic education and secondary and higher education.

Individual/Hindu Undivided Family (HUF)/Association of Persons (AOP)/Body of Individuals (BOI)/Artificial Juridical Person

Income-tax

Individual/HUF/AoP/BoI and Artificial Juridical Persons can pay tax at concessional rates under the default tax regime under section 115BAC. However, he/it has to forego certain exemptions and deductions under this regime. Alternatively, he/it can exercise the option to shift out of the default tax regime and pay tax under the optional tax regime as per the regular provisions of the Act at the tax rates prescribed by the Annual Finance Act of that year.

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

I. Concessional tax rates

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

(i)	Upto ₹3,00,000	NIL
(ii)	From ₹3,00,001 to ₹7,00,000	5%
(iii)	From ₹7,00,001 to ₹10,00,000	10%
(iv)	From ₹10,00,001 to ₹12,00,000	15%

(v)	From ₹12,00,001 to ₹15,00,000	20%
(vii)	Above ₹15,00,000	30%

II. Conditions to be satisfied

The following are the conditions to be satisfied:

S. No.	Particulars
(1)	Certain deductions/exemptions not allowable: Section 115BAC(2) provides that while computing total income, the following deductions/exemptions would not be allowed:

Section	Exemption/Deduction
10(5)	Leave travel concession
10(13A)	House rent allowance
10(14)	Exemption in respect of special allowances or benefit to meet expenses relating to duties or personal expenses (other than those as may be prescribed for this purpose)
10(17)	Daily allowance or constituency allowance of MPs and MLAs
10(32)	Exemption in respect of income of minor child included in the income of parent
10AA	Tax holiday for units established in SEZ
16	a. Entertainment allowance b. Professional tax
24(b)	Interest on loan in respect of self-occupied property
32(1)(iia)	Additional depreciation
35(1)(ii),(iia), (iii) or 35(2AA)	Deduction in respect of contribution to - notified approved research association/ university/college/other institutions for scientific research [Section 35(1)(ii)] - approved Indian company for scientific research [Section 35(1)(iia)] - notified approved research association/ university/college/other institutions for research in social science or statistical research [Section 35(1)(iii)]

			- An approved National laboratory/university/IIT/ specified person for scientific research undertaken under an approved programme [Section 35(2AA)]
		35AD	Investment linked tax incentives for specified businesses
		80C to 80U	Deductions under Chapter VI-A (other than employers contribution towards NPS under section 80CCD(2), Central Government contribution towards Agnipath Scheme under section 80CCH(2) and deduction in respect of employment of new employees under section 80JJAA).
(2)	Certain losses not allowed to be set-off: While computing total income, set-off of any loss - - carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (1) above; or - under the head house property with any other head of income; would not be allowed.		
(3)	Depreciation or additional depreciation: Depreciation u/s 32 is to be determined in the prescribed manner. Depreciation in respect of any block of assets entitled to more than 40%, would be restricted to 40% on the written down value of such block of assets. Additional depreciation u/s 32(1)(iia), however, cannot be claimed.		
(4)	Exemption or deduction for allowances or perquisite: While computing total income, any exemption or deduction for allowances or		
	perquisite, by whatever name called, provided under any other law for the time being force in India would not be allowed.		

Additional points:

Loss or depreciation referred to in (2) above would be deemed to have been already given effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year.

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

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

a. **In case of an assessee having no income from business or profession:** Where such individual/HUF/AoP/BoI or Artificial Juridical person is **not** having income from business or profession, he/it can exercise an option to shift out/opt out of the default tax regime under this

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

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

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

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

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

Note: It may be noted that in case of Individual/HUF/AoP/BoI or Artificial Juridical person not having income from business or profession, the total income and tax liability (including provisions relating to AMT, if applicable under normal provisions) may be computed every year both in accordance with the regular provisions of the Income-tax Act, 1961 and in accordance with the provisions of section 115BAC, in order to determine which is more beneficial and accordingly such person may decide whether to pay tax under default tax regime under section 115BAC or exercise the option to shift out and pay tax under normal provisions of the Act for that year.

ILLUSTRATION 3

Mr. X has a total income of ₹16,00,000 for P.Y.2024-25, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2025-26 under the default tax regime under section 115BAC.

SOLUTION

Computation of tax liability of Mr. X for A.Y. 2025-26

Tax liability:

First ₹3,00,000	- Nil	
Next ₹3,00,001 – ₹7,00,000	- @5% of ₹4,00,000	= ₹20,000
Next ₹7,00,001 – ₹10,00,000	- @10% of ₹3,00,000	= ₹30,000
Next ₹10,00,001 – ₹12,00,000	- @15% of ₹2,00,000	= ₹30,000
Next ₹12,00,001 – ₹15,00,000	- @20% of ₹3,00,000	= ₹60,000
Balance i.e., ₹16,00,000 minus ₹15,00,000	- @30% of ₹1,00,000	= ₹30,000
		= ₹1,70,000
Add: Health and Education cess @ 4%		= ₹6,800
		= ₹1,76,800

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

The slab rates for A.Y. 2025-26 applicable to an Individual/HUF/AOP/BOI/ Artificial Juridical Person, which has exercised the option of shifting out of the default tax regime, are as follows:

(i)	where the total income does not exceed ₹2,50,000	NIL
(ii)	where the total income exceeds ₹2,50,000 but does not exceed ₹5,00,000	5% of the amount by which the total income exceeds ₹2,50,000
(iii)	where the total income exceeds ₹5,00,000 but does not exceed ₹10,00,000	₹12,500 plus 20% of the amount by which the total income exceeds ₹5,00,000
(iv)	where the total income exceeds ₹10,00,000	₹1,12,500 plus 30% of the amount by which the total income exceeds ₹10,00,000

For a senior citizen (being a resident individual who is of the age of 60 years or more at any time during the previous year), the basic exemption limit is ₹3,00,000 and for a very senior citizen (being a resident individual who is of the age of 80 years or more at any time during the previous year), the basic exemption limit is ₹5,00,000. Therefore, the tax slabs for these assessees would be as follows –

For senior citizens (being resident individuals of the age of 60 years or more but less than 80 years)

(i)	where the total income does not exceed ₹3,00,000	NIL

(ii)	where the total income exceeds ₹3,00,000 but does not exceed ₹5,00,000	5% of the amount by which the total income exceeds ₹3,00,000
(iii)	where the total income exceeds ₹5,00,000 but does not exceed ₹10,00,000	₹10,000 plus 20% of the amount by which the total income exceeds ₹5,00,000
(iv)	where the total income exceeds ₹10,00,000	₹1,10,000 plus 30% of the amount by which the total income exceeds ₹10,00,000

For resident individuals of the age of 80 years or more at any time during the previous year

(i)	where the total income does not exceed ₹5,00,000	NIL
(ii)	where the total income exceeds ₹5,00,000 but does not exceed ₹10,00,000	20% of the amount by which the total income exceeds ₹5,00,000
(iii)	where the total income exceeds ₹10,00,000	₹1,00,000 plus 30% of the amount by which the total income exceeds ₹10,00,000

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

The CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. In particular, the question of attainment of age of eligibility for being considered a senior/very senior citizen would be decided on the basis of above criteria.

Therefore, a resident individual whose 60th birthday falls on 1st April, 2025, would be treated as having attained the age of 60 years in the P.Y.2024-25 and would be eligible for higher basic exemption limit of ₹3 lakh while computing his tax liability for A.Y.2025-26 under the optional tax regime as per the normal provisions of the Act. Likewise, a resident individual whose 80th birthday falls on 1st April, 2025, would be treated as having attained the age of 80 years in the P.Y.2024-25, and would be eligible for higher basic exemption limit of ₹5 lakh in computing his tax liability for A.Y.2025-26 under the optional tax regime as per the normal provisions of the Act.

In respect of certain types of income, as mentioned below, the Income-tax Act, 1961 has prescribed specific rates. The special rates of tax have to be applied on the respective component of total income irrespective of the tax regime and the slab rates have to be applied on the balance of total income after adjusting the basic exemption limit.

S. No.	Section	Income	Rate of Tax
(a)	112	a. Long term capital gains (other than LTCG taxable as per section 112A and mentioned in below) arising -	
		(a) from transfer of capital asset which takes place before 23.7.2024	20% with indexation
		(b) from transfer of capital asset which takes place on or after 23.7.2024	
		- from transfer of any land or building or both by an individual or a HUF, being a resident acquired before 23.7.2024	Lower of 20% with indexation or 12.5% without indexation
		- from transfer of other capital asset	12.5% without indexation
		b. Long-term capital gains arising from transfer of unlisted securities or shares of company in which public are not substantially interested by non-resident assessee	
		- If transfer takes place before 23.7.2024	10% without indexation and foreign currency fluctuations
		- If transfer takes place on or after 23.7.2024	12.5% without indexation and foreign currency fluctuations
(b)	112A	Long term capital gains on transfer of – - Equity share in a company - Unit of an equity oriented fund - Unit of business trust Condition for availing the benefit of this concessional rate is that securities transaction tax (STT) should have been paid –	10% on LTCG > ₹1.25 lakhs if transfer takes place before 23.7.2024 12.5% on LTCG > ₹1.25 lakhs if transfer takes place on or after 23.7.2024
		In case of: Time of payment of STT Equity shares: both at the time of acquisition and transfer Unit of equity oriented fund or unit of business trust: at the time of transfer	Note: Total exemption in a P.Y. cannot exceed ₹1.25 lakhs.

(c)	111A	Short-term capital gains on transfer of – - Equity shares in a company - Unit of an equity oriented fund - Unit of business trust The conditions for availing the benefit of this concessional rate are – - the transaction of sale of such equity share or unit should be entered into on or after 1.10.2004; and - such transaction should be chargeable STT.	15% if transfer takes place before 23.7.2024 20% if transfer takes place on or after 23.7.2024
(d)	115BB	Winnings from - Lotteries; - Crossword puzzles; - Races including horse races; - Card games and other games of any sort; - Gambling or betting of any form or nature (other than winning from any online game)	30%
(e)	115BBJ	Net winnings from online games	30%
(f)	115BBE	Unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D [See discussion below]	60%
Note – For detailed discussion on taxability of capital gains, please refer Unit 4: Capital Gains of Chapter 4: Heads of Income.			

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

I. In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C or section 69D would be taxed at the rate of 60% plus surcharge @25% of tax. Thus, the effective rate of tax (including surcharge@25% of tax and cess@4% of tax and surcharge) is 78%.

II. No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.

III. Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or

section 69 or section 69A or section 69B or section 69C or section 69D.

ILLUSTRATION 4

Mr. X has a total income of ₹16,00,000 for P.Y.2024-25, comprising of income from house property and interest on fixed deposits. Compute his tax liability for A.Y.2025-26 assuming his age is –

a. 45 years

b. 63 years

c. 82 years

Assume that Mr. X has exercised the option to shift out/ opt out of the default tax regime.

SOLUTION

a. Computation of tax liability of Mr. X (aged 45 years)

Tax liability:

First ₹ 2,50,000	- Nil	
Next ₹ 2,50,001 – ₹5,00,000	- @5% of ₹2,50,000	= ₹12,500
Next ₹ 5,00,001 – ₹10,00,000	- @20% of ₹5,00,000	= ₹1,00,000
Balance i.e., ₹16,00,000 minus ₹10,00,000- @30% of ₹6,00,000		= ₹1,80,000
		= ₹2,92,500
Add: Health and Education cess@4%		= ₹11,700
		=₹3,04,200

b. Computation of tax liability of Mr. X (aged 63 years)

Tax liability:

First ₹3,00,000	- Nil	
Next ₹3,00,001 – ₹5,00,000	- @5% of ₹2,00,000	= ₹10,000
Next ₹5,00,001 – ₹10,00,000- @20% of ₹5,00,000		= ₹1,00,000
Balance i.e., ₹16,00,000 minus ₹10,00,000- @30% of ₹6,00,000		= ₹1,80,000
		= ₹2,90,000
Add: Health and Education cess@4%		= ₹11,600

= ₹3,01,600

c. Computation of tax liability of Mr. X (aged 82 years)

Tax liability:

First ₹5,00,000	- Nil	
Next ₹5,00,001 – ₹10,00,000	- @ 20% of ₹5,00,000	= ₹1,00,000
Balance i.e., ₹16,00,000 minus ₹10,00,000	- @ 30% of ₹6,00,000	= ₹1,80,000
		=₹2,80,000
Add: Health and Education cess@4%		= ₹11,200
		=**₹ 2,91,200**

Surcharge

In case the Individual/HUF/AoP6/BoI and Artificial Juridical Person pays tax under default tax regime under section 115BAC

Income-tax computed in accordance with the provisions of section 115BAC and/ or section 111A or section 112 or section 112A or 115BBE or section 115BBJ would be increased by surcharge given under the following table:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	Applicable rate of surcharge
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹50 lakhs but ≤ ₹1 crore	10%	Example	
			- Dividend ₹ 15 lakhs; - STCG u/s 111A ₹15 lakhs; - LTCG u/s 112 ₹25 lakhs; - LTCG u/s 112A ₹20 lakhs; and - Other income ₹25 lakhs	Surcharge would be levied@10% on income-tax computed on total income of ₹1 crore.
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹1 crore but ≤ ₹2 crore	15%	Example	
			- Dividend income ₹10 lakhs; - STCG u/s 111A ₹35 lakhs; - LTCG u/s 112 ₹50 lakhs; - LTCG u/s 112A ₹35 lakhs; and	Surcharge would be levied@15% on income-tax computed on total income of ₹1.85 crores.

			- Other income ₹55 lakhs	
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹2 crore The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A	25% Not exceeding 15%	Example	
			- Dividend income ₹51 lakhs; - STCG u/s 111A ₹44 lakh; - LTCG u/s 112 ₹42 lakhs; - LTCG u/s 112A ₹55 lakh; and - Other income ₹6 crores	Surcharge@15% would be levied on income-tax on: - Dividend income of ₹51 lakhs; - STCG of ₹44 lakhs chargeable to tax u/s 111A; - LTCG of ₹42 lakhs chargeable to tax u/s 112; and - LTCG of ₹55 lakhs chargeable to tax u/s 112A. Surcharge @ 25% would be leviable on income-tax computed on other income of ₹6 crores included in total income
(iv)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹2 crore in cases not covered under (iii) above	15%	Example	
			- Dividend income ₹40 lakhs; - STCG u/s 111A ₹35 lakhs; - LTCG u/s 112 ₹42 lakhs; - LTCG u/s 112A ₹50 lakhs; and - Other income ₹1.10 crore	Surcharge would be levied @ 15% on income-tax computed on total income of ₹2.77 crore.

Marginal relief

The purpose of marginal relief is to ensure that the increase in amount of tax payable (including surcharge) due to increase in total income of an assessee beyond the prescribed limit should not exceed the

amount of increase in total income.

Marginal relief is available in case of such persons paying tax under default tax regime u/s 115BAC referred to in above i.e., -

	Particulars	Marginal relief
(i)	Where the total income > ₹50 lakhs but ≤ ₹1 crore	Step 1 - Compute income-tax on total income; and add surcharge@10% on such income-tax (A) Step 2 - Compute income-tax on ₹50 lakhs Step 3 - Total income (-) ₹50 lakhs Step 4 - Add the amount computed in Step 2 and Step 3 (B) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., A) or Step 4 (i.e., B). Consequently, if A>B, the marginal relief would be A – B.
(ii)	Where the total income > ₹1 crore but ≤ ₹2 crores	Step 1 - Compute income-tax on total income; and add surcharge@15% on income-tax (C) Step 2 - Compute income-tax on total income of ₹1 crore + surcharge on such income-tax@10% Step 3 - Total income (-) ₹1 crore Step 4 - Add the amount computed in Step 2 and Step 3 (D) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., C) or Step 4 (i.e., D). Consequently, if C>D, the marginal relief would be C – D.
(iii)	Where the total income > ₹2 crores	Step 1 - Compute income-tax on total income; and add surcharge@25% on income-tax (E) Step 2 - Compute income-tax on total income of ₹2 crore + surcharge on such income-tax@15% Step 3 - Total income (-) ₹2 crore Step 4 - Add the amount computed in Step 2 and Step 3 (F) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., E) or Step 4 (i.e., F). Consequently, if E>F, the marginal relief would be E – F.

Note – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 112/ 112A and short-term capital gains taxable under section 111A.

In case the total income includes dividend income, long term capital gains taxable under section 112/ 112A or

short term capital gains taxable under section 111A, surcharge on income-tax computed on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) above.

In case the Individual/HUF/AoP /BoI and Artificial Juridical Person exercises the option to shift out of the default tax regime

Income-tax computed in accordance with normal provisions of the Act or section 111A or section 112 or section 112A or 115BBE or section 115BBJ would be increased by surcharge given under the following table:

	Particulars	Rate of surcharge on income-tax	Example	
			Components of total income	**Applicable rate of surcharge**
(i)	Where the total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹50 lakhs but ≤ ₹1 crore	10%	Example	
			- Dividend ₹ 10 lakhs; - STCG u/s 111A ₹20 lakhs; - LTCG u/s 112 ₹15 lakhs; - LTCG u/s 112A ₹20 lakhs; and - Other income ₹25 lakhs	Surcharge would be levied@10% on income-tax computed on total income of ₹ 90 lakhs.
(ii)	Where total income (including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹1 crore but ≤ ₹2 crore	15%	Example	
			- Dividend income ₹10 lakhs; - STCG u/s 111A ₹40 lakhs; - LTCG u/s 112 ₹55 lakhs; - LTCG u/s 112A ₹35 lakhs; and - Other income ₹50 lakhs	Surcharge would be levied @15% on income-tax computed on total income of ₹1.90 crores.
(iii)	Where total income (excluding dividend income and capital gains chargeable to tax	25% Not exceeding 15%	Example	

	u/s 111A, 112 and 112A) > ₹2 crore but ≤ ₹5 crore The rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A		- Dividend income ₹51 lakhs; - STCG u/s 111A ₹44 lakh; - LTCG u/s 112 ₹42 lakhs; - LTCG u/s 112A ₹55 lakh; and - Other income ₹3 crores	Surcharge@15% would be levied on income-tax on: - Dividend income of ₹51 lakhs; - STCG of ₹44 lakhs chargeable to tax u/s 111A; - LTCG of ₹42 lakhs chargeable to tax u/s 112; and - LTCG of ₹55 lakhs chargeable to tax u/s 112A. Surcharge@25% would be leviable on income-tax computed on other income of ₹ 3 crores included in total income
(iv)	Where total income (excluding dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹5 crore Rate of surcharge on the income-tax payable on the portion of dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A	37% Not exceeding 15%	• Dividend income ₹60 lakhs; • STCG u/s 111A ₹50 lakhs; • LTCG u/s 112 ₹42 lakhs; • LTCG u/s 112A ₹25 lakhs; and • Other income ₹6 crore	Surcharge@15% would be levied on income-tax on: • Dividend income of ₹60 lakhs; • STCG of ₹50 lakhs chargeable to tax u/s 111A; • LTCG of ₹42 lakhs chargeable to tax u/s 112; and • LTCG of ₹25 lakhs chargeable to tax u/s 112A. Surcharge@37% would be leviable on th income-tax computed on other income of ₹6 crores included in total income.
(v)	Where total income	15%	**Example**	

	(including dividend income and capital gains chargeable to tax u/s 111A, 112 and 112A) > ₹2 crore in cases not covered under (iii) and (iv) above		• Dividend income ₹55 lakhs; • STCG u/s 111A ₹60 lakhs; • LTCG u/s 112 ₹42 lakhs; • LTCG u/s 112A ₹35 lakhs; and • Other income ₹1.10 crore	• Surcharge would be levied@15% on income-tax computed on total income of ₹3.02 crore.

Marginal relief

Marginal relief in case of such persons referred to in above under the optional tax regime (as per the normal provisions of the Act).

	Particulars	Marginal relief
(i)	Where the total income > ₹50 lakhs but ≤ ₹1 crore	Step 1 - Compute income-tax on total income; and add surcharge@10% on such income-tax (A) Step 2 - Compute income-tax on ₹50 lakhs Step 3 - Total income (-) ₹50 lakhs Step 4 - Add the amount computed in Step 2 and Step 3 (B) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., A) or Step 4 (i.e., B). Consequently, if A>B, the marginal relief would be A – B.
(ii)	Where the total income > ₹1 crore but ≤ ₹2 crores	Step 1 - Compute income-tax on total income; and add surcharge@15% on income-tax (C) Step 2 - Compute income-tax on total income of ₹1 crore + surcharge on such income-tax@10% Step 3 - Total income (-) ₹1 crore Step 4 - Add the amount computed in Step 2 and Step 3 (D) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., C) or Step 4 (i.e., D). Consequently, if C>D, the marginal relief would be C – D.

(iii)	Where the total income > ₹2 crores but ≤ ₹5 crores	Step 1 - Compute income-tax on total income; and add surcharge@25% on income-tax (E) Step 2 - Compute income-tax on total income of ₹2 crore + surcharge on such income-tax@15% Step 3 - Total income (-) ₹2 crore Step 4 - Add the amount computed in Step 2 and Step 3 (F) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., E) or Step 4 (i.e., F). Consequently, if E>F, the marginal relief would be E – F.
(iv)	Where the total income > ₹5 crores	Step 1 - Compute income-tax on total income; and add surcharge@37% on income-tax (G) Step 2 - Compute income-tax on total income of ₹5 crore + surcharge on such income-tax@25% Step 3 - Total income (-) ₹5 crore Step 4 - Add the amount computed in Step 2 and Step 3 (H) Step 5 – Income-tax liability on total income (along with surcharge) would be the lower of the amount arrived at in Step 1 (i.e., G) or Step 4 (i.e., H). Consequently, if G>H, the marginal relief would be G – H.

Note – It is presumed that the total income referred to above does not include dividend income, long term capital gains taxable under section 112/ 112A and short-term capital gains taxable under section 111A.

In case the total income includes dividend income, long term capital gains taxable under section 112/ 112A or short term capital gains taxable under section 111A, surcharge on income-tax computed on such dividend income and capital gains cannot exceed 15%. This must be kept in mind while computing marginal relief in cases referred to in (iii) and (iv) above.

ILLUSTRATION 5

Compute the tax liability of Mr. A (aged 42), having total income of ₹51 lakhs for the Assessment Year 2025-26. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. A has exercised the option to shift out of section 115BAC.

SOLUTION

Computation of tax liability of Mr. A for the A.Y.2025-26

A. Income-tax (including surcharge) computed on total income of ₹51,00,000

₹2,50,000 – ₹5,00,000 @5%	₹12,500	
₹5,00,001 – ₹10,00,000 @20%	₹1,00,000	
₹10,00,001 – ₹51,00,000 @30%	₹12,30,000	
Total	₹13,42,500	
Add: Surcharge @ 10%	₹1,34,250	₹14,76,750

B. Income-tax computed on total income of ₹50 lakhs (₹12,500 plus ₹1,00,000 plus ₹12,00,000) ₹13,12,500

C. Total Income Less ₹50 lakhs ₹1,00,000

D. Income-tax computed on total income of ₹50 lakhs plus the excess of total income over ₹50 lakhs **(B +C)** ₹14,12,500

E. **Tax liability: lower of (A) and (D)** ₹14,12,500

Add: Health and education cess @4% ₹56,500

Tax liability (including cess) **₹14,69,000**

F. Marginal Relief (A – D) **₹64,250**

Alternative method -

A. Income-tax (including surcharge) computed on total income of ₹51,00,000

₹2,50,000 – ₹5,00,000@5%	₹12,500	
₹5,00,001 – ₹10,00,000@20%	₹1,00,000	
₹10,00,001 – ₹51,00,000@30%	₹12,30,000	
Total	₹13,42,500	
Add: Surcharge@10%	₹1,34,250	₹14,76,750

B. Income-tax computed on total income of ₹50 lakhs (₹12,500 plus ₹1,00,000 plus ₹12,00,000) ₹13,12,500

C. Excess tax payable (A)-(B) ₹1,64,250

D. **Marginal Relief** (₹1,64,250 – ₹1,00,000, being the amount of income in excess of ₹50,00,000) **₹64,250**

E. Tax liability (A)-(D) ₹14,12,500

Add: Health and education cess @4%	₹56,500
Tax liability (including cess)	**₹14,69,000**

ILLUSTRATION 6

Compute the tax liability of Mr. B (aged 51) under the default tax regime, having total income of ₹1,01,00,000 for the Assessment Year 2025-26. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit.

SOLUTION

Computation of tax liability of Mr. B for the A.Y. 2025-26

A.	Income-tax (including surcharge) computed on total income of ₹1,01,00,000	
	₹3,00,000 – ₹7,00,000@5%	₹20,000
	₹7,00,001 – ₹10,00,000@10%	₹30,000
	₹10,00,001 – ₹12,00,000@15%	₹30,000
	₹12,00,001 – ₹15,00,000@20%	₹60,000
	₹15,00,001 – ₹1,01,00,000@30%	₹25,80,000
	Total	₹27,20,000
	Add: Surcharge@15%	₹4,08,000
	Tax liability without marginal relief	₹31,28,000
(B)	Income-tax computed on total income of ₹1 crore (₹1,40,000 plus ₹25,50,000)	₹26,90,000
	Add: Surcharge@10%	₹2,69,000
		₹29,59,000
(C)	Total Income Less ₹1 crore	₹1,00,000
(D)	Income-tax computed on total income of ₹1 crore plus the excess of total income over ₹1 crore (B +C)	₹30,59,000
E.	**Tax liability: lower of (A) & (D)**	₹30,59,000
	Add: Health and education cess @4%	₹1,22,360
	Tax liability (including cess)	**₹31,81,360**
F.	**Marginal relief (A-D)**	**₹69,000**

Alternative method:

A.	Income-tax (including surcharge) computed on total income of ₹1,01,00,000		
	₹3,00,000 – ₹7,00,000@5%	₹20,000	
	₹7,00,001 – ₹10,00,000@10%	₹30,000	
	₹10,00,001 – ₹12,00,000@15%	₹30,000	
	₹12,00,001 – ₹15,00,000@20%	₹60,000	
	₹15,00,001 – ₹1,01,00,000@30%	₹25,80,000	
	Total	₹27,20,000	
	Add: Surcharge @ 15%	₹4,08,000	₹31,28,000
(B)	Income-tax computed on total income of ₹1 crore [(₹1,40,000 plus ₹25,50,000) plus surcharge@10%]		₹29,59,000
(C)	Excess tax payable (A)-(B)		₹1,69,000
(D)	Marginal Relief (₹1,69,000 – ₹1,00,000, being the amount of income in excess of ₹1,00,00,000)		₹69,000
(E)	Tax liability (A) - (D)		₹30,59,000
	Add: Health and education cess @4%		₹1,22,360
	Tax liability (including cess)		₹31,81,360

ILLUSTRATION 7

Compute the tax liability of Mr. C (aged 58), having total income of ₹2,01,00,000 for the Assessment Year 2025-26. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit. Assume that Mr. C has exercised the option to shift out of section 115BAC.

SOLUTION

Computation of tax liability of Mr. C for the A.Y. 2025-26

A.	Income-tax (including surcharge) computed on total income of ₹2,01,00,000		
	₹2,50,000 – ₹5,00,000 @ 5%	₹12,500	
	₹5,00,001 – ₹10,00,000 @ 20%	₹1,00,000	
	₹10,00,001 – ₹2,01,00,000@30%	₹57,30,000	

Total	₹58,42,500	
Add: Surcharge @ 25%	₹14,60,625	₹73,03,125

B. Income-tax computed on total income of ₹2 crore

(₹12,500 plus ₹1,00,000 plus ₹57,00,000)	₹58,12,500
Add: Surcharge@15%	₹8,71,875
	₹66,84,375

C. Total Income Less ₹2 crore	₹1,00,000
D. Income-tax computed on total income of ₹2 crore plus the excess of total income over ₹2 crore **(B +C)**	₹67,84,375
E. Tax liability (A) or (D), whichever is lower	₹67,84,375
Add: Health and education cess @4%	₹2,71,375
Tax liability (including cess)	₹70,55,750
F. **Marginal relief (A-D)**	**₹5,18,750**

Alternative method

A. Income-tax (including surcharge) computed on total income of ₹2,01,00,000

₹2,50,000 – ₹5,00,000 @ 5%	₹12,500	
₹5,00,001 – ₹10,00,000 @ 20%	₹1,00,000	
₹10,00,001 – ₹2,01,00,000@30%	₹57,30,000	
Total	₹58,42,500	
Add: Surcharge@25%	₹14,60,625	₹73,03,125

B. Income-tax computed on total income of ₹2 crore [(₹12,500 plus ₹1,00,000 plus ₹57,00,000) plus surcharge@15%]	₹66,84,375
C. Excess tax payable (A)-(B)	₹6,18,750
D. **Marginal Relief** (₹6,18,750 – ₹1,00,000, being the amount of income in excess of ₹2,00,00,000)	₹**5,18,750**
E. Tax liability (A) - (D) ₹67,84,375	
Add: Health and education cess@4%	₹2,71,375

Tax liability (including cess)	**₹70,55,750**

ILLUSTRATION 8

Compute the tax liability of Mr. D (aged 65) in a most beneficial manner. He is having total income of ₹5,01,00,000 for the Assessment Year 2025-26. Assume that his total income comprises of salary income, Income from house property and interest on fixed deposit and is the same under both tax regimes.

SOLUTION

Computation of tax liability of Mr. D under default tax regime for the A.Y. 2025-26

Income-tax (including surcharge) computed on total income of ₹5,01,00,000	
₹3,00,000 – ₹7,00,000@5%	₹20,000
₹7,00,001 – ₹10,00,000@10%	₹30,000
₹10,00,001 – ₹12,00,000@15%	₹30,000
₹12,00,001 – ₹15,00,000@20%	₹60,000
₹15,00,001 – ₹5,01,00,000@30%	₹1,45,80,000
Total	₹1,47,20,000
Add: Surcharge@25%	₹36,80,000
	₹1,84,00,000
Add: Health and education cess @4%	₹7,36,000
Tax liability	**₹1,91,36,000**

Computation of tax liability of Mr. D under optional tax regime for the A.Y. 2025-26

A. Income-tax (including surcharge) computed on total income of ₹5,01,00,000		
₹3,00,000 – ₹5,00,000 @ 5%	₹10,000	
₹5,00,001 – ₹10,00,000 @ 20%	₹1,00,000	
₹10,00,001 – ₹5,01,00,000@30%	₹1,47,30,000	
Total	₹1,48,40,000	
Add: Surcharge @ 37%	₹54,90,800	₹2,03,30,800

B.	Income-tax computed on total income of ₹5 crore (₹10,000 plus ₹1,00,000 plus ₹1,47,00,000)	₹1,48,10,000
	Add: Surcharge@25%	₹37,02,500
		₹1,85,12,500
C.	Total Income Less ₹5 crore	₹1,00,000
D.	Income-tax computed on total income of ₹5 crore plus the excess of total income over ₹5 crore **(B +C)**	₹1,86,12,500
E.	**Tax liability (A) or (D), whichever is lower**	₹1,86,12,500
	Add: Health and education cess@4%	₹7,44,500
	Tax liability (including cess)	₹1,93,57,000
F.	**Marginal Relief (A – D)**	**₹17,18,300**

Alternative method

A.	Income-tax (including surcharge) computed on total income of ₹5,01,00,000		
	₹3,00,000 – ₹5,00,000@5%	₹10,000	
	₹5,00,001 – ₹10,00,000@20%	₹1,00,000	
	₹10,00,001 – ₹5,01,00,000@30%	₹1,47,30,000	
	Total	₹1,48,40,000	
	Add: Surcharge @ 37%	₹54,90,800	₹2,03,30,800
B.	Income-tax computed on total income of ₹5 crore [(₹10,000 plus ₹1,00,000 plus ₹1,47,00,000) plus surcharge@25%]		₹1,85,12,500
C.	Excess tax payable (A)-(B)		₹18,18,300
D.	**Marginal Relief** (₹18,18,300 – ₹1,00,000, being the amount of income in excess of ₹5,00,00,000)		**₹17,18,300**
E.	Tax liability (A) - (D)		₹1,86,12,500
	Add: Health and education cess @4%		₹7,44,500

Tax liability (including cess) ₹1,93,57,000

It is beneficial for Mr. D to pay tax under default tax regime under section 115BAC, since his tax liability would be lower by ₹2,21,000 (₹1,93,57,000 - ₹1,91,36,000).

Firm/ LLP/ Local Authority

Income-tax

On the whole of the total income 30%

Special rates for capital gains under sections 112, 112A and 111A would be applicable to Firm/ LLP/ local authority also.

Surcharge

Where the total income exceeds ₹1 crore, surcharge is payable at the rate of 12% of income-tax computed as above.

Marginal Relief

Marginal relief is available in case of such persons having a total income exceeding ₹1 crore i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax computed on total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

Co-operative Society

Income-tax rates as per the normal provisions of the Act

(i)	Where the total income does not exceed ₹10,000	10% of the total income
(ii)	Where the total income exceeds ₹10,000 but does not exceed ₹20,000	₹1,000 plus 20% of the amount by which the total income exceeds ₹10,000
(iii)	Where the total income exceeds ₹20,000	3,000 plus 30% of the amount by which the total income exceeds ₹20,000

Note – A manufacturing co-operative society, resident in India, can opt for concessional rates of tax under section 115BAE and other co-operative societies, resident in India, can opt for concessional rates of tax under section 115BAD.

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

15% of income derived from or incidental to manufacturing or production of an article or thing

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

22% of total income

Note - Co-operative society, resident in India, can opt for concessional rate of tax u/s 115BAD or 115BAE, as the case may be, subject to certain conditions. The total income of such co-operative societies would be computed without giving effect to deduction under section 10AA, 33AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA), 35AD, 35CCC, additional depreciation under section 32(1)(iia), deductions under Chapter VI-A (other than section 80JJAA) etc. and set off of loss and depreciation brought forward from earlier years relating to the above deductions. The provisions of alternate minimum tax under section 115JC would not be applicable to a co- operative society opting for section 115BAD or 115BAE. This section will be dealt with in detail at Final level.

Special rates for capital gains under sections 112, 112A and 111A would be applicable to Co-operative society also.

Surcharge

a) **In case of a co-operative society (other than a co-operative society opting for section 115BAD or section 115BAE), whose total income > ₹1 crore but is ≤ ₹10 crore**

Where the total income exceeds ₹1 crore but does not exceed ₹10 crore, surcharge is payable at the rate of 7% of income-tax computed in accordance with the slab rates given above and/ or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such co-operative societies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax computed on total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

b) **In case of a co-operative society (other than a co-operative society opting for section 115BAD or section 115BAE), whose total income is > ₹10 crore**

Where the total income exceeds ₹10 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the slab rates given above and/ or section 111A or section 112 or section 112A.

Marginal Relief

Marginal relief is available in case of such co-operative societies i. e., the total amount of income-tax

(together with surcharge) computed on such income should not exceed the amount of income-tax and surcharge computed on total income of ₹10 crore by more than the amount of income that exceeds ₹10 crore.

c) In case of a co-operative society opting for section 115BAD or section 115BAE

Surcharge @10% of income-tax computed under section 115BAD or section 115BAE would be leviable. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

Domestic Company

Income-tax

If the total turnover or gross receipt in the P.Y.2022-23 ≤ ₹400 crore	25% of the total income
In any other case	30% of the total income

Notes –

- In case of a domestic manufacturing company (set up and registered on or after 1.10.2019 and commences manufacture of article or thing8 before 31.3.2024) exercising option u/s 115BAB: 15% of income derived from or incidental to manufacturing or production of an article or thing
- In case of a domestic company exercising option u/s 115BAA: 22% of total income

Domestic company can opt for section 115BAA or section 115BAB, as the case may be, subject to certain conditions. The total income of such companies would be computed without giving effect to deductions under section 10AA, 33AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA), 35(2AB), 35AD, 35CCC, 35CCD, Chapter VI-A (except section 80JJAA or section 80M), additional depreciation under section 32(1)(iia) etc. and without set-off of brought forward loss and unabsorbed depreciation attributable to such deductions. These sections will be dealt with in detail at Final Level.

Special rates for capital gains under sections 112, 112A and 111A would be applicable to domestic company also.

Surcharge

A. In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income > ₹1 crore but is ≤ ₹10 crore

Where the total income exceeds ₹1 crore but does not exceed ₹10 crore, surcharge is payable at the rate of 7% of income-tax computed in accordance with the rates given above.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with

surcharge) computed on such income should not exceed the amount of income-tax computed on total income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

B. In case of a domestic company (other than a domestic company opting for section 115BAA or section 115BAB), whose total income is > ₹10 crore

Where the total income exceeds ₹10 crore, surcharge is payable at the rate of 12% of income-tax computed in accordance with the rates given above.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax and surcharge computed on total income of ₹10 crore by more than the amount of income that exceeds ₹10 crore.

C. In case of a domestic company opting for section 115BAA or section 115BAB

Surcharge @10% of income-tax computed under section 115BAA or section 115BAB would be leviable. Since there is no threshold limit for applicability of surcharge, consequently, there would be no marginal relief.

Foreign Company

Income-tax

Royalties and fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an agreement, approved by the Central Government, made by the company with the Government or Indian concern between 1.4.1961 and 31.3.1976 (in case of royalties) and between 1.3.1964 and 31.3.1976 (in case of FTS)	50%
Other income	35%

Special rates for capital gains under sections 112, 112A and 111A would be applicable to foreign company also.

Surcharge

A. In case of a foreign company, whose total income > ₹1 crore but is ≤ ₹10 crore

Where the total income exceeds ₹1 crore but does not exceed ₹10 crore, surcharge is payable at the rate of 2% of income-tax computed in accordance with the rates given above.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax computed on total

income of ₹1 crore by more than the amount of income that exceeds ₹1 crore.

B. In case of a foreign company, whose total income is > ₹10 crore

Where the total income exceeds ₹10 crore, surcharge is payable at the rate of 5% of income-tax computed in accordance with the rates given above.

Marginal Relief

Marginal relief is available in case of such companies i.e., the total amount of income-tax (together with surcharge) computed on such income should not exceed the amount of income-tax and surcharge computed on total income of ₹10 crore by more than the amount of income that exceeds ₹10 crore.

REBATE FOR RESIDENT INDIVIDUALS [SECTION 87A]

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

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

i. If the total income of the resident individual is chargeable to tax under section 115BAC and the total income of such individual **does not exceed ₹7,00,000**, the rebate shall be equal to the amount of income-tax payable on his total income for any assessment year or an amount of **₹25,000**, whichever is less.

The amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee with which he is chargeable for any assessment year.

ILLUSTRATION 9

Mr. Raghav aged 26 years and a resident in India, has a total income of ₹6,50,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2025-26 under default tax regime under section 115BAC.

SOLUTION

Computation of tax liability of Mr. Raghav for A.Y. 2025-26

Particulars	₹
Tax on total income of ₹6,50,000	
Tax@5%of ₹3,50,000	17,500

Less: Rebate u/s 87A (Lower of tax payable or ₹25,000)	17,500
Tax Liability	Nil

i. If the total income of the resident individual is chargeable to tax under section 115BAC and the total income of such individual exceeds ₹7,00,000 and income-tax payable on such total income exceeds the amount by which the total income is in excess of ₹7,00,000, the rebate would be as follows.

Step 1 – Total income (-) ₹7 lakhs (A)

Step 2 - Compute income-tax liability on total income (B) Step 3 - If B>A, rebate under section 87A would be a B – A.
The amount of rebate under section 87A shall not exceed the amount of income-tax (as computed before allowing such rebate) on the total income of the assessee.

ILLUSTRATION 10

Mr. Pawan aged 35 years and a resident in India, has a total income of ₹7,15,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2025-26 under default tax regime under section 115BAC.

SOLUTION

Computation of tax liability of Mr. Pawan for A.Y. 2025-26

Particulars	₹	
Step 1: Total Income of ₹7,15,000 - ₹7,00,000	15,000	(A)
Step 2: Tax on total income of ₹7,15,000		
Tax@10%of ₹15,000 + ₹20,000	21,500	(B)
Step 3: Since B>A, rebate u/s 87A would be B-A		
[₹21,500 - ₹15,000]	6,500	
	15,000	
Add: HEC@4%	600	
Tax Liability	15,600	

Rebate to a resident individual paying tax under optional tax regime (normal provisions of the Act)

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

The amount of rebate under section 87A shall not exceed the amount of income- tax (as computed before allowing such rebate) on the total income of the assessee with which he is chargeable for any assessment year.

ILLUSTRATION 11

Mr. Piyush, aged 35 years and a resident in India, has a total income of ₹4,15,000, comprising his salary income and interest on bank fixed deposit. Compute his tax liability for A.Y.2025-26 if he exercises the option to shift out of the default tax regime.

SOLUTION

Computation of tax liability of Mr. Piyush for A.Y. 2025-26

Particulars	₹
Tax on total income of ₹4,15,000	
Tax@5%of ₹1,65,000	8,250
Less: Rebate u/s 87A (Lower of tax payable or ₹12,500)	8,250
Tax Liability	Nil

- Rebate under section 87A is allowed from income-tax computed before adding Health and education cess on income-tax.
- Rebate under section 87A is, however, not available in respect of tax payable on long-term capital gains taxable u/s 112A.

PARTIAL INTEGRATION OF AGRICULTURAL INCOME WITH NON-AGRICULTURAL INCOME

Agricultural income is exempt subject to conditions mentioned in the definition given under section 2(1A). However, a method has been laid down to levy tax on agricultural income in an indirect way. This concept is known as partial integration of agricultural income with non-agricultural income. It is applicable to individuals, HUF, AOPs, BOIs and artificial juridical persons. Two conditions which need to be satisfied for partial integration are:

1. The net agricultural income should exceed ₹5,000 p.a., and

2. Non-agricultural income should exceed the maximum amount not chargeable to tax. (i.e., If such person is paying tax under default tax regime u/s 115BAC, then ₹3,00,000 is the basic exemption limit irrespective of the age of the person. If such person has exercised the option to shift out of the default tax regime, then, the basic exemption limit would be ₹5,00,000 for resident individuals of the age of 80 years or more at any time during the previous year, ₹3,00,000 for resident individuals of the age of 60 years or more (but less than 80 years) at any time during the previous year and ₹2,50,000 for all others). Only if non-agricultural income exceeds this limit, partial integration would be required.

   It may be noted that aggregation provisions do not apply to company, LLP, firm, co-operative society and local authority. The object of aggregating the net agricultural income with non-agricultural income is to tax the non-agricultural income at higher rates.

   Tax calculation in such cases is as follows:

   Step 1: Add non-agricultural income with net agricultural income. Compute tax on the aggregate amount.

   Step 2: Add net agricultural income and the basic exemption limit available to the assessee. Compute tax on the aggregate amount.

   Step 3: Deduct the amount of income tax calculated in step 2 from the income tax calculated in step 1 i.e., Step 1 – Step 2.

   Step 4 : The sum so arrived at shall be –

   - increased by surcharge, if applicable,
   - reduced by the rebate, if any, available u/s 87A.

   Step 5: Thereafter, it would be increased by health and education cess @4%.

   The above concept can be clearly understood with the help of the following illustration:

ILLUSTRATION 12

Mr. X, a resident, has provided the following particulars of his income for the P.Y. 2024-25.

i.	Income from salary (computed)	- ₹10,80,000
ii.	Income from house property (computed)	- ₹2,50,000
iii.	Agricultural income from a land in Jaipur	- ₹4,80,000
iv.	Expenses incurred for earning agricultural income	- ₹1,70,000

Compute his tax liability for A.Y. 2025-26 assuming his age is -

- 45 years
- 70 years

SOLUTION

a) Computation of tax liability (age 45 years)

Computation of total income of Mr. X for the A.Y. 2025-26 under default tax regime under section 115BAC

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

1. Net agricultural income exceeds ₹5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit of ₹3,00,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		10,80,000
Income from house property		2,50,000
Net agricultural income [₹4,80,000 – ₹1,70,000]	3,10,000	
Less: Exempt under section 10(1)	(3,10,000)	-
Gross Total Income		13,30,000
Less: Deductions under Chapter VI-A		-
Total Income		13,30,000

Step 1 : ₹13,30,000 + ₹3,10,000 = ₹16,40,000

Tax on ₹16,40,000 = ₹1,82,000
(i.e., 5% of ₹4,00,000 plus 10% of ₹3,00,000 plus 15% of ₹2,00,000 plus 20% of ₹3,00,000 plus 30% of ₹1,40,000)

Step 2 : ₹3,10,000 + ₹3,00,000 = ₹6,10,000

Tax on ₹6,10,000 = ₹15,500

(i.e. 5% of ₹3,10,000)

Step 3 : ₹1,82,000 – ₹15,500 = ₹1,66,500

Step 4 & 5 : Total tax payable = ₹1,66,500

= ₹1,66,500 + 4% of ₹1,66,500 = ₹1,73,160.

Computation of total income of Mr. X for the A.Y. 2025-26 under normal provisions of the Act

For the purpose of partial integration of taxes, Mr. X has satisfied both the conditions i.e.

1. Net agricultural income exceeds ₹5,000 p.a., and
2. Non-agricultural income exceeds the basic exemption limit of ₹2,50,000.

His tax liability is computed in the following manner:

Particulars	₹	₹
Income from salary		10,80,000
Income from house property		2,50,000
Net agricultural income [₹4,80,000 – ₹1,70,000]	3,10,000	
Less: Exempt under section 10(1)	(3,10,000)	-
Gross Total Income		13,30,000
Less: Deductions under Chapter VI-A		-
Total Income		13,30,000

Step 1 : ₹13,30,000 + ₹3,10,000 = ₹16,40,000

Tax on ₹16,40,000 = ₹3,04,500
(i.e., 5% of ₹2,50,000 plus 20% of ₹5,00,000 plus 30% of ₹6,40,000)

Step 2 : ₹3,10,000 + ₹2,50,000 = ₹5,60,000

Tax on ₹5,60,000 = ₹24,500
(i.e. 5% of ₹2,50,000 plus 20% of ₹60,000)

Step 3 : ₹3,04,500 – ₹24,500 = ₹2,80,000

Step 4 & 5 : Total tax payable = ₹2,80,000

= ₹2,80,000 + 4% of ₹2,80,000 = ₹2,91,200.

b) Computation of tax liability (age 70 years)

Computation of total income of Mr. X for the A.Y. 2025-26 under default tax regime under section 115BAC

Tax liability of Mr. X would be same under default tax regime whether he is of age of 45 years of 70 years i.e., ₹1,73,160.

Computation of total income of Mr. X for the A.Y. 2025-26 under normal provisions of the Act

His tax liability is computed in the following manner:

Step 1 : ₹13,30,000 + ₹3,10,000 = ₹16,40,000

Tax on ₹16,40,000 = ₹3,02,000
(i.e., 5% of ₹2,00,000 plus 20% of ₹5,00,000 plus 30% of ₹6,40,000)

Step 2 : ₹3,10,000 + ₹3,00,000 = ₹6,10,000

Tax on ₹6,10,000 = ₹32,000
(i.e. 5% of ₹2,00,000 plus 20% of ₹1,10,000)

Step 3 : ₹3,02,000 – ₹32,000 = ₹2,70,000

Step 4 & 5 : Total tax payable = ₹2,70,000

= ₹2,70,000 + 4% of ₹2,70,000 = ₹2,80,800.

TEST YOUR KNOWLEDGE

1. Who is an "Assessee"? Explain

2. State any four instances where the income of the previous year is assessable in the previous year itself instead of the assessment year.

3. Whether the income derived from saplings or seedlings grown in a nursery is taxable under the Income-tax Act, 1961? Examine.

4. What are the two schools of Hindu law and where are they prevalent? Explain. Also, mention the difference between the two schools of Hindu Law.

5. What is the difference between an Association of Persons and Body of Individuals?

6. Mr. Sumit, a resident Indian, earns income of ₹15 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in India and ₹20 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in Malaysia during the A.Y.2025-26. What would be his business income, assuming he has no other business?

7. Mr. Raja, a resident Indian, earns income of ₹10 lakhs from sale of coffee grown and cured in India during the A.Y.2025-26. His friend, Mr. Shyam, a resident Indian, earns income of ₹20 lakhs from sale of coffee grown, cured, roasted and grounded by him in India during the A.Y.2025-26. What would be the business income chargeable to tax in India of Mr. Raja and Mr. Shyam?

8. The Jain HUF in Assam comprises of Mr. Suresh Jain, his wife Mrs. Sapna Jain, his son Mr. Sarthak Jain, his daughter-in-law Mrs. Preeti Jain, his daughter Miss Seema Jain and his unmarried brother Mr. Pritam Jain. Which of the members of the HUF are eligible for coparcenary rights?

9. Compute the tax liability under default tax regime of Mr. Kashyap (aged 35), having total income of ₹51,75,000 for the Assessment Year 2025-26. Assume that his total income comprises of salary income, income from house property and interest on fixed deposit.

10. Mr. Agarwal, aged 40 years and a resident in India, has a total income of ₹6,50,00,000, comprising long term capital gain taxable @20% under section 112 of ₹55,00,000, short term capital gain taxable @15% under section 111A of ₹65,00,000 and other income of ₹5,30,00,000. Compute his tax liability for A.Y.2025-26 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes.

11. Mr. Sharma aged 62 years and a resident in India, has a total income of ₹2,30,00,000, comprising long term capital gain taxable @12.5% under section 112 of ₹52,00,000, short term capital gain taxable @20% under section 111A of ₹64,00,000 and other income of ₹1,14,00,000. Compute his tax liability for A.Y.2025-26 under the default tax regime and optional tax regime as per the normal provisions of the Act assuming that the total income and its components are the same in both tax regimes.

ANSWERS

1. As per section 2(7), assessee means a person by whom any tax or any other sum of money is payable under the Income-tax Act, 1961.

   In addition, the term includes –

   - Every person in respect of whom any proceeding under the Act has been taken for the assessment of –
     - his income; or
     - the income of any other person in respect of which he is assessable; or
     - the loss sustained by him or by such other person; or
     - the amount of refund due to him or to such other person.

- Every person who is deemed to be an assessee under any provision of the Act;
- Every person who is deemed to be an assessee in default under any provision of the Act.

2. The income of an assessee for a previous year is charged to income-tax in the assessment year following the previous year. However, in a few cases, the income is taxed in the previous year in which it is earned. These exceptions have been made to protect the interests of revenue. The exceptions are as follows:

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

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

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

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

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

3. As per Explanation 3 to section 2(1A), income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income and exempt from tax, whether or not the basic operations were carried out on land.

4. The two schools of Hindu law are Dayabaga school, prevalent in West Bengal and Assam, and Mitakshara school, prevalent in rest of India.

   Under the Dayabaga school of Hindu Law, nobody acquires the right, share in the property by birth as long as the head of family is living. Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Hence, the father and his brothers would be the coparceners of the HUF.

   Under the Mitakshara school of Hindu Law, one acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus, every child born in the family acquires a right/share in the family property.

5. In order to constitute an Association of Persons (AOP), persons must join for a common purpose or action and their object must be to produce income; it is not enough that the persons receive the income jointly.

   Body of Individuals denotes the status of persons like executors or trustees who merely receive the income jointly and who may be assessable in like manner and to the same extent as the beneficiaries individually. Thus, co- executors or co-trustees are assessable as a BOI as their title and interest are indivisible.

   The difference between an AOP and BOI is that in case of a BOI, only individuals can be the members, whereas in case of AOP, any person can be its member i.e. entities like company, firm etc. can be the member of AOP but not of BOI.

   In case of an AOP, members voluntarily come together with a common will for a common intention or purpose, whereas in case of BOI, such common will may or may not be present.

6. Since Mr. Sumit is a resident, his global income would be taxable in India. Income of ₹20 lakhs from sale of rubber manufactured from latex obtained from rubber plants grown by him in Malaysia would be his business income since it is from rubber plants grown **outside India**. 35% income from sale of rubber manufactured from latex obtained from rubber plants grown by him in India would be taxable as business income and balance 65% would be exempt as agricultural income.

   Business income = 35% of ₹15 lakhs + ₹20 lakhs = ₹25.25 lakhs

7. In case of income derived from the sale of coffee grown and cured by the seller in India, 25% income on such sale is taxable as business income. In case of income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India, 40% income on such sale is taxable as business income.

   Business income of Mr. Raja = 25% of ₹10 lakhs = ₹2.5 lakhs Business income of Mr. Shyam = 40% of ₹20 lakhs = ₹8 lakhs

8. Dayabaga school of Hindu law is prevalent in Assam. In Dayabaga school of Hindu law, nobody acquires the right, share in the property by birth as long as the head of family is living.

   Thus, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property.

   Hence, Mr. Suresh Jain and his brother, Mr. Pritam Jain would be the coparceners of the Jain HUF and are eligible for coparcenary rights.

9. Computation of tax liability of Mr. Kashyap for the A.Y.2025-26 under default tax regime

A. Tax payable including surcharge on total income of ₹51,75,000

₹3,00,000 – ₹7,00,000 @5%	₹20,000	
₹7,00,001 – ₹10,00,000 @10%	₹30,000	
₹10,00,001 – ₹12,00,000 @15%	₹30,000	
₹12,00,001 – ₹15,00,000 @20%	₹60,000	
₹15,00,001 – ₹51,75,000 @30%	₹11,02,500	
Total		₹12,42,500
Add: Surcharge @ 10%	₹1,24,250	₹13,66,750

B. Tax Payable on total income of ₹50 lakhs (₹1,40,000 plus ₹10,50,000)	₹11,90,000
C. Total Income Less ₹50 lakhs	₹1,75,000
D. Tax payable on total income of ₹50 lakhs plus the excess of total income over ₹50 lakhs (B +C)	₹13,65,000
E. Tax payable: lower of (A) and (D)	₹13,65,000
Add: Health and education cess @4%	₹54,600
Tax liability	₹14,19,600
F. Marginal Relief (A – D)	₹1,750

Alternative method -

A. Tax payable including surcharge on total income of ₹51,75,000

₹3,00,000 – ₹7,00,000 @5%	₹20,000	
₹7,00,001 – ₹10,00,000 @10%	₹30,000	
₹10,00,001 – ₹12,00,000 @15%	₹30,000	
₹12,00,001 – ₹15,00,000 @20%	₹60,000	
₹15,00,001 – ₹51,75,000 @30%	₹11,02,500	
Total	₹12,42,500	
Add: Surcharge@10%	₹1,24,250	₹13,66,750

B. Tax Payable on total income of ₹50 lakhs (₹1,40,000 plus ₹10,50,000) ₹11,90,000

C. Excess tax payable (A)-(B) ₹1,76,750

D. Marginal Relief (₹1,76,750 – ₹1,75,000, being the amount of income in excess of ₹50,00,000) ₹1,750

E. Tax payable (A)-(D) ₹13,65,000

Add: Health and education cess @4% ₹54,600

Tax liability **₹14,19,600**

10. Computation of tax liability of Mr. Agarwal for the A.Y.2025-26 under default tax regime

Particulars		₹
Tax on total income of ₹6,50,00,000		
Tax@20% of ₹55,00,000		11,00,000
Tax@15% of ₹65,00,000		9,75,000
Tax on other income of ₹5,30,00,000		
₹3,00,000 – ₹7,00,000 @5%	20,000	
₹7,00,000 – ₹10,00,000 @10%	30,000	
₹10,00,000 – ₹12,00,000 @15%	30,000	
₹12,00,000 – ₹15,00,000 @20%	60,000	

₹15,00,000 – ₹5,30,00,000 @30%	1,54,50,000	1,55,90,000
		1,76,65,000
Add: Surcharge @15% on ₹20,75,000	3,11,250	
@25% on ₹1,55,90,000	38,97,500	42,08,750
		2,18,73,750
Add: Health and education cess @4%		8,74,950
Tax Liability		**2,27,48,700**

Computation of tax liability of Mr. Agarwal for the A.Y.2025-26 under normal provisions of the Act

Particulars		₹
Tax on total income of ₹6,50,00,000		
Tax@20% of ₹55,00,000		11,00,000
Tax@15% of ₹65,00,000		9,75,000
Tax on other income of ₹5,30,00,000		
₹2,50,000 – ₹5,00,000 @5%	12,500	
₹5,00,000 – ₹10,00,000 @20%	1,00,000	
₹10,00,000 – ₹5,30,00,000 @30%	1,56,00,000	1,57,12,500
		1,77,87,500
Add: Surcharge @15% on ₹20,75,000	3,11,250	
@37% on ₹1,57,12,500	58,13,625	61,24,875
		2,39,12,375
Add: Health and education cess @4%		9,56,495
Tax Liability		2,48,68,870

11. Computation of tax liability of Mr. Sharma for the A.Y.2025-26 under default tax regime

Particulars		₹
Tax on total income of ₹2,30,00,000		
Tax@12.5% of ₹52,00,000		6,50,000

Tax@20% of ₹64,00,000		12,80,000
Tax on other income of ₹1,14,00,000		
₹3,00,000 – ₹7,00,000 @5%	20,000	
₹7,00,000 – ₹10,00,000 @10%	30,000	
₹10,00,000 – ₹12,00,000 @15%	30,000	
₹12,00,000 – ₹15,00,000 @20%	60,000	
₹15,00,000 – ₹1,14,00,000 @30%	29,70,000	31,10,000
		50,40,000
Add: Surcharge @15%		7,56,000
		57,96,000
Add: Health and education cess @4%		2,31,840
Tax Liability		60,27,840

Computation of tax liability of Mr. Sharma for the A.Y.2025-26 under normal provisions of the Act

Particulars		₹
Tax on total income of ₹2,30,00,000 Tax@12.5% of ₹52,00,000		6,50,000
Tax@20% of ₹64,00,000		12,80,000
Tax on other income of ₹1,14,00,000		
₹3,00,000 – ₹5,00,000 @5%	10,000	
₹5,00,000 – ₹10,00,000 @20%	1,00,000	
₹10,00,000 – ₹1,14,00,000 @30%	31,20,000	32,30,000
		51,60,000
Add: Surcharge @15%		7,74,000
		59,34,000
Add: Health and education cess @4%		2,37,360
Tax Liability		61,71,360

CHAPTER - 2 RESIDENCE AND SCOPE OF TOTAL INCOME

Residence and Scope of Total Income

Residential Status [Section 6]

- Individual / HUF
  - Resident
    - Resident and ordinarily resident
    - Resident but not ordinarily resident
  - Deemed resident (Individual)
  - Non-resident
- Firm/LLP/ AOP / BOI / company
  - Resident
  - Non-resident

Scope of Total Income [Section 5]

- Individual / HUF Resident and ordinarily resident
  - Global income is taxable in India
- Resident but not ordinarily resident
  - Income which is received/ deemed to be received / accrued or arisen/ deemed to accrue or arise in India
    - Income which accrues or arises outside India being derived from a business controlled in or profession set up in India
- Non-resident
  - Income received/ deemed to be received/ accrued or arisen/ deemed to accrue or arise in India

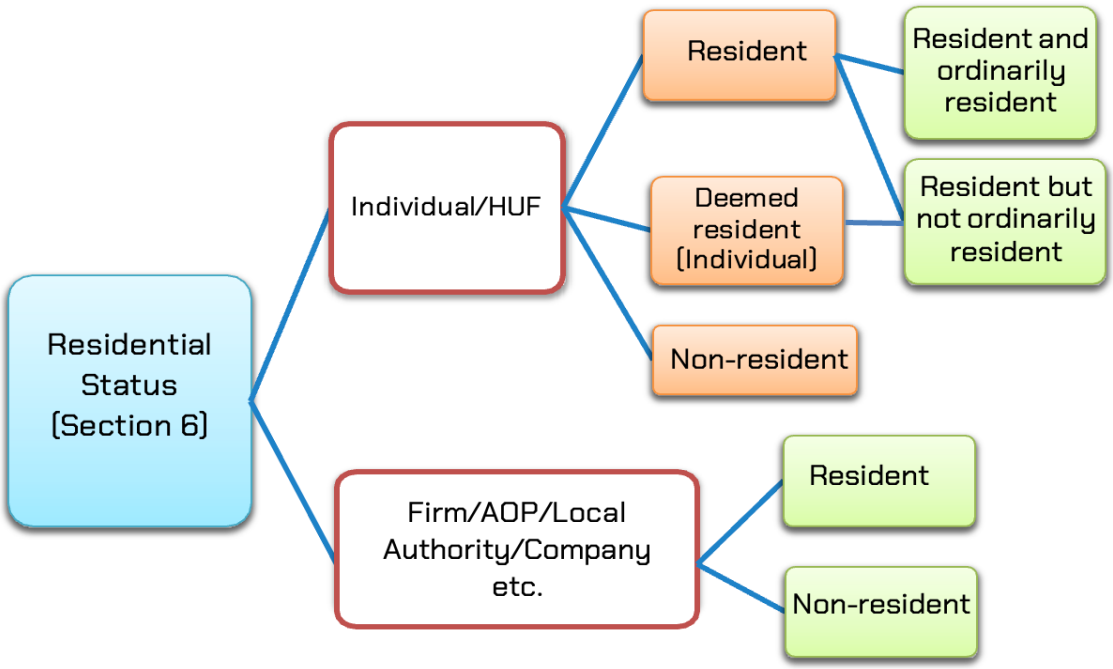
RESIDENTIAL STATUS [SECTION 6]

The incidence of tax on any assessee depends upon his residential status under the Act. For all purposes of income-tax, taxpayers (individuals and HUF) are classified into three broad categories on the basis of their residential status viz.

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

Taxpayers (other than individuals and HUF) are classified into two broad categories on the basis of their residential status viz.

1. Resident
2. Non-resident



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.*

The provisions for determining the residential status of assessees are:

Residential Status of Individuals

1. **Residential status on the basis of number of days of stay in India -** Under section 6(1), an individual is said to be resident in India in any previous year, if he satisfies **any one** of the following conditions:
   i. He has been in India during the previous year for a total period of 182 days or more, or
   ii. He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the relevant 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.

- 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.
- 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.
- 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.
- 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 for tax purposes than one even though he can have only one domicile

Exceptions:

The following categories of individuals will be treated as resident in India only if the period of their stay during the relevant previous year amounts to 182 days or more. In other words, even if such persons were in India for 60 days or more (but less than 182 days) in the relevant previous year, they will not be treated as resident due to the reason that their stay in India was for 365 days or more during the 4 immediately preceding years.

I. Indian citizen, who leaves India during the relevant previous year as a member of the crew of an Indian ship or for purposes of employment outside India, or

II. Indian citizen or person of Indian origin[1] who, being outside India comes on a visit to India during

the relevant previous year.

However, such person having total income, other than the income from foreign sources [i.e., income which accrues or arises outside India (except income from a business controlled in or profession set up in India) and which is not deemed to accrue or arise in India], exceeding ₹15 lakhs during the previous year will be treated as resident in India if -

- the period of his stay during the relevant previous year amounts to 182 days or more, or
- he has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 120 days in the previous year.

Stay in India for 120 days in the relevant P.Y. is not a standalone condition. This condition requires stay in India for 120 days in the relevant P.Y. + 365 days in the 4 years immediately preceding the P.Y.

How to determine period of stay in India for an Indian citizen, being a crew member?

In case of foreign bound ships where the destination of the voyage is outside India, there is uncertainty regarding the manner and the basis of determining the period of stay in India for an Indian citizen, being a crew member.

To remove this uncertainty, Explanation 2 to section 6(1) provides that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the prescribed manner and subject to the prescribed conditions.

Accordingly, the CBDT has, vide Notification No.70/2015 dated 17.8.2015, inserted Rule 126 in the Income-tax Rules, 1962 to compute the period of stay in such cases.

According to Rule 126, for the purposes of section 6(1), in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an eligible voyage, not include the following period:

Period to be excluded

Period commencing from		Period ending on
the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage	and	the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.

Meaning of certain term

Term	Meaning
Eligible voyage	A voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where – 1. for the voyage having originated from any port in India, has as its destination any port outside India; and 2. for the voyage having originated from any port outside India, has as its destination any port in India.

ILLUSTRATION 1

Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2024. From the following details for the P.Y. 2024-25, determine the residential status of Mr. Anand for A.Y. 2025-26, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2024-25) is 400 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6th June, 2024
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9th December, 2024

SOLUTION

In this case, since Mr. Anand is an Indian citizen and leaving India during P.Y. 2024-25 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more.

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

Therefore, the period commencing from 6th June, 2024 and ending on 9th December, 2024, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y. 2024-25 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during the P.Y.

2024-25 is less than 182 days, he is a non- resident for A.Y. 2025-26.

2. **Deemed resident [Section 6(1A)] –** An individual, being an Indian citizen, having total income, other than the income from foreign sources [i.e., income which accrues or arises outside India (except income from a business controlled in or profession set up in India) and which is not deemed to accrue or arise in India], exceeding ₹15 lakhs during the previous year would be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

   However, this provision will not apply in case of an individual who is a resident of India in the previous year as per section 6(1).

   Meaning of "liable to tax" – Liable to tax, in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force. It also includes a person who has subsequently been exempted from such liability under the law of that country.

Only Indian citizen can be deemed resident. An individual who is not an Indian citizen but a person of Indian Origin cannot be deemed resident u/s 6(1A).

- Stay in India is not necessary for being a deemed resident u/s 6(1A).

Resident and ordinarily resident/Resident but not ordinarily resident

Only individuals and HUF can be "resident but not ordinarily resident" in India. All other classes of assessees can be either a resident or non-resident. A not- ordinarily resident person is one who satisfies any one of the conditions specified u/s 6(6).

I. If such individual has been non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or

II. If such individual has, during the 7 previous years preceding the relevant previous year, been in India for a period of 729 days or less, or

III. If such individual is an Indian citizen or person of Indian origin (who, being outside India, comes on a visit to India in any previous year) having total income, other than the income from foreign sources [i.e., income which accrues or arises outside India (other than income derived from a business controlled in or profession set up in India) and which is not deemed to accrue or arise in India], exceeding ₹15 lakhs during the previous year, who has been in India for 120 days or more but less than 182 days during that previous year, or

IV. If such individual is an Indian citizen who is deemed to be resident in India under section 6(1A).

A deemed resident u/s 6(1A) is always RNOR.

ILLUSTRATION 2

Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years.

(a) Find out his residential status for the assessment year 2025-26.

(b) Would your answer change if the above facts relate to Srinath, an Indian citizen who resides in Australia and represents the Australian cricket team?

(c) What would be your answer if Srinath had visited India for 120 days instead of 100 days every year, including P.Y.2024-25?

SOLUTION

a) Determination of Residential Status of Mr. Brett Lee for the A.Y. 2025-26:-

Period of stay during previous year 2024-25 = 100 days

Calculation of period of stay during 4 preceding PYs (100 x 4 = 400 days)

2023-24	100 days
2022-23	100 days
2021-22	100 days
2020-21	100 days
Total	**400 days**

Mr. Brett Lee has been in India for a period more than 60 days during previous year 2024-25 and for a period of more than 365 days during the 4 immediately preceding previous years. Therefore, since he satisfies one of the basic conditions under section 6(1), he is a resident for the A.Y. 2025-26.

Computation of period of stay during 7 preceding previous years = 100 x 7 = 700 days

2023-24	100 days
2022-23	100 days
2021-22	100 days

2020-21	100 days
2019-20	100 days
2018-19	100 days
2017-18	100 days
Total	**700 days**

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the A.Y. 2025-26 (See Note below).

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the previous year 2024-25 relevant to the assessment year 2025-26.

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

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

In this case, since Mr. Brett Lee satisfies condition (ii), he is a not-ordinarily resident for the A.Y. 2025-26.

b) If the above facts relate to Mr. Srinath, an Indian citizen, who residing in Australia, comes on a visit to India, he would be treated as non-resident in India, irrespective of his total income (excluding income from foreign sources), since his stay in India in the current financial year is, in any case, less than 120 days.

c) In this case, if Srinath's total income (excluding income from foreign sources) exceeds ₹15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y.2024-25, since his stay in India is 120 days in the P.Y.2024-25 and 480 days (i.e., 120 days x 4 years) in the immediately four preceding previous years.

If his total income (excluding income from foreign sources) does not exceed 15 lakh, he would be treated as non-resident in India for the P.Y.2024-25, since his stay in India is less than 182 days in the P.Y.2024-25.

ILLUSTRATION 3

Mr. B, a Canadian citizen, comes to India for the first time during the P.Y. 2020-21. During the financial years

2020-21 2021-22, 2022-23, 2023-24 and 2024-25, he was in India for 55 days, 60 days, 90 days, 150 days and 70 days, respectively. Determine his residential status for the A.Y. 2025-26.

SOLUTION

During the P.Y. 2024-25, Mr. B was in India for 70 days and during the 4 years preceding the P.Y. 2024-25, he was in India for 355 days (i.e. 55+ 60+ 90+ 150 days).

Thus, he does not satisfy the basic condition under section 6(1). Therefore, he is a non-resident for the P.Y. 2024-25.

Residential status of HUF

Resident: A HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India.

Non-resident: If the control and management of the affairs is situated wholly outside India, it would become a non-resident.

Meaning of the term "control and management"

- The expression 'control and management' referred to under section 6 refers to the central control and management and not to the carrying on of day- to-day business by servants, employees or agents.
- Control and management means de facto control and management and not merely having the right to control or manage.
- The business may be done from outside India and yet its control and management may be wholly within India. Therefore, control and management of a business is said to be situated at a place where the head and brain of the adventure is situated. Merely because the family has a house in India, where some of the members reside in the previous year, does not constitute that place as the seat of control and management of the affairs of the HUF unless important decisions concerning the affairs of the HUF are taken at that place.
- The place of control may be different from the usual place of running the business and sometimes even the registered office of the assessee. This is because the control and management of a business need not necessarily be done from the place of business or from the registered office of the assessee.
- But control and management do imply the functioning of the controlling and directing power at a particular place with some degree of permanence.

Resident and ordinarily resident/ Resident but not ordinarily resident

If Karta of resident HUF satisfies **both** the following additional conditions (as applicable in case of individual) then, resident HUF will be resident and ordinarily resident, otherwise it will be resident but not ordinarily resident.

- Karta of resident HUF should be resident in at least 2 previous years out of 10 previous years immediately preceding relevant previous year.
- Stay of Karta during 7 previous years immediately preceding relevant previous year should be 730 days or more.

ILLUSTRATION 4

The business of a HUF is transacted from Australia and all the policy decisions are taken there. Mr. E, the Karta of the HUF, who was born in Kolkata, visits India during the P.Y. 2024-25 after 15 years. He comes to India on 1.4.2024 and leaves for Australia on 1.12.2024. Determine the residential status of Mr. E and the HUF for A.Y. 2025-26.

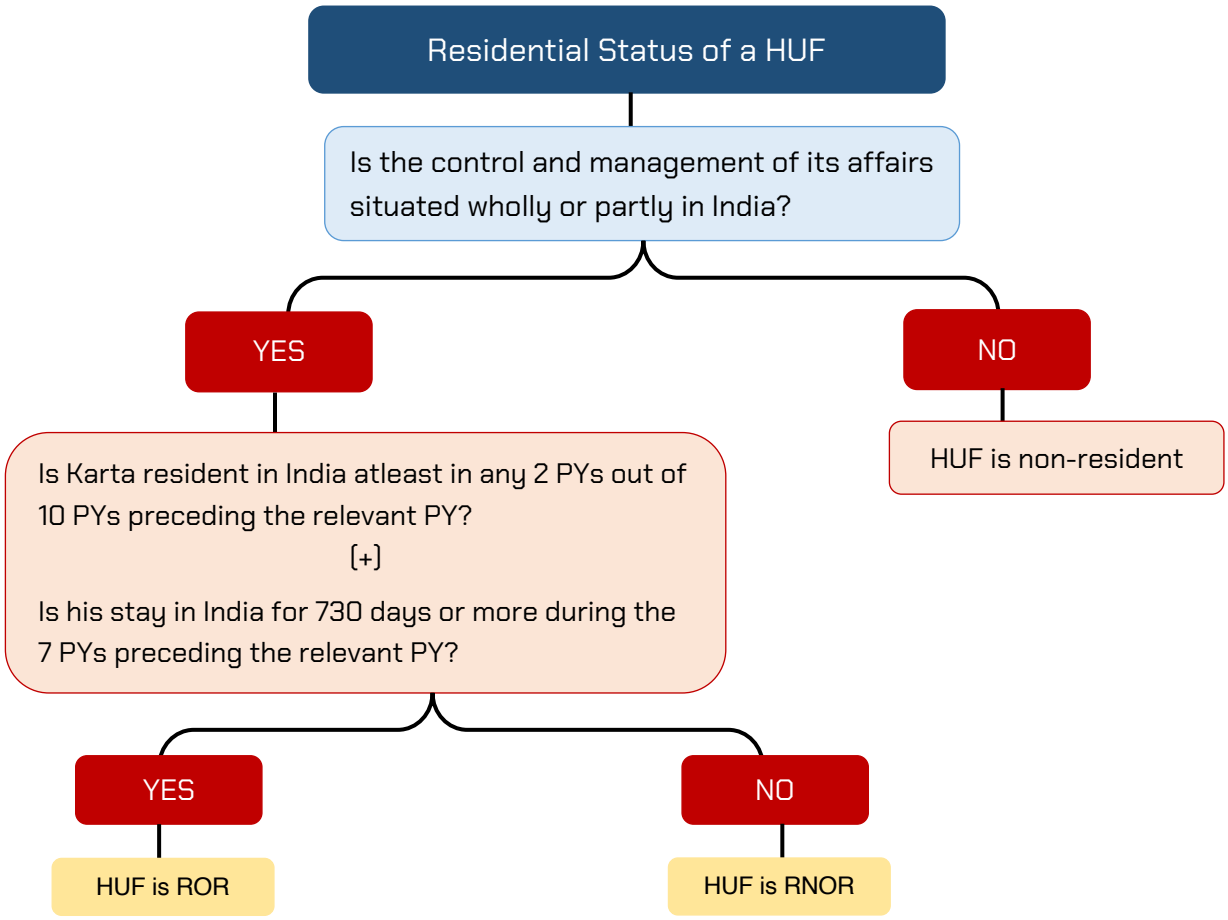
SOLUTION

a) During the P.Y. 2024-25, Mr. E has stayed in India for 245 days (i.e. 30+31+30+31+31+30+31+30+1 days). Therefore, he is a resident. However, since he has come to India after 15 years, he does not satisfy the condition for being ordinarily resident.

Therefore, the residential status of Mr. E for the P.Y. 2024-25 is resident but not ordinarily resident.

b) Since the business of the HUF is transacted from Australia and policy decisions are taken there, it is assumed that the control and management is in Australia i.e., the control and management is wholly outside India. Therefore, the HUF is a non-resident for the P.Y. 2024-25.

Note – If the control and management is in India, even partially, then, the HUF would be resident in India. In such a case, the residential status of HUF would be resident but not ordinarily resident, since the Karta's stay in India is for less than 730 days in the 7 previous years immediately preceding the relevant previous year.



Residential status of firms, AoPs and BoIs

Resident: A firm, AoP and BoI would be resident in India if the control and management of its affairs is situated wholly or partly in India.

Non-resident: Where the control and management of the affairs is situated wholly outside India, the firm, AoP and BoI would become a non-resident.

The residential status of the partners/ members is immaterial while determining the residential status of a Firm/AOP/BOI.

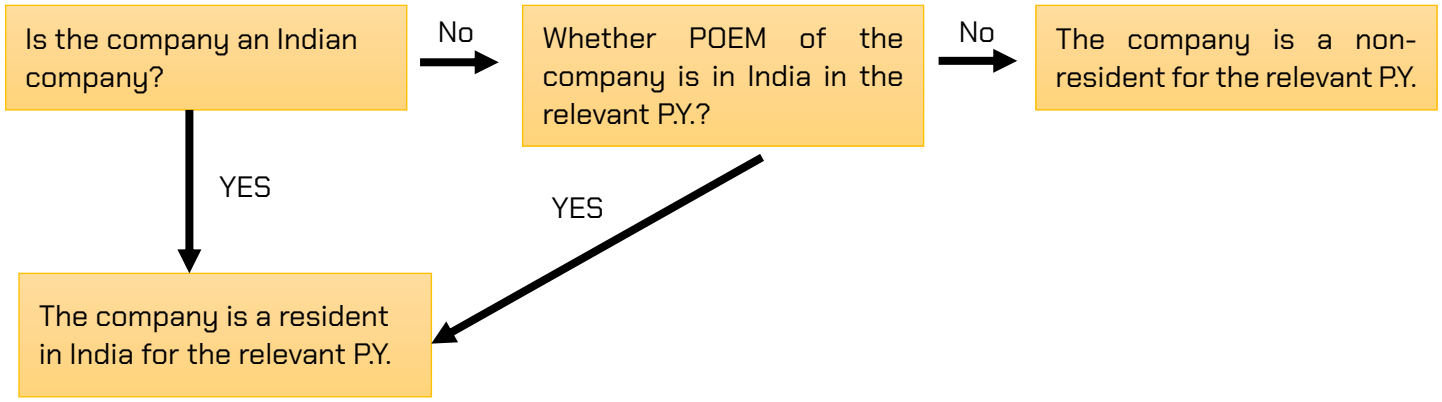
Residential status of companies

A company would be resident in India in any previous year, if-

i. it is an Indian company; or
ii. its place of effective management, in that year, is in India.

"Place of effective management" to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made [Explanation to section 6(3)].

Determination of residential status of a company



Note – The guidelines issued by CBDT for determination of POEM of a foreign company and transition mechanism for a company which is incorporated outside India, which has not been assessed to tax in India earlier and has become resident in India for the first time due to application of POEM, has been provided in Chapter XII-BC. The same will be dealt with at the Final level.

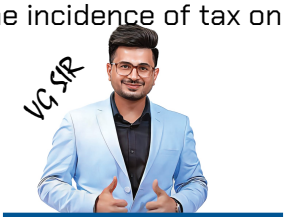
Residential status of local authorities and artificial juridical persons

Resident: Local authorities and artificial juridical persons would be resident in India if the control and management of its affairs is situated wholly or partly in India.

Non-resident: Where the control and management of the affairs is situated wholly outside India, they would become non-residents.

SCOPE OF TOTAL INCOME

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



an assessee depends upon the following three important considerations:

i. the residential status of the assessee;

ii. the place of accrual or receipt of income, whether actual or deemed; and

iii. 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 assessees would be as follows:

1. Resident and ordinarily resident (ROR)

The total income of an ROR would, under section 5(1), consist of:

i. income received or deemed to be received in India during the previous year;

ii. income which accrues or arises or is deemed to accrue or arise in India during the previous year; and

iii. income which accrues or arises outside India even if it is not received or brought into India during the previous year.

In simpler terms, an ROR has to pay tax on the total income accrued or deemed to accrue, received or deemed to be received in or outside India during the relevant previous year.

2. Resident but not ordinarily resident (RNOR)

Under section 5(1), the total income of an RNOR would consist of –

i. income received or deemed to be received in India during the previous year;

ii. income which accrues or arises or is deemed to accrue or arise in India during the previous year; and

iii. income derived from a business controlled in or profession set up in India, even though it accrues or arises outside India.

Note – All other income accruing or arising outside India which is not received or deemed to be received or deemed to accrue or arise in India would not be included in his total income.

3. Non-resident

A non-resident's total income under section 5(2) includes:

i. income received or deemed to be received in India in the previous year; and

ii. income which accrues or arises or is deemed to accrue or arise in India during the previous year.

Note: All assessees, whether resident or not, are chargeable to tax in respect of their income accrued, arisen, received or deemed to accrue, arise or to be received in India whereas a resident alone (resident and ordinarily resident in the case of individuals and HUF) is chargeable to tax in respect of income which accrues or arises outside India.

Clarification regarding liability to income-tax in India of a non-resident seafarer receiving remuneration in NRE (Non-Resident External) account maintained with an Indian Bank [Circular No.13/2017, dated 11.04.2017 and Circular No.17/2017, dated 26.04.2017]

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

Residential Status and Scope of Total Income: Whether the following incomes are to be included in Total Income?

Scope of total Income	Resident and Ordinarily Resident (ROR)	Resident but not Ordinarily Resident (RNOR)	Non-Resident
Income received or deemed to be received in India during the previous year	Yes	Yes	Yes
Income accruing or arising or deeming to accrue or arise in India during the previous year	Yes	Yes	Yes
Income accruing or arising outside India during the previous year	Yes, even if such income is not received or brought into India during the previous year	Yes, but only if such income is derived from a business controlled in or profession set up in India; Otherwise, No.	No

ILLUSTRATION 5

From the following particulars of income furnished by Mr. Anirudh pertaining to the year ended 31.3.2025, compute the total income for the A.Y. 2025-26, if he is:

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

	Particulars	
(a)	Short term capital gains on sale of shares of an Indian Company, received in Germany	15,000
(b)	Dividend from a Japanese Company, received in Japan	10,000
(c)	Rent from property in London deposited in a bank in London, later on remitted to India through approved banking channels	75,000
(d)	Dividend from RP Ltd., an Indian Company	6,000
(e)	Agricultural income from land in Gujarat	25,000

SOLUTION

Computation of total income of Mr. Anirudh for the A.Y. 2025-26

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

Notes:

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

	Amount
Rent received (assumed as gross annual value)	75,000

Less: Deduction under section 24 (30% of ₹75,000)	22,500
Income from house property	52,500

2. Agricultural income is exempt under section 10(1).

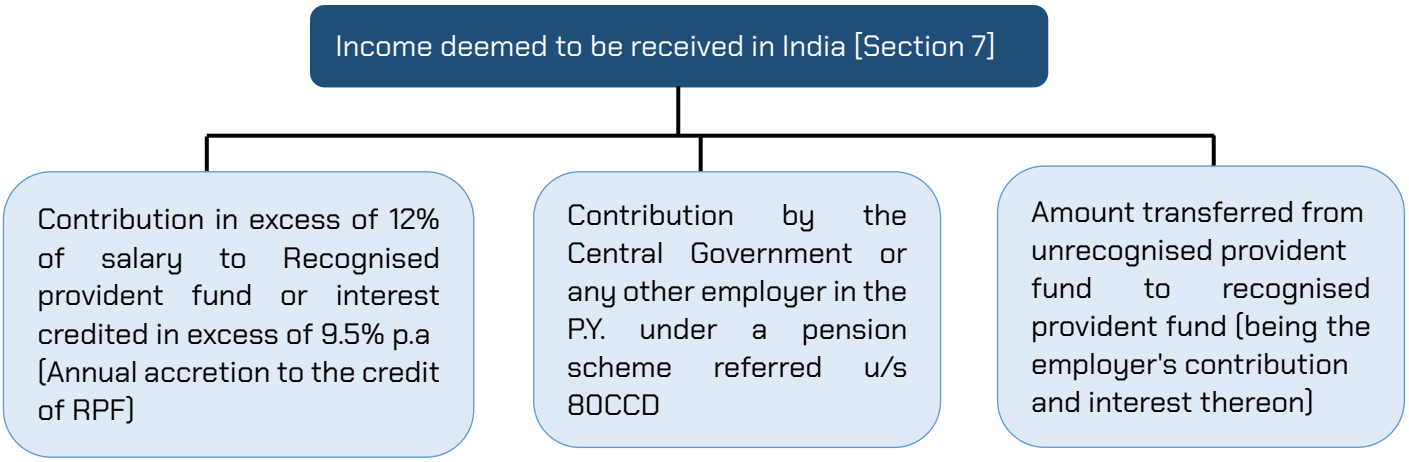
Meaning of "Income receivedor deemed to be received"

All assessees are liable to tax in respect of the income received or deemed to be received by them in India during the previous year irrespective of -

i. their residential status, and

ii. the place of its accrual.

Income is to be included in the total income of the assessee immediately on its actual or deemed receipt. The receipt of income refers to only the first occasion when the recipient gets the money under his control. Therefore, when once an amount is received as income, remittance or transmission of that amount from one place or person to another does not constitute receipt of income in the hands of the subsequent recipient or at the place of subsequent receipt.



Meaning of Income 'accruing' and 'due'

Accrue refers to the right to receive income, whereas due refers to the right to enforce payment of the same. In other words, when the right to receive income becomes vested in the assessee, it is said to accrue or arise. For e.g. salary for work done in December will accrue throughout the month, day to day, but will become due on the salary bill being passed on 31st December or 1st January.

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

EXAMPLE

Interest on Government securities is usually payable on specified dates, say on 1st January and 1st July. In all such cases, the interest would be said to accrue from 1st July to 31st December and on 1st January, it will fall due for payment.

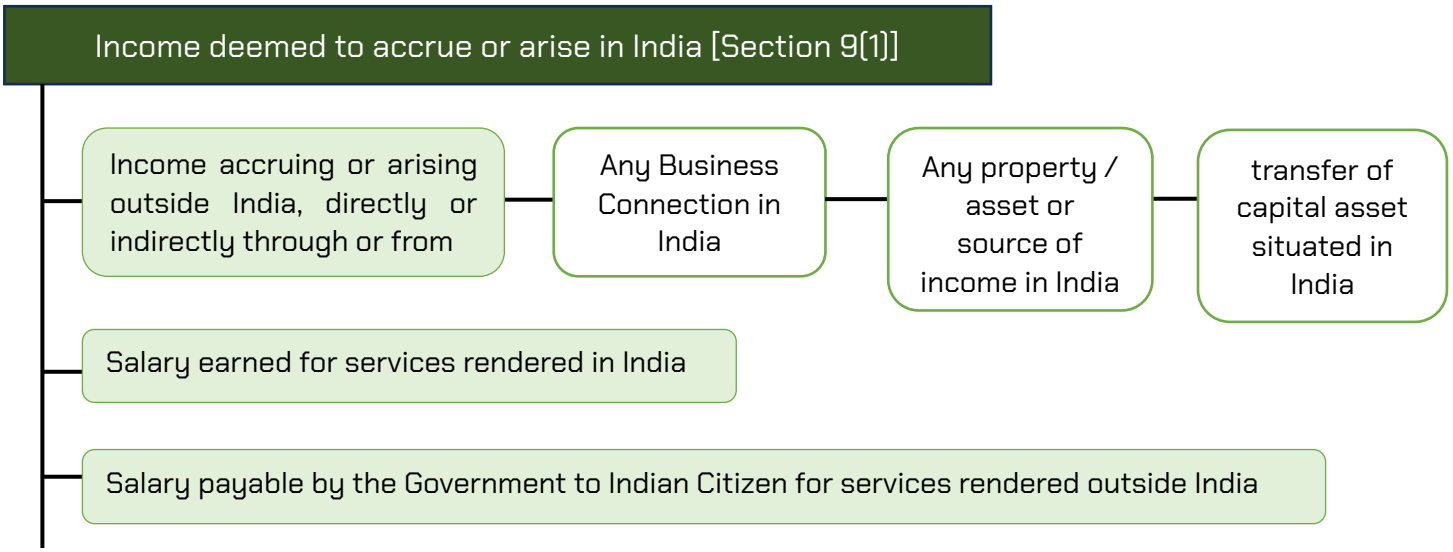
It must be noted that income which has been taxed on accrual basis cannot be assessed again on receipt basis, as it will amount to double taxation.

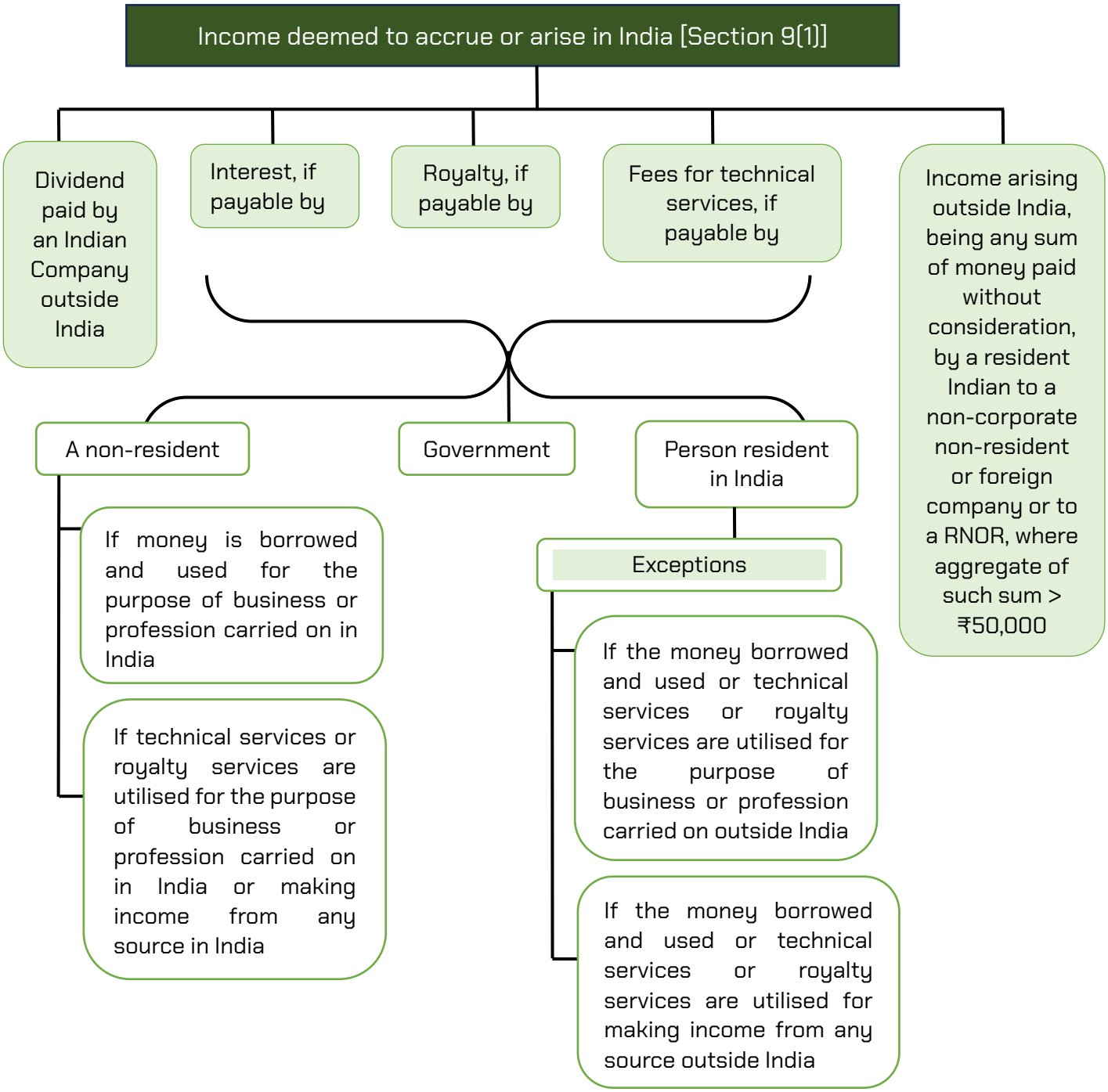
With a view to removing difficulties and clarifying doubts in the taxation of income, *Explanation 1* to section 5 specifically provides that an item of income accruing or arising outside India shall not be deemed to be received in India merely because it is taken into account in a balance sheet prepared in India.

Further, Explanation 2 to section 5 makes it clear that once an item of income is included in the assessee's total income and subjected to tax on the ground of its accrual/deemed accrual, it cannot again be included in the person's total income and subjected to tax either in the same or in a subsequent year on the ground of its receipt - whether actual or deemed.

Income deemed to accrue or arise in India [Section 9]

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





The categories of income which are deemed to accrue or arise in India are:

1. Any income accruing or arising to an assessee in any place outside India whether directly or indirectly

- through or from any business connection in India,
- through or from any property in India,
- through or from any asset or source of income in India or
- through the transfer of a capital asset situated in India

would be deemed to accrue or arise in India. [Section 9(1)(i)]

In the case of a non-resident, the following shall not, however, be deemed to accrue or arise in India [Explanation 1 to section 9(1)(i)]:

i. **In the case of a business, in respect of which all the operations are not carried out in India [*Explanation 1(a)* to section 9(1)(i)]:** In the case of a business of which all the operations are not carried out in India, the income of the business deemed to accrue or arise in India shall be only such part of income as is reasonably attributable to the operations carried out in India. Therefore, it follows that such part of income which cannot be reasonably attributed to the operations in India, is not deemed to accrue or arise in India.

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

iii. **Collection of news and views in India for transmission out of India [*Explanation 1(c)* to section 9(1)(i)]:** In the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India.

iv. **Shooting of cinematograph films in India [*Explanation 1(d)* to section 9(1)(i)]:** In the case of a non-resident, no income shall be deemed to accrue or arise in India through or from operations which are confined to the shooting of any cinematograph film in India, if such non-resident is :
   a) an individual, who is not a citizen of India or
   b) a firm which does not have any partner who is a citizen of India or who is resident in India; or
   c) a company which does not have any shareholder who is a citizen of India or who is resident in India.

v. **Activities confined to display of rough diamonds in SNZs [*Explanation 1(e)* to section 9(1)(i)]**: In the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in any special zone notified by the Central Government in the Official Gazette in this behalf.

Income from property, asset or source of income in India

Any income which arises from any property (movable, immovable, tangible and intangible property) would be deemed to accrue or arise in India.

EXAMPLE

1. Hire charges or rent paid outside India for the use of the machinery or buildings situated in India,
2. Deposits with an Indian company for which interest is received outside India etc.
3. Mr. X, resident in New York, USA, has a house property situated in India which has been given on rent by him. Rent receivable/ received by Mr. X would be taxable in India whether such rent is received by him in India or outside India as the house property is situated in India.

Income through transfer of a capital asset situated in India

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

i. the capital asset is movable or immovable, tangible or intangible;

ii. the place of registration of the document of transfer etc., is in India or outside; and

iii. the place of payment of the consideration for the transfer is within India or outside.

2. Income from salaries earned in India [Section 9(1)(ii)]

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

Further, any income under the head "Salaries" payable for rest period or leave period which is preceded and succeeded by services rendered in India, and forms part of the service contract of employment, shall be regarded as income earned in India.

3. Income from salaries payable by the Government for services rendered outside India [Section 9(1)(iii)]

Income from 'Salaries' which is payable by the Government to a citizen of India for services rendered outside India would be deemed to accrue or arise in India.

The following conditions have to be satisfied to treat such income as deemed to accrue or arise in India:

- Income should be chargeable under the head 'Salaries';

- The payer should be Government of India;
- The recipient should be an Indian citizen, whether resident or non-resident in India;
- The services should be 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).

Exemption under section 10(7) would be available to an assessee irrespective of the regime under which he pays tax.

ILLUSTRATION 6

Mr. David, an Indian citizen aged 40 years, a Government employee serving in the Ministry of External Affairs, left India for the first time on 31.03.2024 due to his transfer to High Commission of Canada. He did not visit India any time during the P.Y. 2024-25. He has received the following income for the F.Y. 2024-25:

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

Compute his Gross Total Income for A.Y. 2025-26.

SOLUTION

As per section 6(1), Mr. David is a non-resident for the A.Y. 2025-26, since he was not present in India at any time during the P.Y. 2024-25.

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

a) Income received or deemed to be received in India; and
b) Income accruing or arising or deemed to accrue or arise in India.

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

of Mr. David, even though he is a non-resident.

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

Gross Total Income of Mr. David for A.Y. 2025-26

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

4. Dividend paid by an Indian company outside India [Section 9(1)(iv)]

Dividends paid by an Indian company outside India is deemed to accrue or arise in India and would be taxable in the hands of shareholders.

5. Interest [Section 9(1)(v)]

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

i. the Government;

ii. a person who is resident in India;

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

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

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

EXAMPLE

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

6. Royalty [Section 9(1)(vi)]

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

i. the Government;
ii. a person who is a resident in India

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

India or for the purposes of making or earning any income from any source outside India; or

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

Important points:

I. **Lumpsum royalty not deemed to accrue arise in India:** Lumpsum royalty payments made by a resident for the transfer of all or any rights (including the granting of a licence) in respect of **computer software** supplied by a non-resident manufacturer along with computer hardware under any scheme approved by the Government under the Policy on Computer Software Export, Software Development and Training, 1986 shall not be deemed to accrue or arise in India.

II. **Meaning of Royalty:** The term 'royalty' means consideration (including any lumpsum consideration but excluding any consideration which would be the income of the recipient chargeable under the head 'Capital gains') for:

i. the transfer of all or any rights (including the granting of licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;
ii. the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property;
iii. the use of any patent, invention, model, design, secret formula or process or trade mark or similar property;
iv. the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;
v. the use or right to use any industrial, commercial or scientific equipment
vi. the transfer of all or any rights (including the granting of licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting.

Note: Consideration for sale, distribution or exhibition of cinematographic films is covered within the scope of royalty.

vii. the rendering of any service in connection with the activities listed above.

The definition of 'royalty' for this purpose is wide enough to cover both industrial royalties as well as copyright royalties. The definition specially excludes income which should be chargeable to tax under the head 'capital gains'.

III. Consideration for use or right to use of computer software is royalty within the meaning of section 9(1)(vi)

The consideration for use or right to use of computer software is royalty by clarifying that, transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

IV. Consideration in respect of any right, property or information – Is it royalty?

Royalty includes and has always included consideration in respect of any right, property or information, whether or not,

a) the possession or control of such right, property or information is with the payer;

b) such right, property or information is used directly by the payer;

c) the location of such right, property or information is in India.

V. **Meaning of Process:** The term "process" includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for downlinking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret.

7. Fees for technical services [Section 9(1)(vii)]

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

- the Government,
- a person who is resident in India

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

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

Fees for technical services means any consideration (including any lumpsum consideration) for the rendering of any managerial, technical or consultancy services (including providing the services of technical or other personnel). However, it does not include consideration for any construction,

assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head 'Salaries'.

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

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

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

(ii) the non-resident has rendered services in India.

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

ILLUSTRATION 7

Miss Vivitha paid a sum of 5000 USD to Mr. Kulasekhara, a management consultant practising in Colombo, specializing in project financing. The payment was made in Colombo. Mr. Kulasekhara is a non-resident. The consultancy is related to a project in India with possible Ceylonese collaboration. Is this payment chargeable to tax in India in the hands of Mr. Kulasekhara, since the services were used in India?

SOLUTION

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

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

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

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

8. Any sum of money paid by a resident Indian to a non-corporate non- resident or foreign company or to a resident but not ordinarily resident in India [Section 9(1)(viii)]

Income arising outside India, being any sum of money paid without consideration, by an Indian resident person to a non-corporate non-resident or foreign company or to a RNOR would be deemed to accrue or arise in India if the same is chargeable to tax under section 56(2)(x) i.e., if the aggregate of such sum received by a non-corporate non-resident or foreign company or a RNOR exceeds ₹50,000.

You may refer to Unit 5 of Chapter 3 where chargeability of any sum of money received is discussed in detail.

This deeming provision applies to only sum of money paid outside India to a non-corporate non-resident or foreign company or to a RNOR, and not in respect of property, movable or immovable, transferred outside India without consideration or for inadequate consideration to a non-corporate non-resident or foreign company or a RNOR.

ILLUSTRATION 8

Compute the total income in the hands of an individual aged 35 years, being a resident and ordinarily resident, resident but not ordinarily resident, and non- resident for the A.Y. 2025-26, assuming that he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)–

Particulars	Amount (₹)
Interest on UK Development Bonds, 50% of interest received in India	10,000
Income from a business in Chennai (50% is received in India)	20,000
Short term capital gains on sale of shares of an Indian company, received in London	20,000
Dividend from British company received in London	5,000
Long term capital gains on sale of plant at Germany, 50% of gains are received in India	40,000
Income earned from business in Germany which is controlled in Delhi (₹40,000 is received in India)	70,000
Profits from a business in Delhi but managed entirely from London	15,000
Income from house property in London deposited in a Bank at London, brought to India (Computed)	50,000

Interest on debentures in an Indian company, received in London	12,000
Fees for technical services rendered in India but received in London	8,000
Profits from a business in Mumbai, managed from London	26,000
Income from property situated in Nepal received there (Computed)	16,000
Past foreign untaxed income brought to India during the previous year	5,000
Income from agricultural land in Nepal, received there and then brought to India	18,000

SOLUTION

Computation of total income for the A.Y. 2025-26

Particulars	Resident and ordinarily resident	Resident but not ordinarily resident	Non-resident
Interest on UK Development Bonds, 50% of interest received in India	10,000	5,000	5,000
Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000
Short term capital gains on sale of shares of an Indian company, received in London	20,000	20,000	20,000
Dividend from British company received in London	5,000	-	-
Long term Capital gains on sale of plant at Germany, 50% of gains are received in India	40,000	20,000	20,000
Income earned from business in Germany which is controlled in Delhi, out of which ₹40,000 is received in India	70,000	70,000	40,000
Profits from a business in Delhi but managed entirely from London	15,000	15,000	15,000
Income from house property in London deposited in a Bank at London, later on remitted to India	50,000	-	-
Interest on debentures in an Indian company, received in London	12,000	12,000	12,000
Fees for technical services rendered in India but received in	8,000	8,000	8,000

London Profits from a business in Mumbai, managed from London	26,000	26,000	26,000
Income from property situated in Nepal and received there	16,000	-	-
Past foreign untaxed income brought to India during the previous year.	-	-	-
Income from agricultural land in Nepal, received there and then brought to India	18,000	-	-
Income from profession in Kenya which was set up in India, received there but spent in India	5,000	5,000	-
Gift received on the occasion of his wedding [not taxable]	-	-	-
Interest on savings bank deposit in State Bank of India	12,000	12,000	12,000
Income from a business in Russia, controlled in Russia	20,000	-	-
Dividend from Reliance Petroleum Limited, an Indian Company	5,000	5,000	5,000
Agricultural income from a land in Rajasthan [Exempt under section 10(1)]	-	-	
Gross Total Income	**3,52,000**	**2,18,000**	**1,83,000**
Less: Deduction under section 80TTA [Interest on savings bank account subject to a maximum of ₹10,000]	10,000	10,000	10,000
Total Income	**3,42,000**	**2,08,000**	**1,73,000**

TEST YOUR KNOWLEDGE

1. Mr. Ram, an Indian citizen, left India on 22.09.2024 for the first time to work as an officer of a company in Germany. Determine the residential status of Ram for the A.Y. 2025-26.
2. Mr. Dey, residing in US since 1990, visits India for 30 days every year. He came back to India on 1.4.2023 for permanent settlement. What will be his residential status for A.Y. 2025-26?

3. Mr. Ramesh & Mr. Suresh are brothers, and they earned the following incomes during the F.Y. 2024-25. Mr. Ramesh settled in Canada in the year 1996 and Mr. Suresh settled in Delhi. Compute the total income for the A.Y. 2025-26 assuming that both have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

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

5. Examine with reasons whether the following transactions attract income-tax in India in the hands of recipients:
   i. Salary payable by Central Government to Mr. John, a citizen of India of ₹7,00,000 for the services rendered outside India considering that he pays tax as per the provisions of section 115BAC.
   ii. Interest on moneys borrowed from outside India ₹5,00,000 by a non- resident for the purpose of business within India say, at Mumbai.
   iii. Post office savings bank interest of ₹19,000 received by a resident assessee, Mr. Ram, aged 46 years if he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).
   iv. Royalty paid by a resident to a non-resident in respect of a business carried on outside India.
   v. Legal charges of ₹5,00,000 paid in Delhi to a lawyer of United Kingdom who visited India to represent a case at the Delhi High Court.

ANSWERS

1. Under section 6(1), an individual is said to be resident in India in any previous year if he satisfies any one of the following conditions -
   i. He has been in India during the previous year for a total period of 182 days or more, or
   ii. He has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days in the previous year.

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

   During the previous year 2024-25, Mr. Ram, an Indian citizen, was in India for 175 days only (i.e., 30+31+30+31+31+22 days). Thereafter, he left India for employment purposes.

   Since he does not satisfy the minimum criteria of 182 days stay in India during the relevant previous year, he is a non-resident for the A.Y. 2025-26.

2. Mr. [illegible]y is a resident in A.Y. 2025-26 since he has stayed in India for a period of 365 days (more

than 182 days) during the P.Y. 2024-25.

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

a) has been a non-resident in 9 out of 10 previous years preceding the relevant previous year; or

b) has during the 7 previous years immediately preceding the relevant previous year been in India for 729 days or less.

If he does not satisfy either of these conditions, he would be a resident and ordinarily resident.

For the previous year 2024-25 (A.Y. 2025-26), his status would be "Resident but not ordinarily resident" since he was non-resident in 9 out of 10 previous years immediately preceding the P.Y. 2024-25. He was resident only in the P.Y. 2023-24. Prior to that, he was non-resident in all the years since his stay in India was only for 30 days each year.

He can be resident but not ordinarily resident also due to the fact that he has stayed in India only for 546 days [366 days in P.Y. 2023-24 + (30 days x 6 years)] in 7 previous years immediately preceding the P.Y. 2024-25, which is less than 730 days.

3.

Computation of total income of Mr. Ramesh & Mr. Suresh for the A.Y. 2025-26

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

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

Notes:

I. Mr. Ramesh is a non-resident since he has been living in Canada since 1996. Mr. Suresh, is settled in Delhi, and thus, assumed as a resident and ordinarily resident.

II. In case of a resident and ordinarily resident, his global income is taxable as per section 5(1). However, as per section 5(2), in case of a non-resident, only the following incomes are chargeable to tax:

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

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

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

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

III. Dividend received from British company in London by Mr. Ramesh, a non-resident, is not taxable since it is accrued and received outside India. However, such dividend received by Mr. Suresh is taxable, since he is a resident and ordinarily resident.

IV. Agricultural income from a land situated in India is exempt under section 10(1) in the case of both non-residents and residents.

V. Income from house property -

	Mr. Ramesh	Mr. Suresh
Rent received	1,00,000	60,000

Less: Deduction u/s 24(a) @30%	30,000	18,000
Net income from house property	70,000	42,000

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

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

4. This statement is correct.

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

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

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

5. Taxability of receipts

	Taxable/ Not Taxable	**Amount liable to tax (₹)**	**Reason**
(i)	Taxable	6,25,000	As per section 9(1)(iii), salaries payable by the Government to a citizen of India for service rendered outside India shall be deemed to accrue or arise in India. Therefore, salary paid by Central Government to Mr. John for services rendered outside India would be deemed to accrue or arise in India since he is a citizen of India. He would be entitled to standard deduction of ₹75,000 under section 16(ia).

(ii)	Taxable	5,00,000	As per section 9(1)(v)(c), interest payable by a non-resident on moneys borrowed and used for the purposes of business carried on by such person in India shall be deemed to accrue or arise in India in the hands of the recipient.
(iii)	Partly Taxable	5,500	The interest on Post office savings bank a/c would be exempt u/s 10(15)(i) only to the extent of ₹3,500 in case of an individual a/c. Further, interest upto 10,000, would be allowed as deduction u/s 80TTA from Gross Total Income. Balance ₹5,500 i.e., ₹19,000 - ₹3,500 - ₹10,000 would be taxable in the hands of Mr. Ram, a resident.
(iv)	Not Taxable	-	Royalty paid by a resident to a non- resident in respect of a business carried outside India would not be taxable in the hands of the non-resident provided the same is not received in India. This has been provided as an exception to deemed accrual mentioned in section 9(1)(vi)(b).
(v)	Taxable	5,00,000	In case of a non-resident, any income which accrues or arises in India or which is deemed to accrue or arise in India or which is received in India or is deemed to be received in India is taxable in India. Therefore, legal charges paid in India to a non-resident lawyer of UK, who visited India to represent a case at the Delhi High Court would be taxable in India.

CHAPTER - 3

INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME

CLUBBING OF INCOME – AN INTRODUCTION

Under the Income-tax Act, 1961, an assessee is generally taxed in respect of his own income. However, there are certain cases where an assessee has to pay tax in respect of income of another person. The provisions for the same are contained in sections 60 to 64 of the Act. These provisions have been enacted to counteract the tendency on the part of the tax-payers to dispose of their property or transfer their income in such a way that their tax liability can be avoided or reduced.

These provisions can be categorized as follows:

- Income of other persons included in an assessee's total income [Sections 60-63]
- Income of other persons included in an Individual's total income [Section 64]

Note - In the case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive i.e. as the income increases, the applicable rate of tax increases. Some taxpayers in the higher income bracket have a tendency to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. In order to prevent such tax avoidance, clubbing provisions have been incorporated in the Act, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.

INCOME OF OTHER PERSONS INCLUDIBLE IN ASSESSEE'S TOTAL INCOME

Transfer of income without transfer of asset [Section 60]

1. If any person transfers the income from any asset without transferring the asset itself, such income is

to be included in the total income of the transferor

2. 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.

EXAMPLE

Mr. A confers the right to receive rent in respect of his house property to his wife, Mrs. A, without transferring the house itself to her. In this case, the rent received by Mrs. A will be clubbed with the income of Mr. A.

ILLUSTRATION 1

Mr. Vatsan has transferred, through a duly registered document, the income arising from a godown to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

SOLUTION

Section 60 expressly states that where there is transfer of income from an asset without transfer of the asset itself, such income shall be included in the total income of the transferor. Hence, the rental income derived from the godown shall be clubbed in the hands of Mr. Vatsan.

Income arising from revocable transfer of assets [Section 61]

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.

Meaning of revocable transfer [Section 63]

Transfer is deemed to be revocable if—

(a) it contains any provision for the retransfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or

(b) it gives, in any way to the transferor, a right to reassume power, directly or indirectly, over the whole or any part of the income or the assets.

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.

Exception where clubbing provisions are not attracted even in case of revocable transfer [Section 62]

Section 61 will not apply to any income arising to any person if there is –

(i) a transfer by way of trust which is not revocable during the life time of the beneficiary; and

(ii) any other transfer, which is not revocable during the life time of the transferee.

In the above cases, the income from the transferred asset is not includible in the total income of the transferor, provided the transferor derives no direct or indirect benefit from such income.

If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the beneficiary or transferee, as the case may be.

As and when the power to revoke the transfer arises, the income arising by virtue of such transfer will be included in the total income of the transferor.

EXAMPLE

Mr. Rajesh transfers his house property to a trust for the benefit of Mr. Ramesh till his death. This is a situation of irrevocable transfer till the death of Mr. Ramesh. Hence, till then, the income from house property would be taxable in the hands of the transferee i.e., the trust. However, after the death of Mr. Ramesh, the income from house property would be included in the total income of Mr. Rajesh as on that date, the transfer has become revocable.

INCOME OF OTHER PERSONS INCLUDIBLE IN INDIVIDUAL'S TOTAL INCOME

Clubbing of income arising to spouse

I. Income by way of remuneration from a concern in which the individual has substantial interest [Section 64(1)(ii)]

i. Remuneration in cash or kind to spouse from a concern in which the individual has a substantial interest to be clubbed: In computing the total income of any individual, all such 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.

Circumstances when an individual is deemed to have substantial interest in a concern

Where the concern is a company	In any other case
If equity shares carrying 20% or more of 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.	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.

The term 'relative' in relation to an individual means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual [Section 2(41)].

ii. Clubbing provisions will not apply where remuneration is received on account of technical or professional qualifications: 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 experience. In such an event, the income arising to such spouse is to be assessed in his/her hands.

iii. Both husband and wife 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 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.

ILLUSTRATION 2

Mr. A holds shares carrying 25% voting power in X (P) Ltd. Mrs. A is working as a computer software programmer in X (P) Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. The other income of Mr. A & Mrs. A are ₹ 7,00,000 & ₹ 4,00,000, respectively. Compute the gross total income of Mr. A and Mrs. A for the A.Y.2025-

26 if they are paying tax under default tax regime.

SOLUTION

Mr. A holds shares carrying 25% voting power in X (P) Ltd i.e., a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. A from X (P) Ltd. will be clubbed in the hands of Mr. A.

Computation of Gross total income of Mr. A

Particulars	₹	₹
Salary received by Mrs. A (30,000 × 12)	3,60,000	
Less: Standard deduction under section 16(ia)	75,000	2,85,000
Other Income		7,00,000
Gross total income		**9,85,000**

The gross total income of Mrs. A is ₹ 4,00,000.

ILLUSTRATION 3

Will your answer be different if Mrs. A was qualified for the job?

SOLUTION

If Mrs. A possesses professional qualifications for the job, then the clubbing provisions shall not be applicable.

Gross total income of Mr. A = ₹ 7,00,000 [Other income].

Gross total income of Mrs. A = Salary received by Mrs. A [₹ 30,000×12] less ₹ 75,000, being the standard deduction under section 16(ia) plus other income [₹ 4,00,000] = ₹ 6,85,000

ILLUSTRATION 4

Mr. B holds shares carrying 30% voting power in Y (P) Ltd. Mrs. B is working as accountant in Y (P) Ltd. getting income under the head salary (computed) of ₹ 3,44,000 without any qualification in accountancy. Mr. B also receives ₹ 30,000 as interest on securities. Mrs. B owns a house property which she has let out. Rent received from tenants is ₹ 6,000 p.m. Compute the gross total income of Mr. B and Mrs. B for the A.Y.2025-26.

SOLUTION

Since Mrs. B is not professionally qualified for the job, the clubbing provisions shall be applicable.

Computation of Gross total income of Mr. B

Particulars	₹
Income under the head "Salary" of Mrs. B (Computed)	3,44,000
Income from other sources	
- Interest on securities	30,000
Gross total income	3,74,000

Computation of Gross total income of Mrs. B

Particulars	₹	₹
Income from Salary [Clubbed in the hands of Mr. B]		Nil
Income from house property Gross Annual Value [₹ 6,000 × 12] Less: Municipal taxes paid	 72,000 -	
Net Annual Value (NAV)	72,000	
Less: Deductions under section 24 30% of NAV i.e., 30% of ₹ 72,000 Interest on loan	 21,600 -	 50,400
Gross total income		**50,400**

II. Income arising to the spouse from an asset transferred without adequate consideration [Section 64(1)(iv)]

i. Transfer of asset (other than house property):

Where there is a transfer of an asset (other than house property), directly or indirectly, from one spouse to the other, without adequate consideration or otherwise than in connection with an agreement to live apart, 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.

ii. Transfer of house property:

In the case of transfer of house property, the provisions are contained in section 27. If an individual transfers a house property to his spouse, without adequate consideration or otherwise than in connection with an agreement to live apart, the transferor shall be deemed to be the owner of the house property and its annual value will be taxed in his hands.

iii. Income from accretion of the transferred asset:

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. i.e., the income arising on transferred assets alone have to be clubbed. Income earned by investing such income (arising from transferred asset) cannot be clubbed.

iv. Meaning of adequate consideration:

It is also to be noted that natural love and affection do not constitute adequate consideration. Therefore, where an asset is transferred without adequate consideration, the income from such asset will be clubbed in the hands of the transferor.

v. Transferred asset invested in business:

Where the assets transferred, directly or indirectly, by an individual to his spouse are invested by the transferee in the business, proportionate income arising to the transferee from such investment is to be included in the total income of the transferor. If the investment is in the nature of contribution of capital, proportionate interest receivable by the transferee from the firm will be clubbed with the income of the transferor.

> 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.

ILLUSTRATION 5

Mr. Vaibhav started a proprietary business on 01.04.2023 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2023-24. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of ₹ 5,00,000 on 01.04.2024, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2024-25. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2025-26. If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

SOLUTION

Section 64(1)(iv) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

In this case, Mr. Vaibhav received a gift of ₹ 5,00,000 on 1.4.2024 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2025-26 is

computed as under:

Particulars	Mr. Vaibhav's capital contribution	Capital contribution out of gift from Mrs. Vaishaly	Total
Capital as on 1.4.2024	3,00,000 (5,00,000 – 2,00,000)	5,00,000	8,00,000
Profit for P.Y.2024-25 to be apportioned onthe basis of capital employed on the first day of the previous year i.e., as on 1.4.2024 (3:5)	1,50,000 $4,00,000 \times \frac{3}{8}$	2,50,000 $4,00,000 \times \frac{5}{8}$	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the A.Y.2025-26 is ₹ 2,50,000.

In case Mrs. Vaishaly gave the said amount of ₹ 5,00,000 as a bona fide loan, then, clubbing provisions would not be attracted

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mr. Vaibhav, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his wife.

III. Transfer of assets for the benefit of spouse [Section 64(1)(vii)]

All income arising directly or indirectly to any person or association of persons, from the assets transferred, directly or indirectly, to such person or association of persons by an individual without adequate consideration is includible in the income of the individual to the extent such income is used by the transferee for the immediate or deferred benefit of the transferor's spouse.

Clubbing of income arising to son's wife

I. Income arising to son's wife from the assets transferred without adequate consideration by the father-in-law or mother-in-law [Section 64(1)(vi)]

a) Asset transferred without adequate consideration: Where an asset is transferred, directly or indirectly, by an individual to his or her son's wife without adequate consideration, the income from such asset is to be included in the total income of the transferor.

b) Asset transferred invested in the business: For this purpose, where the assets transferred directly or indirectly by an individual to his or her 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. If the investment is in the nature of contribution of capital, the proportionate interest receivable from firm 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.

II. Transfer of assets for the benefit of son's wife [Section 64(1)(viii)] All income arising directly or indirectly, to any person or association of persons from the assets transferred, directly or indirectly, without adequate consideration, to such person or association of persons by an individual will be included in the total income of the individual to the extent such income is used by the transferee for the immediate or deferred benefit of the transferor's son's wife.

> Where any asset is transferred by a person to any other person without consideration or for inadequate consideration, the provisions of 56(2)(x) would get attracted in the hands of transferee, if conditions specified thereunder are satisfied.

ILLUSTRATION 6

Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife.

Mrs. Kasturi claims that the amount of ₹ 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property.

Examine with reasons whether the contention of Mrs. Kasturi is valid in law.

SOLUTION

The clubbing provisions under section 64(1)(viii) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor-individual.

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case.

The contention of Mrs. Kasturi is, hence, not valid in law.

In order to attract the clubbing provisions under section 64(1)(viii), the transfer should be otherwise than for

adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted. Moreover, the provisions of section 56(2)(x) would also get attracted in the hands of ABC Co Ltd., if the conditions specified thereunder are satisfied.

Note – If the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

Clubbing of minor's income [Section 64(1A)]

(i) All income of a minor is to be included in the income of his or her parent.

(ii) 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.

(iii) The income of the minor will be included in the income of that parent, whose total income, excluding minor's income, is greater.

(iv) 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.

(v) 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.

(vi) 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.

(vii) 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 [Section 10(32)]

In case the income of an individual (i.e. the parent) includes the income of his minor child in terms of section 64(1A), such parent shall be entitled to exemption of ₹ 1,500 in respect of each minor child. However, if income of any minor so includible is less than ₹ 1,500, then, the entire income shall be exempt.

Exemption under section 10(32) would be available to the parent only if he/she exercises the option of shifting out of the default tax regime provided under section 115BAC(1A). The same would not be available to him/her under the default tax regime where he/she computes his/her total income as per section 115BAC and pays tax at the concessional rates provided thereunder.

(viii) In case the asset transferred to a minor child (not being a minor married daughter) without consideration or for inadequate consideration is a house property, then, by virtue of section 27(i), the transferor-parent will be the deemed owner of the house property. Therefore, the income from house property will be taxable in the hands of the transferor-parent, being the deemed owner and not in the hands of the minor child. Consequently, clubbing provisions under section 64(1A) would not be attracted in respect of such income, due to which the benefit of exemption u/s 10(32) (discussed above) cannot be availed against such income.

However, if the house property is transferred by a parent to his or her minor married daughter, without consideration or for inadequate consideration, then, section 27(i) is not attracted. In such a case, the income from house property will be included u/s 64(1A) in the hands of that parent, whose total income before including minor child's income is higher; and benefit of exemption u/s 10(32) can be availed by that parent in respect of the income so included if he/she exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

ILLUSTRATION 7

Mr. A has three minor children – two twin daughters, aged 12 years, and one son, aged 16 years. Income of the twin daughters is ₹ 2,000 p.a. each and that of the son is ₹ 1,200 p.a. Mrs. A has transferred her flat to her minor son on 1.4.2024 out of natural love and affection. The flat was let out on the same date and the rental income from the flat is ₹ 10,000 p.m. Compute the income, in respect of minor children, to be included in the hands of Mr. A and Mrs. A u/s 64(1A) (assuming that Mr. A's total income is higher than Mrs. A's total income, before including the income of minor children and both Mr. A and Mrs. A exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Taxable income, in respect of minor children, in the hands of Mr. A is:

Particulars	₹	₹
Twin minor daughters [₹ 2,000 × 2]	4,000	
Less: Exempt under section 10(32) [₹ 1,500 × 2]	3,000	1,000
Minor son	1,200	
Less: Exempt under section 10(32)	1,200	
Income to be clubbed in the hands of Mr. A		1,000

Note – As per section 27(i), Mrs. A is the deemed owner of house property transferred to her minor son. Natural love and affection do not constitute adequate consideration for this purpose. Accordingly, the income from

house property of ₹ 84,000 [i.e., ₹ 1,20,000 (-) ₹ 36,000, being 30% of ₹ 1,20,000] would be taxable directly in her hands as the deemed owner of the said property. Consequently, clubbing provisions under section 64(1A) would not be attracted in respect of income from house property, owing to which exemption u/s 10(32) cannot be availed by her.

ILLUSTRATION 8

Compute the gross total income of Mr. A & Mrs. A from the following information assuming both exercise the option of shifting out of the default tax regime provided under section 115BAC(1A):

	Particulars	**₹**
a)	Salary income (computed) of Mrs. A	2,30,000
b)	Income from profession of Mr. A	3,90,000
c)	Income of minor son B from company deposit	15,000
d)	Income of minor daughter C from special talent	32,000
e)	Interest from bank received by C on deposit made out of her special talent	3,000
f)	Gift received by C on 30.09.2024 from friend of Mrs. A	2,500

Brief working is sufficient. Detailed computation under various heads of income is not required.

SOLUTION

As per the provisions of section 64(1A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. A is ₹ 3,90,000 and income of Mrs. A is ₹ 2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children have to be clubbed in the hands of Mr. A. It is assumed that this is the first year when clubbing provisions are attracted.

Income derived by a minor child from any activity involving application of his/her skill, talent, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child C from exercise of special talent will not be clubbed.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

The Gross Total Income of Mrs. A is ₹ 2,30,000. The total income of Mr. A giving effect to the provisions of section 64(1A) is as follows:

Computation of gross total income of Mr. A for the A.Y. 2025-26

Particulars	₹	₹
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption under section 10(32)	1,500	13,500
Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	
Gift of ₹ 2,500 received from a non-relative is not taxable under section 56(2)(x) being less than the aggregate limit of ₹ 50,000	Nil	
	3,000	
Less : Exemption under section 10(32)	1,500	1,500
Gross Total Income		4,05,000

CROSS TRANSFERS

In the case of cross transfers also (e.g., A making gift of ₹ 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him), the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

The Supreme Court, in case of CIT v. Keshavji Morarji [1967] 66 ITR 142, observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A, assuming that Mr. A's income is higher than that of Mrs. A. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

ILLUSTRATION 9

Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14-6-2024. On 12-7-2024, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2024 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother

SOLUTION

In the given case, Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14.06.2024 and simultaneously, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife on 12.07.2024. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in CIT vs. Keshavji Morarji (1967) 66 ITR 142.

Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 64(1), to the extent of amount of cross transfers i.e., ₹ 5 lakhs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of ₹ 5 lakhs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of ₹ 6 lakhs, since the cross transfer is only to the extent of ₹ 5 lakhs.

CONVERSION OF SELF-ACQUIRED PROPERTY INTO THE PROPERTY OF A HINDU UNDIVIDED FAMILY [SECTION 64(2)]

Section 64(2) deals with the case of conversion of self-acquired property into property of a Hindu undivided family

(i) 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.

(ii) 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.

(iii) 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.

INCOME INCLUDES LOSS

As per the Explanation 2 to section 64, 'income' would include 'loss'. Accordingly, where the specified income to be included in the total income of the individual is a loss, such loss will be taken into account while computing the total income of the individual. It is significant to note that this Explanation applies to clubbing provisions under both sections 64(1) and 64(2).

DISTINCTION BETWEEN SECTION 61 AND SECTION 64

It may be noted that the main distinction between the two sections is that section 61 applies only to a revocable transfer made by any person while section 64 applies to revocable as well as irrevocable transfers made only by individuals.

Clubbing provisions are attracted in respect of income arising from the assets transferred, however, income arising on accretion of income arising from transferred asset, would not be clubbed except in case of minor child.

Mr. X transferred debentures of ₹ 50,000 carrying 10% p.a. interest to his wife. The interest income of ₹ 5,000 would be clubbed in the hands of Mr. X. However, in case his wife deposited ₹ 5,000 in fixed deposits @8% p.a., the interest income of ₹ 400 arising on FDR would not be clubbed in the hands of Mr. X.

TEST YOUR KNOWLEDGE

I. Mr. Sharma has four minor children - 2 daughters and 2 sons. The annual income of 2 daughters were ₹ 9,000 and ₹ 4,500 and of sons were ₹ 6,200 and ₹ 4,300, respectively. The daughter who has income of ₹ 4,500 was suffering from a disability specified under section 80U.

Compute the amount of income earned by minor children to be clubbed in hands of Mr. Sharma assuming he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

II. During the previous year 2024-25, the following transactions occurred in respect of Mr. A.

(a) Mr. A had a fixed deposit of ₹ 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% p.a. from 1-4-2024 to 31-3-2025 to the savings bank account of Mr. B, son of his brother, to help him in his education.

(b) Mr. A holds 75% profit share in a partnership firm. Mrs. A received a commission of ₹ 25,000 from the firm for promoting the sales of the firm. Mrs. A possesses no technical or professional qualification.

(c) Mr. A gifted a flat to Mrs. A on April 1, 2024. During the previous year 2024-25, Mrs. A's "Income from house property" (computed) was ₹ 52,000 from such flat.

(d) Mr. A gifted ₹ 2,00,000 to his minor son who invested the same in a business and he derived income of ₹ 20,000 from the investment.

(e) Mr. A's minor son derived an income of ₹ 20,000 through a business activity involving application of his skill and talent

During the year, Mr. A got a monthly pension of ₹ 10,000. He had no other income. Mrs. A received salary of ₹ 20,000 per month from a part time job.

Examine the tax implications of each transaction and compute the total income of Mr. A, Mrs. A and their minor child assuming that they exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).

III. Mr. A has gifted a house property valued at ₹ 50 lakhs to his wife, Mrs. B, who in turn has gifted the same to Mrs. C, their daughter-in-law. The house was let out at ₹ 25,000 per month throughout the year. Compute the total income of Mr. A and Mrs. C.

Will your answer be different if the said property was gifted to his son, husband of Mrs. C?

IV. A proprietary business was started by Smt. Rani in the year 2022. As on 1.4.2023 her capital in business was ₹ 3,00,000.

Her husband gifted ₹ 2,00,000 on 10.4.2023 to her and such sum is invested by Smt. Rani in her business on the same date. Smt. Rani earned profits from her proprietary business for the Financial Year 2023-24, ₹ 1,50,000 and Financial Year 2024-25 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the Assessment year 2025-26 with reasons.

V. Mr. B is the Karta of a HUF, whose members derive income as given below:

	Particulars	₹
i.	Income from B' s profession	45,000
ii.	Mrs. B' s salary as fashion designer	76,000
iii.	Minor son D (interest on fixed deposits with a bank which were gifted to him by his uncle)	10,000
iv.	Minor daughter P's earnings from sports	95,000
v.	D's winnings from lottery (gross)	1,95,000

Examine the tax implications in the hands of Mr. and Mrs. B.

ANSWERS

1. As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to a minor child shall be included. However, income of a minor child suffering from disability specified under section 80U would not be included in the income of the parent but would be taxable in the hands of the minor child. Therefore, in this case, the income of daughter suffering from disability specified under section 80U should not be clubbed with the income of Mr. Sharma.
Under section 10(32), income of each minor child includible in the hands of the parent under section 64(1A) would be exempt to the extent of the actual income or ₹ 1,500, whichever is lower. Mr. Sharma would be eligible for exemption u/s 10(32) since he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). The remaining income would be included in the hands of the parent.

Computation of income earned by minor children to be clubbed with the income of Mr. Sharma

	Particulars	₹
I.	Income of one daughter	9,000

	Less: Income exempt under section 10(32)	1,500
	Total (A)	7,500
II.	Income of two sons (₹ 6,200 + ₹ 4,300)	10,500
	Less: Income exempt under section 10(32)	
	(₹ 1,500 + ₹ 1,500)	3,000
	Total (B)	7,500
	Total Income to be clubbed as per section 64(1A) (A+B)	**15,000**

Note: It has been assumed that:

1. The income does not accrue or arise to the minor children on account of any manual work done by them or activity involving application of their skill, talent or specialized knowledge and experience;
2. The income of Mr. Sharma, before including the minor children's income, is greater than the income of Mrs. Sharma, due to which the income of the minor children would be included in his hands; and
3. This is the first year in which clubbing provisions are attracted.

2. Computation of total income of Mr. A, Mrs. A and their minor son for the A.Y. 2025-26

Particulars	Mr. A		Mrs. A	Minor Son
Income under the head "Salaries"				
Salary income (of Mrs. A)		-	2,40,000	
Pension income (of Mr. A) (₹ 10,000×12)		1,20,000	-	
Less: Standard deduction under section 16(ia)		50,000	50,000	
		70,000	1,90,000	
Income from House Property [See Note (3) below]		52,000	-	-
Income from other sources				

Interest on Mr. A's fixed deposit with Bank of India (₹ 5,00,000×9%) [See Note (1) below]	45,000		-	-
Commission received by Mrs. A from a partnership firm, in which Mr. A has substantial interest [See Note (2) below]	25,000	70,000	-	-
Income before including income of minor son under section 64(1A)		**1,92,000**	**1,90,000**	-
Income of the minor son from the investment made in the business out of the amount gifted by Mr. A [See Note (4) below]		18,500	-	-
Income of the minor son through a business activity involving application of his skill and talent [See Note (5) below]		-	-	20,000
Total Income		**2,10,500**	**1,90,000**	**20,000**

Notes:

a) As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of ₹ 45,000 transferred by Mr. A to Mr. B shall be included in the total income of Mr. A.

b) As per section 64(1)(ii), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e. holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual. The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the commission income of ₹ 25,000 received by Mrs. A from the partnership firm has to be included in the total income of Mr. A, as Mrs. A does not possess any technical or professional

qualification for earning such commission and Mr. A has substantial interest in the partnership firm as he holds 75% profit share in the firm.

c) According to section 27(i), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, Mr. A shall be deemed to be the owner of the flat gifted to Mrs. A and hence, the income arising from the same shall be computed in the hands of Mr. A.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mrs. A, since she has received immovable property without consideration from a relative i.e., her husband.

d) As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child.

Therefore, the income of ₹ 20,000 received by minor son from the investment made out of the sum gifted by Mr. A shall, after providing for exemption of ₹ 1,500 under section 10(32), be included in the income of Mr. A, since Mr. A's income of ₹ 1,92,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 1,90,000. Therefore, ₹ 18,500 (i.e., ₹ 20,000 – ₹ 1,500) shall be included in Mr. A's income. It is assumed that this is the first year in which clubbing provisions are attracted.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of the minor son, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his father.

e) In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent but shall be taxable in the hands of the minor child.

Therefore, the income of ₹ 20,000 derived by Mr. A's minor son through a business activity involving application of his skill and talent shall not be clubbed in the hands of the parent. Such income shall be taxable in the hands of the minor son.

3. As per section 27(i), an individual who transfers otherwise than for adequate consideration any house property to his spouse, not being a transfer in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred.

Therefore, in this case, Mr. A would be the deemed owner of the house property transferred to his wife Mrs. B without consideration.

As per section 64(1)(vi), income arising to the son's wife from assets transferred, directly or indirectly, to her by an individual otherwise than for adequate consideration would be included in the total income of such individual.

Income from let-out property is ₹ 2,10,000 [i.e., ₹ 3,00,000, being the actual rent calculated at ₹ 25,000 per month less ₹ 90,000, being deduction under section 24@30% of ₹ 3,00,000]
In this case, income of ₹ 2,10,000 from let-out property arising to Mrs. C, being Mr. A's son's wife, would be included in the income of Mr. A, applying the provisions of section 27(i) and section 64(1)(vi). Such income would, therefore, not be taxable in the hands of Mrs. C

In case the property was gifted to Mr. A's son, the clubbing provisions under section 64 would not apply, since the son is not a minor child. Therefore, the income of ₹ 2,10,000 from letting out of property gifted to the son would be taxable in the hands of the son.

It may be noted that the provisions of section 56(2)(x) would not be attracted in the hands of the recipient of house property, since the receipt of property in each case was from a "relative" of such individual. Therefore, the stamp duty value of house property would not be chargeable to tax in the hands of the recipient of immovable property, even though the house property was received by her or him without consideration.

Note - The first part of the question can also be answered by applying the provisions of section 64(1)(vi) directly to include the income of ₹ 2,10,000 arising to Mrs. C in the hands of Mr. A. [without first applying the provisions of section 27(i) to deem Mr. A as the owner of the house property transferred to his wife Mrs. B without consideration], since section 64(1)(vi) speaks of clubbing of income arising to son's wife from indirect transfer of assets to her by her husband's parent, without consideration. Gift of house property by Mr. A to Mrs. C, via Mrs. B, can be viewed as an indirect transfer by Mr. A to Mrs. C.

4. Section 64(1) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Rani received a gift of ₹ 2,00,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Rani's husband for A.Y.2025-26 is computed as under:

Particulars	Smt. Rani's Capital Contribution	Capital Contribution Out of gift from	Total

		husband	
	₹	₹	₹
Capital as at 1.4.2023	3,00,000		3,00,000
Investment on 10.04.2023 out of gift received from her husband		2,00,000	2,00,000
	3,00,000	2,00,000	5,00,000
Profit for F.Y. 2023-24 to be apportioned on the basis of capital employed on the first day of the previous year i.e., on 1.4.2023	1,50,000		1,50,000
Capital employed as at 1.4.2024	4,50,000	2,00,000	6,50,000
Profit for F.Y.2024-25 to be apportioned on the basis of capital employed as at 1.4.2024 (i.e., 45 : 20)	2,70,000	1,20,000	3,90,000

Therefore, the income to be clubbed in the hands of Smt. Rani's husband for A.Y.2025-26 is ₹ 1,20,000.

5. Clubbing of income and other tax implications

As per the provisions of section 64(1A), in case the marriage of the parents subsist, the income of a minor child shall be clubbed in the hands of the parent whose total income, excluding the income of the minor child to be clubbed, is greater. In this problem, it has been assumed that the marriage of Mr. B and Mrs. B subsists.

Further, in case the income arises to the minor child on account of any manual work done by the child or as a result of any activity involving application of skill, talent, specialized knowledge or experience of the child, then, the same shall not be clubbed in the hands of the parent.

Tax implications

i. Income of ₹ 45,000 from Mr. B's profession shall be taxable in the hands of Mr. B under the head "Profits and gains of business or profession".

ii. Salary of ₹ 1,000 (₹ 76,000 less standard deduction under section 16(ia) of ₹ 75,000) shall be taxable as "Salaries" in the hands of Mrs. B.

iii. However, if Mrs. B exercises the option of shifting out of default tax regime, salary of ₹ 26,000 (₹ 76,000 less standard deduction under section 16(ia) of ₹ 50,000) shall be taxable as "Salaries".

iv. Income from fixed deposit of ₹ 10,000 arising to the minor son D, shall be clubbed in the hands of the father, Mr. B as "Income from other sources", since Mr. B's income is greater than income of Mrs. B before including the income of the minor child.

v. As per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of ₹ 1,500 per child if such parent exercises the option of shifting out of the default tax regime provided under section 115BAC(1A). The balance income would be clubbed in the hands of the parent as "Income from other sources".

vi. Income of ₹ 95,000 arising to the minor daughter P from sports shall not be included in the hands of the parent, since such income has arisen to the minor daughter on account of an activity involving application of her skill

vii. Income of ₹ 1,95,000 arising to minor son D from lottery shall be included in the hands of Mr. B as "Income from other sources", since Mr. B's income is greater than the income of Mrs. B before including the income of minor child.

viii. Note – Mr. B can reduce the tax deducted at source from such lottery income while computing his net tax liability.

CHAPTER - 4

AGGREGATION OF INCOME, SET-OFF AND CARRY FORWARD OF LOSSES

Set off and Carry forward & Set off of losses under default tax regime under section 115BAC

Inter-source set-off of losses under the same head of income

Exceptions

- Loss from speculative business
- Long term capital loss
- Loss from the activity of owning and maintaining race horses

Inter-head adjustment

Exceptions

- Loss under the head "Profits and gains of business or profession" cannot be set off against income under the head "Salaries"
- Loss under the head "Capital gains" cannot be set-off against income under any other head.
- Speculation loss and loss from the activity of owning and maintaining racehorses cannot be set- off against income under any other head
- Loss from house property cannot be set off against income under any other head

Carry forward and Set-off of unabsorbed losses

- Unabsorbed business loss can be carried forward for maximum 8 AYs for set-off against profits and gains from business or profession
- Unabsorbed loss from speculation business can be carried forward for maximum 4 AYs for set-off against income from speculation business
- Long-term capital loss can be carried forward for maximum 8 AYs for set-off against long-term capital gains
- Short-term capital loss can be carried forward for maximum 8 AYs for set-off against capital gains
- Unabsorbed loss from the activity of owning and maintaining race horses can be carried forward for maximum 4 AYs for set-off against income from the activity of owning and maintaining race horses

Note -

Following brought forward losses/ depreciation is not allowed to be set off while computing total income under default tax regime under section 115BAC

1. Brought forward loss from self-occupied house property
2. Brought forward business loss of specified business u/s 35AD

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3. Brought forward business loss on account of deduction u/s 35(1)(ii)/(iia)/(iii) or u/s 35(2AA)
4. Unabsorbed depreciation attributable to additional depreciation u/s 32(1)(iia).

Set off and Carry forward & Set off of losses under normal provisions of the Act

Inter-source set-off of losses under the same head of income

Exceptions

- Loss from speculative business
- Loss from specified business u/s 35AD
- Long term capital loss
- Loss from the activity of owning and maintaining race horses

Inter-head adjustment

Exceptions

- Loss under the head "Profits and gains of business or profession" cannot be set off against income under the head "Salaries"
- Loss under the head "Capital gains" cannot be set-off against income under any other head.
- Speculation loss, loss from specified business u/s 35AD and loss from the activity of owning and maintaining race horses cannot be set-off against income under any other head
- Loss from house property can be set off against income under any other head only to the extent of ₹ 2 lakhs

Carry forward and Set-off of unabsorbed losses

- Unabsorbed loss from house property can be carried forward for maximum 8 AYs for set-off against income from house property
- Unabsorbed business loss can be carried forward for maximum 8 AYs for set-off against profits and gains from business or profession
- Unabsorbed loss from speculation business can be carried forward for maximum 4 AYs for set-off against income from speculation business
- Unabsorbed loss from specified business under section 35AD can be carried forward for indefinite period for set- off against profit from any specified business
- Long-term capital loss can be carried forward for maximum 8 AYs for set-off against long-term capital gains
- Short-term capital loss can be carried forward for maximum 8 AYs for set-off against capital gains
- Unabsorbed loss from the activity of owning and maintaining race horses can be carried forward for maximum 4 AYs for set-off against income from the activity of owning and maintaining race horses

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AGGREGATION OF INCOME

In certain cases, some amounts are deemed as income in the hands of the assessee though they are actually not in the nature of income. These cases are contained in sections 68, 69, 69A, 69B, 69C and 69D. These are discussed in detail in Chapter 1.

The Assessing Officer may require the assessee to furnish explanation in such cases. If the assessee does not offer any explanation or the explanation offered by the assessee is not satisfactory, the amounts referred to in these sections would be deemed to be the income of the assessee. Such amounts have to be aggregated with the assessee's income.

CONCEPT OF SET-OFF AND CARRY FORWARD OF LOSSES

Specific provisions have been made in the Income-tax Act, 1961 for the set-off and carry forward of losses. In simple words, "Set-off" means adjustment of losses against the profits from another source/head of income in the same assessment year. If losses cannot be set-off in the same year due to inadequacy of eligible profits, then such losses are carried forward to the next assessment year for adjustment against the eligible profits of that year. The maximum period for which different losses can be carried forward for set-off has been provided in the Act.

INTER SOURCE ADJUSTMENT [SECTION 70]

1. **Inter-source set-off of losses:**

Under this section, the losses incurred by the assessee in respect of one source shall be set-off against income from any other source under the same head of income, since the income under each head is to be computed by grouping together the net result of the activities of all the sources covered by that head. In simpler terms, loss from one source of income can be adjusted against income from another source, both the sources being under the same head.

EXAMPLE

Loss from one house property can be set off against the income from another house property.

EXAMPLE

Loss from one business, say textiles, can be set off against income from any other business, say printing, in the same year as both these sources of income fall under one head of income. Therefore, the loss in one business may be set-off against the profits from another business in the same year

2. Impermissible inter-source set-off:

Inter-source set-off, however, is not permissible in the following cases –

a) Long-term capital loss [Section 70(3)]

Short-term capital loss is allowed to be set off against both short-term capital gain and long-term capital gain. However, long-term capital loss can be set-off only against long-term capital gain and not against short-term capital gain.

b) Speculation loss [Section 73(1)]

A loss in speculation business can be set-off only against the profits of any other speculation business and not against any other business or professional income.

However, losses from other business can be adjusted against profits from speculation business

c) Loss from the activity of owning and maintaining race horses [Section 74A(3)]

Such loss can be set-off only against income from the activity of owning and maintaining race horses.

d) Losses from Specified business [Section 73A(1)]

In case of an assessee exercising the option of shifting out of the default tax regime provided under section 115BAC(1A), loss in any specified business referred in section 35AD can be set-off only against any other specified business.

However, losses from other business can be set-off against profits from specified business.

Loss from an exempt source cannot be set-off against income from a taxable source of income.

INTER HEAD ADJUSTMENT [SECTION 71]

Loss under one head of income can be adjusted or set off against income under another head. However, the following points should be considered:

i. **Loss under any head other than capital gains:** Where the net result of the computation under any head of income (other than "Capital Gains") is a loss, the assessee can set-off such loss against his income assessable for that assessment year under any other head, including "Capital Gains".

ii. **Loss under the head "Profits and gains from business or profession":** Where the net result of the computation under the head "Profits and gains of business or profession" is a loss, such loss cannot be set off against income under the head "Salaries". It shall be allowed to set off from income under any other head except "Salaries".

iii. **Loss under the head "Capital Gains":** Where the net result of computation under the head 'Capital Gains' is a loss, whether short term or long term, such capital loss cannot be set-off against income under any other head.

iv. **Loss under the head "Income from house property":** The loss under the head "Income from house property" would not be allowable to be set-off against income under the other head if the assessee pays tax at concessional rate u/s 115BAC.

However, if the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A) and there is a loss under the head "Income from house property" and the assessee has income assessable under any other head of income, the maximum loss from house property which can be set-off against income from any other head is ₹ 2 lakhs. In other words, in such case, the amount of such loss exceeding ₹ 2 lakhs would not be allowable to be set-off against income under the other head.

v. **Speculation loss and loss from the activity of owning and maintaining race horses cannot** be set off against income under any other head.

vi. **Losses from Specified business u/s 35AD:** In case of an assessee exercising the option of shifting out of the default tax regime provided under section 115BAC(1A), loss from specified business referred to in section 35AD can be set off only against income from any other specified business. Such loss cannot be set off against income under any other head.

If the income from a source is exempt from tax, loss from that exempt source cannot be set off against taxable income from a different source or taxable income under a different head.

CARRY FORWARD & SET-OFF OF LOSS FROM HOUSE PROPERTY [SECTION 71B]

(i) Set-off and Carry Forward & Set-off of losses

a) If the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A): In any assessment year, if there is a loss under the head "Income from house property", such loss will first be set-off against income from any other head to the extent of ₹ 2,00,000 during the same year. The unabsorbed loss will be carried forward to the following assessment year to be set-off against income under the head "Income from house property"

b) If the assessee pays tax at concessional rate u/s 115BAC: The loss under the head "Income from house property" would not be allowable to be set-off against income under any other head. The unabsorbed loss cannot be carried forward to the following assessment year.

(ii) **Maximum period for carry forward & set-off of losses:** The loss under the head "Income from house property" is allowed to be carried forward upto 8 assessment years immediately succeeding the assessment year in which the loss was first computed.

Once a particular loss is carried forward, it can be set off only against the income from the same head in the forthcoming assessment years.

ILLUSTRATION 1

Mr. A, aged 35 years, submits the following particulars pertaining to the A.Y.2025-26:

Particulars	
Income from salary (computed)	4,00,000
Loss from let-out property	(-) 2,20,000
Business loss	(-)1,00,000
Bank interest (FD) received	80,000

Compute the total income of Mr. A for the A.Y.2025-26, assuming that

i. He has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

ii. He pays tax under the default tax regime.

SOLUTION

i. Computation of total income of Mr. A for the A.Y.2025-26 under normal provisions of the Act

Particulars	**Amount**	**Amount**
Income from salary	4,00,000	
Less: Loss from house property of ₹ 2,20,000 to be restricted to ₹ 2 lakhs by virtue of section 71(3A)	(-) 2,00,000	2,00,000
Balance loss of ₹ 20,000 from house property to be carried forward to next assessment year		

Income from other sources (interest on fixed deposit with bank)	80,000	
Less: Business loss of ₹ 1,00,000 set-off to the extent of ₹ 80,000	(-) 80,000	-
Business loss of ₹ 20,000 to be carried forward for set-off against business income of the next assessment year		
Gross total income [See Note below]		2,00,000
Less: Deduction under Chapter VI-A		Nil
Total income		2,00,000

Notes:

(i) Gross Total Income includes salary income of ₹ 2,00,000 after adjusting loss of ₹ 2,00,000 from house property. The balance loss of ₹ 20,000 from house property to be carried forward to next assessment year for set-off against income from house property of that year.

(ii) Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 80,000 and remaining business loss of ₹ 20,000 will be carried forward as it cannot be set off against salary income

ii. Computation of total income of Mr. A for the A.Y.2025-26 under default tax regime

Particulars	**Amount**	**Amount**
Income from salary		4,00,000
Income from other sources (interest on fixed deposit with bank)	80,000	
Less: Business loss of ₹ 1,00,000 set-off to the extent of ₹ 80,000	(-) 80,000	
Business loss of ₹ 20,000 to be carried forward for set-off against business income of the next assessment year		
Gross total income/ Total Income		4,00,000

Notes:

(i) Under the default tax regime, loss from house property of ₹ 2,20,000 cannot be set off against income under any other head and cannot be carried forward to next assessment year.

(ii) Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 80,000 and remaining business loss of ₹ 20,000 will be carried forward as it cannot be set off against salary income.

CARRY FORWARD AND SET-OFF OF BUSINESS LOSSES [SECTIONS 72]

Under the Act, the assessee has the right to carry forward the loss from business and profession in cases where such loss cannot be set-off due to the absence or inadequacy of income under any other head in the same year. The loss so carried forward can be set-off against the profits of subsequent previous years.

Section 72 covers the carry forward and set-off of losses arising from a business or profession.

Conditions

The assessee's right to carry forward business losses under this section is, however, subject to the following conditions:

i. The loss should have been incurred in business, profession or vocation.

ii. The loss should not be in the nature of a loss in the business of speculation.

iii. Loss from one business can be carried forward & set-off against the income from any other business: The loss may be carried forward and setoff against the income from business or profession though not necessarily against the profits and gains of the same business or profession in which the loss was incurred.

However, a loss carried forward cannot, under any circumstances, be set-off against the income from any head other than "Profits and gains of business or profession"

iv. Person who incurred the loss alone is entitled to carry forward & set-off the loss: The loss can be carried forward and set off only against the profits of the assessee who incurred the loss. That is, only the person who has incurred the loss is entitled to carry forward & set off the same. Consequently, the successor of a business cannot carry forward & set off the losses of his predecessor except in the case of succession by inheritance.

v. Maximum period for carry forward & set-off of losses: A business loss can be carried forward for a maximum period of 8 assessment years immediately succeeding the assessment year in which the loss was incurred.

ILLUSTRATION 2

Mr. B, a resident individual, furnishes the following particulars for the P.Y.2024-25:

Particulars	Amount
Income from salary (computed)	45,000
Income from house property	(24,000)

Income from non-speculative business	(22,000)
Income from speculative business	(4,000)
Short-term capital losses	(25,000)
Long-term capital gains taxable u/s 112	19,000

What is the total income chargeable to tax for the A.Y.2025-26, assuming that he pays tax under section 115BAC?

SOLUTION

Total income of Mr. B for the A.Y. 2025-26

Particulars	Amount	Amount
Income from salaries		45,000
Income from house property		
Loss from house property can neither be set-off nor can be carried forward, since Mr. B is paying tax under the default tax regime u/s 115BAC	Nil	
Profits and gains of business and profession		
Business loss to be carried forward [Note (i)]	(22,000)	
Speculative loss to be carried forward [Note (ii)]	(4,000)	
Capital Gains		
Long term capital gain taxable u/s 112	19,000	
Short term capital loss ₹ 25,000 set off against long-term capital gains to the extent of ₹ 19,000 [Note (iii)]	(19,000)	
	Nil	
Balance short term capital loss of ₹ 6,000 to be carried forward [Note (iii)]		
Taxable income		45,000

Notes:

- Business loss cannot be set-off against salary income. Therefore, loss of ₹ 22,000 from the non-speculative business cannot be set off against the income from salaries. Hence, such loss has to be carried forward to the next year for set-off against business profits, if any.

- Loss of ₹ 4,000 from the speculative business can be set off only against the income from the speculative business. Hence, such loss has to be carried forward.
- Short term capital loss can be set off against both short term capital gain and long-term capital gain. Therefore, short-term capital loss of ₹ 25,000 can be set-off against long-term capital gains to the extent of ₹ 19,000. The balance short term capital loss of ₹ 6,000 cannot be set-off against any other income and has to be carried forward to the next year for set-off against capital gains, if any

LOSSES IN SPECULATION BUSINESS [SECTION 73]

The meaning of the expression 'speculative transaction' as defined in section 43(5) and the treatment of income from speculation business has already been discussed under the head "Profits and gains of business or profession".

i. **Set-off and carry forward & set-off of loss from speculation business:** Since speculation is deemed to be a business distinct and separate from any other business carried on by the assessee, the losses incurred in speculation business can neither be set off in the same year against any other nonspeculation income nor be carried forward and set off against other income in the subsequent years.

Therefore, if the losses sustained by an assessee in a speculation business cannot be set-off in the same year against any other speculation profit, they can be carried forward to subsequent years and set-off only against income from any speculation business carried on by the assessee. Loss from the activity of trading in derivatives, however, is not to be treated as speculative loss.

ii. Maximum period for carry forward & set-off of losses: The loss in speculation business can be carried forward only for a maximum period of 4 years from the end of the relevant assessment year in respect of which the loss was computed.

iii. When a business of a company deemed to be carrying on a speculation business: The Explanation to this section provides that where any part of the business of a company consists in the purchase and sale of the shares of other companies, such 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.

However, this deeming provision does not apply to the following companies –

1. 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";
2. A company, the principal business of which is –

a) the business of trading in shares; or

b) the business of banking; or

c) the granting of loans and advances

Thus, these companies would be exempted from the operation of this Explanation. Accordingly, if these companies carry on the business of purchase and sale of shares of other companies, they would not be deemed to be carrying on speculation business

CARRY FORWARD & SET OFF OF LOSSES OF SPECIFIED BUSINESSES [SECTION 73A]

(i) **Set-off and Carry forward & set-off of losses of specified business:** An assessee exercising the option of shifting out of the default tax regime provided under section 115BAC(1A) and carrying on specified business, can claim deduction u/s 35AD in respect of capital expenditure (other than land, goodwill and financial instruments) incurred in respect of such business, subject to fulfillment of specified conditions. Any loss computed in respect of the specified business referred to in section 35AD can, however, be set off only against profits and gains, if any, of any other specified business. The unabsorbed loss, if any, will be carried forward for set off against profits and gains of any specified business in the following assessment year and so on.

(ii) **Loss can be set-off indefinitely:** There is no time limit specified for carry forward and set-off and therefore, such loss can be carried forward indefinitely for set-off against income from specified business.

Under the optional tax regime, the loss of an assessee claiming deduction under section 35AD in respect of a specified business can be set-off against the profit of another specified business under section 73A, irrespective of whether the latter is eligible for deduction under section 35AD. An assessee can, therefore, set-off the losses of a hospital or hotel which begins to operate after 1st April, 2010 and which is eligible for deduction under section 35AD, against the profits of the existing business of operating a hospital (with atleast 100 beds for patients) or a hotel (of two-star or above category), even if the latter is not eligible for deduction under section 35AD.

LOSSES UNDER THE HEAD 'CAPITAL GAINS' [SECTION 74]

Carry forward & set-off of losses: Section 74 provides that where, for any assessment year, the net result under the head 'Capital gains' is short term capital loss or long-term capital loss, the loss shall be carried forward to the following assessment year to be set off in the following manner:

i. Short-term capital loss: Where the loss so carried forward is a short-term capital loss, it shall be set off against any capital gains, short term or long term, arising in that year.
ii. Long-term capital loss: Where the loss so carried forward is a long-term capital loss, it shall be set off only against long term capital gain arising in that year.
iii. Loss under head capital gains: Net loss under the head capital gains cannot be set off against income under any other head.
iv. Maximum period for carry forward & set-off of loss: Any unabsorbed loss shall be carried forward to the following assessment year up to a maximum of 8 assessment years immediately succeeding the assessment year for which the loss was first computed.

Long - term capital gain exceeding ₹ 1,25,000 arising on sale of equity shares or units of equity oriented fund or unit of business trust on which STT is paid
- in respect of equity shares, both at the time of acquisition and sale and
- in respect of units of equity-oriented fund or unit of business trust, at the time of sale

is taxable under section 112A @10% or 12.5%, as the case may be. Long-term capital loss on sale of such shares/units can, therefore, be set-off and carried forward for set-off against long-term capital gains by virtue of section 70(3) and section 74.

ILLUSTRATION 3

During the P.Y. 2024-25, Mr. C has the following income and the brought forward losses:

Particulars	
Short term capital gains on sale of shares	1,50,000
Long term capital loss of A.Y.2023-24	(96,000)
Short term capital loss of A.Y.2024-25	(37,000)
Long term capital gain u/s 112	75,000

What is the capital gain taxable in the hands of Mr. C for the A.Y.2025-26?

SOLUTION

Taxable capital gains of Mr. C for the A.Y. 2025-26

Particulars		
Short term capital gains on sale of shares	1,50,000	
Less: Brought forward short-term capital loss of the A.Y.2024-25	(37,000)	1,13,000

Long term capital gain	75,000	
Less: Brought forward long-term capital loss of A.Y.2023-24 ₹ 96,000 set off to the extent of ₹ 75,000 **[See Note below]**	(75,000)	Nil
Taxable short-term capital gains		1,13,000

Note: Long-term capital loss cannot be set off against short-term capital gain. Hence, the unadjusted long-term capital loss of A.Y.2023-24 of ₹ 21,000 (i.e. ₹ 96,000 – ₹ 75,000) can be carried forward to the next year to be set-off against long-term capital gains of that year.

LOSSES FROM THE ACTIVITY OF OWNING AND MAINTAINING RACE HORSES [SECTION 74A (3)]

i. **Set-off and Carry forward & set-off of loss:** According to the provisions of section 74A(3), the losses incurred by an assessee from the activity of owning and maintaining race horses cannot be set-off against the income from any other source other than the activity of owning and maintaining race horses.

ii. **Maximum period for carry forward & set-off of losses:** Such loss can be carried forward for a maximum period of 4 assessment years for being setoff against the income from the activity of owning and maintaining race horses in the subsequent years.

iii. Meaning of certain terms:

Term	Meaning
Amount of loss incurred by the assessee in the activity of owning and maintaining racehorses	(i) **In case assessee has no income by way of stake money –** Amount of revenue expenditure incurred by the assessee wholly & exclusively for the purpose of maintaining race horses. (ii) **In case assessee has income by way of stake money -** The amount by which such income by way of stake money falls short of the amount of revenue expenditure incurred by the assessee wholly & exclusively for the purpose of maintaining race horses. i.e., Loss = Stake money – revenue expenditure for the purpose of maintaining race horses.
Horse race	A horse race upon which wagering or betting maybe lawfully made.
Income by way of stake money	The gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or anyone or more of the horses winning or being placed second or in any lower position in horse races.

ILLUSTRATION 4

Mr. D has the following income for the P.Y.2024-25:

Particulars	
Income from the activity of owning and maintaining the race horses	75,000
Income from textile business	85,000
Brought forward textile business loss (relating to A.Y. 2024-25)	50,000
Brought forward loss from the activity of owning and maintaining the race horses (relating to A.Y.2022-23)	96,000

What is the total income in the hands of Mr. D for the A.Y. 2025-26?

SOLUTION

Total income of Mr. D for the A.Y. 2025-26

Particulars		
Income from the activity of owning and maintaining race horses	75,000	
Less: Brought forward loss of ₹ 96,000 from the activity of owning and maintaining race horses set-off to the extent of ₹ 75,000	75,000	
	Nil	
Balance loss of ₹ 21,000 (₹ 96,000 – ₹ 75,000) from the activity of owning and maintaining race horses to be carried forward to A.Y.2026-27		
Income from textile business	85,000	
Less: Brought forward business loss from textile business	50,000	35,000
Total income	35,000	

Note: Loss from the activity of owning and maintaining race horses cannot be setoff against any other source/head of income

ORDER OF SET-OFF OF LOSSES

As per the provisions of section 72(2), brought forward business loss is to be setoff before setting off unabsorbed depreciation. Therefore, the order in which setoff will be effected is as follows –

(a) Current year depreciation [Section 32(1)];

(b) Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.

(c) Brought forward loss from business/profession [Section 72(1)];

(d) Unabsorbed depreciation [Section 32(2)];

(e) Unabsorbed capital expenditure on scientific research [Section 35(4)];

(f) Unabsorbed expenditure on family planning [Section 36(1)(ix)].

ILLUSTRATION 5

Mr. E has furnished his details for the A.Y.2025-26 as under:

Particulars	
Income from salaries (computed)	1,50,000
Income from speculation business	60,000
Loss from non-speculation business	(40,000)
Short term capital gain	80,000
Long term capital loss of A.Y.2023-24	(30,000)
Winning from lotteries (Gross)	20,000

Compute the total income of Mr. E for the A.Y.2025-26

SOLUTION

Computation of total income of Mr. E for the A.Y.2025-26

Particulars		
Income from salaries		1,50,000
Income from speculation business	60,000	
Less: Loss from non-speculation business	(40,000)	20,000
Short-term capital gain		80,000
Winnings from lotteries		20,000
Taxable income		2,70,000

Note:

Long term capital loss can be set off only against long term capital gain. Therefore, long term capital loss of ₹ 30,000 has to be carried forward to the next assessment year.

SUBMISSION OF RETURN OF LOSSES [SECTION 80]

As per section 80

- business loss under section 72(1),
- speculation business loss under section 73(2)
- loss from specified business under section 73A(2), in case the assessee exercises the option of shifting out of
- the default tax regime provided under section 115BAC(1A),
- loss under the head "Capital Gains" under section 74(1) and
- loss from activity of owning and maintaining race horses under section 74A(3),

which has not been determined in pursuance of a return filed under section 139(3) can not be carried forward and set-off. Thus, the assessee must have filed a return of loss under section 139(3) in order to carry forward and set off of such losses. Such a return of loss should be filed within the time allowed under section 139(1).

This condition does not apply to a loss from house property carried forward under section 71B and unabsorbed depreciation carried forward under section 32(2).

TEST YOUR KNOWLEDGE

1. Compute the gross total income of Mr. F for the A.Y. 2025-26 from the information given below –

Particulars	
Income from house property (computed)	1,25,000
Income from business (before providing for depreciation)	1,35,000
Short term capital gains on sale of unlisted shares	56,000
Long term capital loss from sale of property (brought forward from A.Y. 2024-25)	(90,000)
Income from tea business	1,20,000

Dividends from Indian companies carrying on agricultural operations (Gross)	80,000
Current year depreciation	26,000
Brought forward business loss (loss incurred six years ago)	(45,000)

2. Mr. Soohan submits the following details of his income for the A.Y.2025-26:

Particulars	
Income from salary (computed)	3,00,000
Loss from let out house property	(-) 40,000
Income from sugar business	50,000
Loss from iron ore business for P.Y. 2019-20 (discontinued in P.Y. 2020-21)	(-) 1,20,000
Short term capital loss	(-) 60,000
Long term capital gain	40,000
Dividend	5,000
Income received from lottery winning (Gross)	50,000
Winnings from card games (Gross)	6,000
Agricultural income	20,000
Short-term capital loss under section 111A	(-) 10,000
Bank interest on Fixed deposit	5,000

Calculate gross total income and losses to be carried forward, assuming that he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

3. Mr. Batra furnishes the following details for year ended 31.03.2025:

Short term capital gain	1,40,000
Loss from speculative business	60,000
Long term capital gain on sale of land	30,000
Long term capital loss on sale of unlisted shares	1,00,000
Income from business of textile (after allowing current year depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000

Income from salary (computed)	1,00,000
Loss from house property	40,000

Following are the brought forward losses:

i. Losses from activity of owning and maintaining race horses-pertaining to A.Y.2022-23 - ₹ 25,000.
ii. Brought forward loss from business of textile ₹ 60,000 - Loss pertains to A.Y. 2017-18.

Compute gross total income of Mr. Batra for the Assessment Year 2025-26, assuming that he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). Also determine the losses eligible for carry forward to the A.Y. 2026-27

4. Mr. A furnishes you the following information for the year ended 31.03.2025:

(i)	Income from plying of vehicles (computed as per books) (He owned 5 light goods vehicle throughout the year)	3,20,000
(ii)	Income from retail trade of garments (Computed as per books) (Sales turnover ₹ 1,35,70,000) Mr. A had declared income on presumptive basis under section 44AD for the first time in A.Y.2025-26. Assume 10% of the turnover during the P.Y.2024-25 was received in cash and balance through A/c payee cheque and all the payments in respect of expenditure were also made through A/c payee cheque or debit card.	7,50,000
(iii)	He has brought forward depreciation relating to A.Y. 2023-24	1,00,000

Compute taxable income of Mr. A and his tax liability for the A.Y. 2025-26 with reasons for your computation, assuming that he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

5. Mr. Aditya furnishes the following details for the year ended 31-03-2025

Loss from speculative business A	25,000
Income from speculative business B	5,000
Loss from specified business covered under section 35AD	20,000
Income from salary (computed)	3,00,000
Loss from let out house property	2,50,000

Income from trading business	45,000
Long-term capital gain from sale of urban land	2,00,000
Long-term capital loss on sale of shares (STT not paid)	75,000
Long-term capital loss on sale of listed shares in recognized stock exchange (STT paid at the time of acquisition and sale of shares)	1,02,000

Following are the brought forward losses:

1. Losses from owning and maintaining of race horses pertaining to A.Y. 2023-24 ₹ 2,000.
2. Brought forward loss from trading business ₹ 5,000 relating to A.Y.2020-21

Compute the total income of Mr. Aditya and show the items eligible for carry forward, assuming that he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

6. Mr. Garg, a resident individual, furnishes the following particulars of his income and other details for the P.Y. 2024-25

	Particulars	
1.	Income from Salary (computed)	15,000
2.	Income from business	66,000
3.	Long term capital gain on sale of land	10,800
4.	Loss on maintenance of race horses	15,000
5.	Loss from gambling	9,100

The other details of unabsorbed depreciation and brought forward losses pertaining to A.Y. 2024-25 are as follows:

	Particulars	
1.	Unabsorbed depreciation	11,000
2.	Loss from Speculative business	22,000
3.	Short term capital loss	9,800

Compute the Gross total income of Mr. Garg for the A.Y. 2025-26 and the amount of loss, if any that can be carried forward or not.

7. The following are the details relating to Mr. Srivatsan, a resident Indian, aged 57, relating to the year ended 31.3.2025:

Particulars	
Income from salaries (computed)	2,20,000
Loss from house property	1,90,000
Loss from cloth business	2,40,000
Income from speculation business	30,000
Loss from specified business covered by section 35AD	20,000
Long-term capital gains from sale of urban land	2,50,000
Loss from card games	32,000
Income from betting (Gross)	45,000
Life Insurance Premium paid (10% of the capital sum assured)	45,000

Compute the total income and show the items eligible for carry forward, assuming that he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

8. Mr. Rajat submits the following information for the financial year ending 31st March, 2025. He decides to pay tax under the default tax regime u/s 115BAC. He desires that you should:

a) Compute the total income; and

b) Ascertain the amount of losses that can be carried forward.

	Particulars	
(i)	He has two let out house property: (a) House No. I – Income after all statutory deductions (b) House No. II – Current year loss	 72,000 (30,000)
(ii)	He has three proprietary businesses: (a) Textile Business: i. Discontinued from 31st October, 2024 – Current year loss ii. Brought forward business loss of A.Y.2020-21	 40,000 95,000
	(b) Chemical Business: i. Discontinued from 1st March, 2022 – hence no profit/loss ii. Bad debts allowed in earlier years recovered during thisyear iii. Brought forward business loss of A.Y. 2021-22	 Nil 35,000 50,000
	(c) Leather Business: Profit for the current year	1,00,000

	(d) Share of profit in a firm in which he is partner since 2009	16,550
(iii)	(a) Short-term capital gain (b) Long-term capital loss	60,000 35,000
(iv)	Contribution to LIC towards premium	10,000

9. Ms. Geeta, a resident individual, provides the following details of her income/ losses for the year ended 31.3.2025:

I. Salary received as a partner from a partnership firm ₹ 7,50,000. The same was allowed to the firm.

II. Loss on sale of shares listed in BSE ₹ 3,00,000. Shares were held for 15 months and STT paid on sale and acquisition.

III. Long-term capital gain on sale of land ₹ 5,00,000.

IV. ₹ 51,000 received in cash from friends in party

V. ₹ 55,000, being dividend income on listed equity shares of domestic companies.

VI. Brought forward business loss of A.Y. 2023-24 ₹ 12,50,000

Compute gross total income of Ms. Geeta for the A.Y. 2025-26 and ascertain the amount of loss that can be carried forward.

10. Mr. P, a resident individual, furnishes the following particulars of his income and other details for the previous year 2024-25:

	Particulars	
1.	Income from salary (computed)	18,000
2.	Net annual value of house property	70,000
3.	Income from business	80,000
4.	Income from speculative business	12,000
5.	Long term capital gain on sale of land	15,800
6.	Long term capital gain on sale of land	9,000
7.	Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 1961, comes to ₹ 8,000, for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2023-24) are:

Particulars	
Unabsorbed depreciation	9,000
Loss from Speculative business	16,000
Short term capital loss	7,800

Compute the gross total income of Mr. P for the A.Y. 2025-26, and the amount of loss that can or cannot be carried forward

ANSWERS

1. Gross Total Income of Mr. F for the A.Y. 2025-26

Particulars		
Income from house property (Computed)		1,25,000
Income from business		
Profits before depreciation	1,35,000	
Less: Current year depreciation	26,000	
Less: Brought forward business loss	45,000	
	64,000	
Income from tea business (40% is business income)	48,000	1,12,000
Capital gains		
Short-term capital gains		56,000
Income from Other Sources		
Dividend income (taxable in the hands of shareholders)		80,000
Gross Total Income		**3,73,000**

Notes:

(i) Dividend from Indian companies is taxable at normal rates of tax in the hands of resident shareholders

(ii) 60% of the income from tea business is treated as agricultural income and therefore, exempt from tax;

(iii) Long-term capital loss can be set-off only against long-term capital gains. Therefore, long-term capital loss of ₹ 90,000 brought forward from A.Y.2024-25 cannot be set-off in the A.Y.2025-26, since there is no long-term capital gains in that year. It has to be carried forward for setoff against long-term capital gains, if any, during A.Y.2026-27.

2. **Computation of Gross Total Income of Mr. Soohan for the A.Y.2025-26**

Particulars		
Salaries		
Income from salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 71	(40,000)	2,60,000
Profits and gains of business or profession		
Income from sugar business	50,000	
Less: Brought forward loss of ₹ 1,20,000 from iron- ore business set-off as per section 72(1) to the extent of ₹ 50,000	(50,000)	Nil
Balance business loss of ₹ 70,000 of P.Y.2019-20 to be carried forward to A.Y.2026-27		
Capital gains		
Long term capital gain	40,000	
Less: Short term capital loss of ₹ 60,000 set-off to the extent of ₹ 40,000	(40,000)	Nil
Balance short-term capital loss of ₹ 20,000 to be carried forward		
Short-term capital loss of ₹ 10,000 u/s 111A also to be carried forward		
Income from other sources		
Dividend (fully taxable in the hands of shareholders)	5,000	
Winnings from lottery	50,000	
Winnings from card games	6,000	
Bank FD interest	5,000	66,000
Gross Total Income		**3,26,000**

Losses to be carried forward to A.Y.2026-27		
Loss of iron-ore business (₹ 1,20,000 – ₹ 50,000)	70,000	
Short term capital loss (₹ 20,000 + ₹ 10,000)	30,000	

Note: Agricultural income is exempt under section 10(1).

3. **Computation of Gross Total Income of Mr. Batra for the A.Y. 2025-26**

Particulars		
Salaries	1,00,000	
Less: Current year loss from house property	(40,000)	60,000
Profit and gains of business or profession		
Income from textile business	50,000	
Less: Loss of ₹ 60,000 from textile business b/f from A.Y. 2017-18 set-off to the extent of ₹ 50,000 [See Note 1]	50,000	NIL
Income from the activity of owning and maintaining race horses	15,000	
Less: Loss of ₹ 25,000 from activity of owning and maintaining race horses b/f from A.Y. 2022-23 set- off to the extent of ₹ 15,000	15,000	NIL
Balance loss of ₹ 10,000 to be carried forward to A.Y. 2026-27 [See Note 2]		
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss of ₹ 1,00,000 on sale of unlisted shares set-off to the extent of ₹ 30,000	30,000	NIL

Balance loss of ₹ 70,000 to be carried forward to A.Y. 2026-27 [See Note 3]		
Gross Total Income		**2,00,000**

Losses to be carried forward to A.Y. 2026-27

Particulars	
Current year loss from speculative business [See Note-4]	60,000
Current year long term capital loss on sale of unlisted shares	70,000
Loss from activity of owning and maintaining of race horse pertaining to A.Y.2022-23	10,000

Notes: -

- As per section 72(3), business loss can be carried forward for a maximum of eight assessment years immediately succeeding the assessment year for which the loss was first computed. Since the eight year period for carry forward of business loss of A.Y. 2017-18 expired in the A.Y. 2025-26, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to A.Y. 2026-27.
- As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- Long-term capital loss on sale of unlisted shares can be set-off against long-term capital gain on sale of land. The balance loss of ₹ 70,000 cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year. Such long-term capital loss can be carried forward for a maximum of eight assessment years.
- Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward for a maximum of four years as per section 73(4) to be set-off against income from speculation business.

4. **Computation of total income and tax liability of Mr. A for the A.Y. 2025-26**

Particulars	
Income from retail trade – as per books [See Note 1 below]	7,50,000
Income from plying of vehicles – as per books [See Note 2 below]	3,20,000

	10,70,000
Less : Set off of b/f depreciation relating to A.Y. 2023-24	1,00,000
Total income	**9,70,000**
Tax liability	1,06,500
Add: Health and Education cess@4%	4,260
Total tax liability	**1,10,760**

Note:

(i) Income from retail trade: Presumptive business income under section 44AD is ₹ 8,41,340 i.e., 8% of ₹ 13,57,000, being 10% of the turnover received in cash and 6% of ₹ 1,22,13,000, being the amount of sales turnover received through A/c payee cheque. However, the income computed as per books is ₹ 7,50,000 which is to be further reduced by the amount of unabsorbed depreciation of ₹ 1,00,000. Since the income computed as per books is lower than the income deemed under section 44AD, the assessee can adopt the income as per books.

However, if he does not declare profits as per presumptive taxation under section 44AD, he has to get his books of accounts audited under section 44AB, since his turnover exceeds ₹ 1 crore (the enhanced limit of ₹ 10 crore would not be available, since more than 5% of the turnover is received in cash). Also, his case would be falling under section 44AD(4) and hence, tax audit is mandatory. It may further be noted that he cannot declare income under presumptive provisions under section 44AD for next five assessment years, if he does not declared profits as per presumptive provisions under section 44AD this year.

(ii) Income from plying of light goods vehicles: Income calculated under section 44AE(1) would be ₹ 7,500 x 12 x 5 which is equal to ₹ 4,50,000. However, the income from plying of vehicles as per books is ₹ 3,20,000, which is lower than the presumptive income of ₹ 4,50,000 calculated as per section 44AE(1). Hence, the assessee can adopt the income as per books i.e. ₹ 3,20,000, provided he maintains books of account as per section 44AA and gets his accounts audited and furnishes an audit report as required under section 44AB.

It is to be further noted that in both the above cases, if income is declared under presumptive provisions, all deductions under sections 30 to 38, including depreciation would have been deemed to have been given full effect to and no further deduction under those sections would be allowable.
If income is declared as per presumptive provisions, his total income would be as under:

Particulars	₹
Income from retail trade under section 44AD [₹ 13,57,000@ 8% plus ₹ 1,22,13,000 @6%]	8,41,340

Income from plying of light goods vehicles under section 44AE [₹ 7,500 x 12 x 5]	4,50,000
	12,91,340
Less: Set off of brought forward depreciation – not possible as it is deemed that it has been allowed and set off	Nil
Total income	**12,91,340**
Tax thereon	1,99,902
Add : Health and Education cess @4%	7,996
Total tax liability	**2,07,898**
Total tax liability (rounded off)	**2,07,900**

5. **Computation of total income of Mr. Aditya for the A.Y.2025-26**

Particulars	₹	₹
Salaries		
Income from Salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 71(3A)	2,00,000	1,00,000
Loss from house property to the extent not set off i.e. ₹ 50,000 (₹ 2,50,000 – ₹ 2,00,000) to be carried forward to A.Y. 2026-27		
Profits and gains of business or profession		
Income from trading business	45,000	
Less: Brought forward loss from trading business of A.Y. 2020-21 can be set off against current year income from trading business as per section 72(1), since the eight year time limit as specified under section 72(3), within which set-off is permitted, has not expired.	5,000	40,000
Income from speculative business B	5,000	
Less: Loss of ₹ 25,000 from speculative business A set-off as per section 73(1) to the extent of ₹ 5,000	5,000	Nil
Balance loss of ₹ 20,000 from speculative business A to be carried forward to A.Y.2026-27 as per section 73(2)		
Loss of ₹ 20,000 from specified business covered under section 35AD to		

be carried forward for set- off against income from specified business as per section 73A.		
Capital Gains	2,00,000	
Long term capital gain on sale of urban land	75,000	
Less: Long term capital loss on sale of shares (STT not paid) set-off as per section 74(1)]		
Less: Long-term capital loss on sale of listed shares on which STT is paid can also be set-off as per section 74(1), since long-term capital arising on sale of such shares is taxable under section 112A	**1,02,000**	23,000
Total Income		**1,63,000**

Items eligible for carried forward to A.Y.2026-27

Particulars	₹
Loss from House property As per section 71(3A), loss from house property can be set-off against any other head of income to the extent of ₹ 2,00,000 since Mr. Aditya is exercising the option of shifting out of the default tax regime provided under section 115BAC(1A). As per section 71B, balance loss not set-off can be carried forward to the next year for set-off against income from house property of that year. It can be carried forward for a maximum of eight assessment years i.e., upto A.Y.2033-34, in this case.	50,000
Loss from speculative business A Loss from speculative business can be set-off only against profits from any other speculation business. As per section 73(2), balance loss not set-off can be carried forward to the next year for set-off against speculative business income of that year. Such loss can be carried forward for a maximum of four assessment years i.e., upto A.Y.2029-30, in this case, as specified under section 73(4).	20,000
Loss from specified business Loss from specified business under section 35AD can be set-off only against profits of any other specified business. If loss cannot be so set-off, the same has to be carried forward to the subsequent year for set off against income from specified business, if any, in that year. As per section 73A(2), such loss can be	20,000

carried forward indefinitely for set-off against profits of any specified business. Mr. Aditya is entitled to deduction u/s 35AD, since he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). He can, accordingly, carry forward loss from such business indefinitely for set off against profits of any other specified business.	
Loss from the activity of owning and maintaining race horses Losses from the activity of owning and maintaining race horses (current year or brought forward) can be set-off only against income from the activity of owning and maintaining race horses. If it cannot be so set-off, it has to be carried forward to the next year for set-off against income from the activity of owning and maintaining race horses, if any, in that year. It can be carried forward for a maximum of four assessment years, i.e., upto A.Y.2027-28, in this case, as specified under section 74A(3).	2,000

6. **Computation of Gross Total Income of Mr. Garg for the A.Y. 2025-26**

Particulars	₹	₹
(i) Income from salary		15,000
(ii) Profits and gains of business or profession	66,000	
Less: Unabsorbed depreciation brought forward from A.Y.2024-25 (Unabsorbed depreciation can be set-off against any head of income other than "salary")	11,000	55,000
(iii) Capital gains		
Long-term capital gain on sale of land	10,800	
Less: Brought forward short-term capital loss [Short- term capital loss can be set-off against both short-term capital gains and long-term capital gains as per section 74(1)]	9,800	1,000
Gross Total Income		**71,000**

Amount of loss to be carried forward to A.Y.2026-27

	Particulars	₹

(1)	**Loss from speculative business [to be carried forward as per section 73]** [Loss from a speculative business can be set off only against income from another speculative business. Since there is no income from speculative business in the current year, the entire loss of ₹ 22,000 brought forward from A.Y.2024-25 has to be carried forward to A.Y. 2026-27 for set-off against speculative business income of that year. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4), i.e., upto A.Y.2028-29]	22,000
(2)	**Loss on maintenance of race horses [to be carried forward as per section 74A]** [As per section 74A(3), the loss incurred in the activity of owning and maintaining race horses in any assessment year cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum of four assessment years i.e., upto A.Y.2029-30]	15,000
(3)	**Loss from gambling can neither be set-off nor be carried forward.**	

7. **Computation of total income of Mr. Srivatsan for the A.Y.2025-26**

Particulars	₹	₹
Salaries		
Income from salaries	2,20,000	
Less: Loss from house property since Mr. Srivatsan has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)	1,90,000	30,000
Profits and gains of business or profession		
Income from speculation business	30,000	
Less: Loss from cloth business of ₹2,40,000 set off to the extent of ₹30,000	30,000	Nil
Capital gains		
Long-term capital gains from sale of urban land	2,50,000	
Less: Set-off of balance loss of ₹ 2,10,000 from cloth business	2,10,000	40,000
Income from other sources		
Income from betting		45,000
Gross Total Income		**1,15,000**

Less: Deduction under section 80C (life insurance premium paid) [See Note (iv) below]		30,000
Total income		**85,000**

Losses to be carried forward:

Particulars	₹
(1) Loss from cloth business (₹2,40,000 – ₹30,000 – ₹2,10,000)	Nil
(2) Loss from specified business covered by section 35AD	20,000

Notes:

i. Loss from specified business covered by section 35AD can be set-off only against profits and gains of any other specified business. Therefore, such loss cannot be set off against any other income. The unabsorbed loss has to be carried forward for set-off against profits and gains of any specified business in the following year. Mr. Srivatsan is entitled to deduction u/s 35AD, since he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). Therefore, he can carry forward loss of ₹ 20,000 from specified business referred u/s 35AD indefinitely for set off against profits of any specified business.

ii. Business loss cannot be set off against salary income. However, the balance business loss of ₹ 2,10,000 (₹ 2,40,000 – ₹ 30,000 set-off against income from speculation business) can be set-off against long-term capital gains of ₹ 2,50,000 from sale of urban land. Consequently, the taxable long-term capital gains would be ₹ 40,000.

iii. Loss from card games can neither be set off against any other income, nor can be carried forward.

iv. For providing deduction under Chapter VI-A, gross total income has to be reduced by the amount of long-term capital gains and casual income. Therefore, the deduction under section 80C in respect of life insurance premium of ₹ 45,000 paid has to be restricted to ₹ 30,000 [i.e., Gross Total Income of ₹ 1,15,000 – ₹ 40,000 (LTCG) – ₹ 45,000 (Casual income)]. Mr. Srivatsan is entitled to deduction u/s 80C, since he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

v. Income from betting is chargeable at a flat rate of 30% under section 115BB and no expenditure or allowance can be allowed as deduction from such income, nor can any loss be set-off against such income.

8. **Computation of total income of Mr. Rajat for the A.Y. 2025-26**

Particulars		₹	₹
1.	Income from house property		
	House No.1	72,000	
	House No.2	(-) 30,000	42,000
2.	Profits and gains of business or profession		
	Profit from leather business	1,00,000	
	Bad debts recovered taxable under section 41(4)	35,000	
		1,35,000	
Less: Current year loss of textile business		(-) 40,000	
		95,000	
Less: Brought forward business loss of textile business for A.Y.2020-21 set off against the business income of current year		95,000	Nil
3.	Capital Gains		
	Short-term capital gain		60,000
	Gross Total Income		1,02,000
	Less: Deduction under Chapter VI-A Under section 80C – LIC premium paid (not available since he is paying tax under the default tax regime)		-
Total Income			**1,02,000**

Statement of losses to be carried forward to A.Y. 2026-27

Particulars	₹
Brought forward chemical business loss of A.Y. 2021-22 to be carried forward u/s 72	50,000
Long term capital loss of A.Y. 2025-26 to be carried forward u/s 74	35,000

Notes:

- Share of profit from firm of ₹ 16,550 is exempt under section 10(2A)
- Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set off against long-term capital gains of that year

9. **Computation of Gross Total Income of Ms. Geeta for the A.Y. 2025-26**

Particulars		₹
Profits and gains of business and profession		
Salary received as a partner from a partnership firm is taxable under the head "Profits and gains of business and profession"		7,50,000
Less: B/f business loss of A.Y. 2023-24 ₹12,50,000 to be set- off to the extent of ₹7,50,000		7,50,000
		Nil
(Balance b/f business loss of ₹5,00,000 can be carried forward to the next year)		
Capital Gains		
Long term capital gain on sale of land	5,00,000	
Less: Long-term capital loss on shares on STT paid (See Note 2 below)	3,00,000	2,00,000
Income from other sources		
Cash gift received from friends - since the value of cash gift exceeds ₹50,000, the entire sum is taxable	51,000	
Dividend income from a domestic company is fully taxable in the hands of shareholders	55,000	1,06,000
Gross Total Income		**3,06,000**

Notes:

1. Balance brought forward business loss of assessment year 2023-24 of ₹ 5,00,000 has to be carried forward to the next year.
2. Long-term capital loss on sale of shares on which STT is paid at the time of acquisition and sale can be set-off against long-term capital gain on sale of land since long-term capital gain on sale of shares (STT paid) is taxable under section 112A. Therefore, it can be set-off against longterm capital gain on sale of land as per section 70(3).

10. **Computation of Gross Total Income of Mr. P for the A.Y. 2025-26**

Particulars	₹	₹
i. Income from salary		18,000
ii. Income from House Property		
Net Annual Value	70,000	
Less: Deduction under section 24 (30% of ₹ 70,000)	21,000	49,000
iii. Income from business and profession		
a) Income from business	80,000	
Less : Current year depreciation	8,000	
	72,000	
Less : Unabsorbed depreciation	9,000	63,000
b) Income from speculative business	12,000	
Less : B/f loss of ₹ 16,000 from speculative business set-off to the extent of ₹ 12,000	12,000	Nil
(Balance loss of ₹ 4,000 (i.e. ₹ 16,000 – ₹ 12,000) can be carried forward to the next year)		
iv. Income from capital gain		
Long-term capital gain on sale of land	15,800	
Less: Brought forward short-term capital loss	7,800	8,000
Gross total income		**1,38,000**

Amount of loss to be carried forward to the next year

Particulars	₹
Loss from speculative business (to be carried forward as per section 73)	4,000
Loss on maintenance of race horses (to be carried forward as per section 74A)	9,000

Notes:

i. Loss on gambling can neither be set-off nor be carried forward.

ii. As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.

iii. Brought forward speculative business loss can be set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2026-27. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4).

CHAPTER - 5 DEDUCTIONS FROM GROSS TOTAL INCOME

GENERAL PROVISIONS

The various items of income referred to in the different clauses of section 10 are excluded from the total income of an assessee. These incomes are known as exempted incomes. "Exemption" means exclusion. A particular income exempt from tax under section 10 shall not enter into the computation of taxable income. However, there are certain items of income referred to in section 10 which are not exempted if the assessee pays concessional rates of tax under the default tax regime u/s 115BAC, namely,

10(5)	Leave travel concession
10(13A)	House Rent Allowance
10(14)	Special Allowances except – (a) Travelling allowance (b) Daily allowance (c) Conveyance allowance (d) Transport allowance to blind/deaf and dumb/orthopedically handicapped employee
10(17)	Daily allowance/Constituency allowance received by any Member of Parliament or of State Legislatures
10(32)	Exemption in respect of income of minor child included in assessee's total income

"Deduction" in relation to Chapter VI-A and section 10AA refers to the amount that is reduced from gross total income to arrive at the total income. There are incomes which are included in gross total income but are wholly or partly allowed as deduction under Chapter VI-A in computation of total income, if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A) and pays tax as per the optional tax regime under the normal provisions of the Act.

Deduction is allowed on specific investments or expenses incurred by the taxpayer to promote the culture of savings and investments. This could include medical expenditure, donations made to charities, investments made in specific avenues such as Public Provident Fund (PPF), National Pension Scheme (NPS) etc.

However, if the assessee pays concessional rates of tax under default tax regime u/s 115BAC, only deduction in respect of employer's contribution to NPS u/s 80CCD(2), Central Government's contribution to Agnipath Scheme u/s 80CCH(2) and deduction in respect of employment of new employees u/s 80JJAA would be allowed to the assessee. He cannot claim deduction under any other provision in Chapter VI-A under the default tax regime.

Section 10AA also provides for a deduction in respect of units established in SEZ from the total income of the assessee. It is available only if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). This deduction is not available if the assessee pays concessional rates of tax under the default tax regime u/s 115BAC.

The tax liability is calculated on the "total income" which is arrived after reducing permissible deductions from gross total income.

Students should note this very important difference between exemption under section 10 and the deduction under Chapter VI-A/10AA.

Difference between Deduction under Chapter VI-A & section 10AA and Exemption under section 10		
Particulars	**Deduction (in relation to Chapter VI-A and section 10AA)**	**Exemption (contained in section 10)**
Meaning	Investments/ contributions in certain instruments (as prescribed under the Income-tax Act). Payments made for certain purposes.	The incomes which are exempt under section 10 will not be included in computing gross total income.
Relevant Sections	Sections 80C to 80U in Chapter VI-A and section 10AA of the Income-tax Act.	Section 10 of the Income tax Act.
Manner of treatment	First included in the Gross Total Income and then deductions will be allowed from Gross Total Income	Not included in the Gross Total Income

The important point to be noted here is that if there is no gross total income, then no deductions will be permissible. This Chapter contains deduction under Chapter VI-A which includes deductions in respect of certain payments, deductions in respect of certain incomes, deductions in respect of other income and other deductions. It also includes deduction under section 10AA.

Section 80A

I. Section 80A(1) provides that in computing the total income of an assessee, there shall be allowed from his gross total income, the deductions specified in sections 80C to 80U if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

II. According to section 80A(2), the aggregate amount of the deductions under this chapter shall not, in any case, exceed the gross total income of the assessee. Therefore, the total income after deductions will either be positive or nil. It cannot be negative due to deductions.

An assessee cannot have a loss as a result of the deduction under Chapter VI-A and claim to carry forward the same for the purpose of set-off against his income in the subsequent year.

III. Section 80A(3) provides that in the case of AOP/BOI exercising the option of shifting out of the default tax regime provided under section 115BAC(1A), if any deduction is admissible under section 80G/80GGA/80GGC1 , no deduction under the same section shall be made in computing the total income of a member of the AOP or BOI in relation to the share of such member in the income of the AOP or BOI.

IV. The profits and gains allowed as deduction under section 10AA or under any provision of Chapter VI-A under the heading "C.-Deductions in respect of certain incomes" in any assessment year, shall not be allowed as deduction under any other provision of the Act for such assessment year [Section 80A(4)].

V. The deduction, referred to in (iv) above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be [Section 80A(4)].

VI. No deduction under any of the provisions referred to in (iv) above, shall be allowed if the deduction has not been claimed in the return of income [Section 80A(5)].

Section 80AB

Deductions specified in Chapter VI-A under the heading “C.-Deductions in respect of certain incomes”, shall be allowed only to the extent such income computed in accordance with the provisions of the Income-tax Act, 1961 is included in the gross total income of the assessee.

Section 80AC: Furnishing return of income on or before due date mandatory for claiming deduction under Chapter VI-A under the heading “C. – Deductions in respect of certain incomes"

(i) Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing benefit of deductions under any provision of Chapter VI-A under the heading “C. – Deductions in respect of certain incomes”.

Table showing the deductions contained in Chapter VI-A under the heading "C. – Deductions in respect of certain income"

Section	Deduction
80-IA	Deductions in respect of profits and gains from undertakings or enterprises engaged in infrastructure development/ operation/ maintenance, generation/ transmission/ distribution of power etc.
80-IAB	Deduction in respect of profits and gains derived by an undertaking or enterprise engaged in development of SEZ
80-IAC	Deduction in respect of profits and gains derived by an eligible start-up from an eligible business
80-IB	Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings
80-IBA	Deduction in respect of profits and gains from housing projects/rental housing projects
80-IE	Deduction in respect of profits and gains from manufacture or production of eligible article or thing, substantial expansion to manufacture or produce any eligible article or thing or carrying on of eligible business in North-Eastern States
80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
80JJAA	Deduction in respect of employment of new employees
80LA	Deduction in respect of certain income of Offshore Banking Units and International Financial Services Centre
80M	Deduction in respect of certain inter-corporate dividends
80P	Deduction in respect of income of co-operative societies
80PA	Deduction in respect of certain income of Producer Companies
80QQB	Deduction in respect of royalty income, etc., of authors of certain books other than text books
80RRB	Deduction in respect of royalty on patents

(ii) The effect of this provision is that, in case of failure to file return of income on or before the stipulated

due date, the undertakings would lose the benefit of deduction under these sections.

Note: The deductions under section 80-IA to 80-IE, 80JJA, 80LA, 80M, 80P and 80PA in respect of certain incomes will be dealt with in detail at the Final Level.

ILLUSTRATION 1

Examine the following statements with regard to the provisions of the Income-tax Act, 1961:

a) For grant of deduction under section 80JJAA, filing of audit report in prescribed form is must for a corporate assessee; filing of return within the due date laid down in section 139(1) is not required.

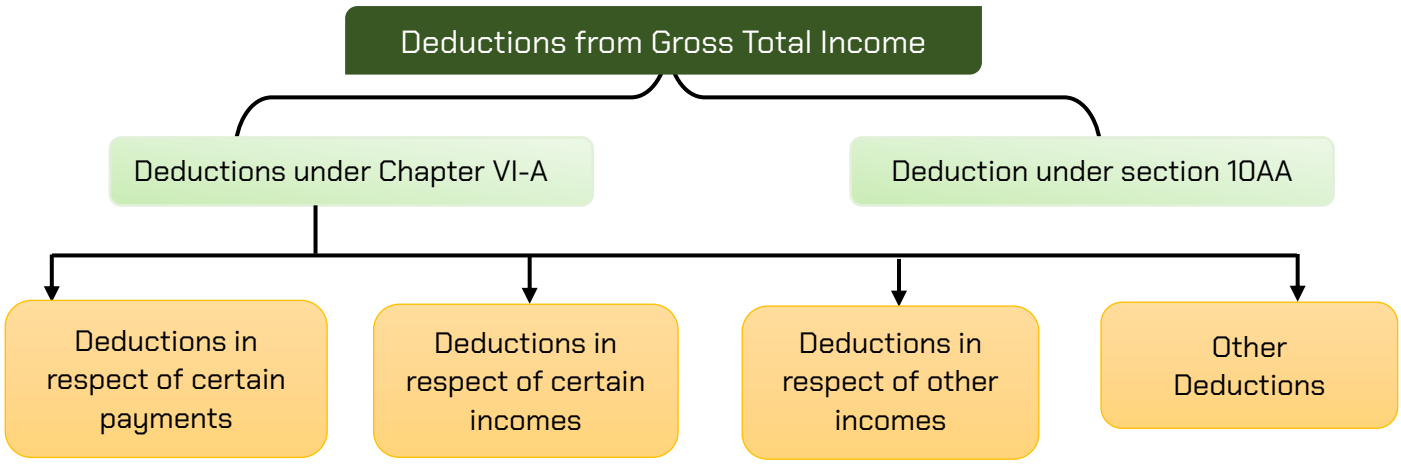
b) Filing of belated return under section 139(4) of the Income-tax Act, 1961 will debar an assessee from claiming deduction under section 80QQB if the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A) (i.e., he pays tax under the optional tax regime).

SOLUTION

a) The statement is not correct. Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing the benefit of deduction, inter alia, under section 80JJAA.

b) The statement is correct. As per section 80AC, the assessee has to furnish his return of income on or before the due date specified under section 139(1), to be eligible to claim deduction under, inter alia, section 80QQB.

Two types of deductions are allowable from Gross Total Income - Deductions under Chapter VI-A and deduction under section 10AA which are discussed in this chapter.



DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS

Deduction in respect of investment in specified assets [Section 80C]

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

i. Deduction in respect of investment/ contributions

Section 80C provides for a deduction from the Gross Total Income of savings in specified modes of investments. The deduction under section 80C is available only to an individual or HUF exercising the option of shifting out of the default tax regime provided under section 115BAC(1A). It is not allowable under the default tax regime under section 115BAC.

The maximum permissible deduction under section 80C is ₹ 1,50,000. The following are the investments/ contributions eligible for deduction –

1. Contribution in Unit-linked Insurance Plan 1971
2. Contribution in Unit-linked Insurance Plan of LIC Mutual Fund
3. Premium paid in respect of Life Insurance policy

	Deduction u/s 80C
In respect of policies issued before 31.3.2012	Premium paid to the extent of 20% of "actual capital sum assured".
In respect of policies issued on or after 1.4.2012 but before 1.4.2013	Premium paid to the extent of 10% of "actual capital sum assured" i.e., minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account –
	(i) the value of any premium agreed to be returned; or
	(ii) 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.
In respect of policies issued on or after 1.4.2013	(a) Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.

		Premium paid to the extent of 15% of "actual capital sum assured" [has the same meaning as described above].
	(b)	Where the insurance is on the life of any person, other than mentioned in (a) above
		Premium paid to the extent of 10% of "actual capital sum assured" [has the same meaning as described above].

ILLUSTRATION 2

Compute the eligible deduction under section 80C for A.Y.2025-26 in respect of life insurance premium paid by Mr. Ganesh during the P.Y.2024-25, the details of which are given hereunder, if Mr. Ganesh has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A) –

	Date of issue of policy	Person insured	Actual capital sum assured (₹)	Insurance premium paid during 2024-25 (₹)
(i)	30/3/2012	Self	9,00,000	48,000
(ii)	1/5/2018	Spouse	1,50,000	20,000
(iii)	1/6/2021	Handicapped son (section 80U disability)	4,00,000	80,000

SOLUTION

	Date of issue of policy	Person insured	Actual capital sum assured (₹)	Insurance premium paid during 2024-25 (₹)	Deduct-ion u/s 80C for A.Y.2025-26 (₹)	Remark (restricted to % of sum assured) (₹)
(i)	30/3/2012	Self	9,00,000	48,000	48,000	20%
(ii)	1/5/2018	Spouse	1,50,000	20,000	15,000	10%
(iii)	1/6/2021	Handicapped Son (section 80U disability)	4,00,000	80,000	60,000	15%
	Total				1,23,000	

ILLUSTRATION 3

What would your answer if Mr. Ganesh pays tax under default tax regime under section 115BAC?

SOLUTION

If Mr. Ganesh pays tax under default tax regime under section 115BAC, he would not be eligible for deduction under section 80C.

4. Premium paid in respect of a contract for deferred annuity
5. Any sum deducted from the salary payable of a Government employee for securing a deferred annuity
6. Contribution to SPF/PPF/RPF

   Contributions to any provident fund to which the Provident Funds Act, 1925 applies and recognized provident fund qualifies for deduction under section 80C.

   Contribution made to any Provident Fund set up by the Central Government and notified in his behalf (i.e., the Public Provident Fund established under the Public Provident Fund Scheme, 1968) also qualifies for deduction under section 80C. Such contribution can be made in the name of the individual, his spouse and any child of the individual; and any member of the family, in case of a HUF. The maximum limit for deposit in PPF is ₹ 1,50,000 in a year.

ILLUSTRATION 4

An individual assessee, resident in India, has made the following deposit/payment during the previous year 2024-25:

What is the deduction allowable under section 80C for A.Y.2025-26 if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)?

SOLUTION

Computation of deduction under section 80C for A.Y.2025-26

Particulars	₹
Deposit in public provident fund	1,50,000
Insurance premium paid on the life of the spouse (Maximum 10% of the assured value ₹ 2,20,000, as the policy is taken after 31.3.2012)	22,000
Total	1,72,000
However, the maximum permissible deduction u/s 80C is restricted to	1,50,000

7. **Contribution to approved superannuation Fund**

Contribution by an employee to an approved superannuation fund qualifies for deduction under section 80C.

8. **Any sum paid or deposited in Sukanya Samriddhi Account**

Subscription to any such security of the Central Government or any such deposit scheme as the Central Government as may notify in the Official Gazette. 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 –

(a) any girl child of the individual; or

(b) any girl child for whom such individual is the legal guardian

would be eligible for deduction under section 80C.

Exemption on payment from Sukanya Samriddhi Account [Section 10(11A)]

Section 10(11A) provides that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014, made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee. Accordingly, the interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt.

9. Subscription to National Savings Certificates VIII
10. Contribution to approved annuity plan of LIC
11. Subscription towards notified units of mutual fund or UTI
12. Contribution to notified pension fund set up by mutual fund or UTI
13. Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
14. Subscription to notified deposit scheme
15. Payment of tuition fees to any university, college, school or other educational institution within India for full-time education for maximum 2 children
16. Repayment of housing loan including stamp duty, registration fee and other expenses
17. Subscription to certain equity shares or debentures
18. Subscription to certain units of mutual fund
19. Investment in five year term deposit

    i. for a period of not less than five years with a scheduled bank; and

    ii. which is in accordance with a scheme framed and notified by the Central Government in the Official Gazette

qualifies as an eligible investment for availing deduction under section 80C.

The maximum limit for investment in term deposit is ₹ 1,50,000.

Scheduled bank means –

- the State Bank of India (SBI)
- a subsidiary bank of SBI, or
- a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act
- any other bank, being a bank included in the Second Schedule to the Reserve Bank of India (RBI) Act, 1934.

20. Subscription to notified bonds issued by NABARD
21. Investment in five year Post Office time deposit
22. Deposit in Senior Citizens Savings Scheme Rules, 2004
23. Contribution to additional account under NPS

Thus, Tier II account is the additional account under NPS, contribution to which would qualify for deduction under section 80C only in the hands of a Central Government employee.

Summary of investment/ contributions eligible for deduction u/s 80C

S. No.	Investment/ contributions
(i)	Contribution in Unit-linked Insurance Plan 1971 **In case of individual –** in the name of individual, his or her spouse or any child of the individual **In case of HUF –** in the name of any member of HUF
(ii)	Contribution in Unit-linked Insurance Plan of LIC Mutual Fund **In case of individual –** In the name of individual, his or her spouse or any child of the individual **In case of HUF –** In the name of any member of HUF
(iii)	Premium paid in respect of Life Insurance policy **In case of individual –** on the life of individual, his or her spouse or any child of the individual **In case of HUF –** on the life of any member of HUF
(iv)	Premium paid in respect of a contract for deferred annuity **In case of individual –** on the life of individual, his or her spouse or any child of the individual

(v)	Any sum deducted from the salary payable of a Government employee for securing a deferred annuity [excess over 1/5th of the salary to be ignored]
(vi)	Contribution to PPF **In case of individual –** in the name of Individual, his or her spouse or any child of the individual **In case of HUF –** In the name of any member of HUF
(vii)	Contribution to SPF/RPF
(viii)	Contribution to approved superannuation Fund
(ix)	Paid or deposited in Sukanya Samriddhi Account a) for any girl child of the individual; or b) for any girl child for whom such individual is the legal guardian
(x)	Subscription to National Savings Certificates VIII
(xi)	Contribution to approved annuity plan of LIC or any other notified insurer
(xii)	Subscription towards notified units of mutual fund or UTI [ELSS]
(xiii)	Contribution to notified pension fund set up by mutual fund or UTI
(xiv)	Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008
(xv)	Subscription to notified deposit scheme of public sector co. or authority constituted in India in relation to housing. For example, public deposit scheme of HUDCO.
(xvi)	Tuition fees to by an individual to any university, college, school or other educational institution within India for full-time education for maximum 2 children of the individual.
(xvii)	Repayment of housing loan for purchase/ construction of house property including stamp duty, registration fee and other expenses for transfer
(xviii)	Subscription to certain equity shares or debentures forming part of any approved eligible issue of capital by a public company or by any public financial institution
(xix)	Units of mutual fund subscribed only in eligible issue of capital of any company
(xx)	Investment in five year term deposit with a scheduled bank
(xxi)	Subscription to notified bonds issued by NABARD
(xxii)	Investment in five year Post Office time deposit
(xxiii)	Deposit in Senior Citizens Savings Scheme Rules, 2004
(xxiv)	Contribution to additional account under NPS (Tier II account), in case of Central Government employee

Deduction in respect of contribution to certain pension funds [Section 80CCC]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)

a) **Eligible assessee:** Where an assessee, being an individual, has in the previous year paid or deposited any amount out of his 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.

For this purpose, the interest or bonus accrued or credited to the assessee's account shall not be reckoned as contribution.

Note: 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.

b) **Maximum Deduction:** The maximum permissible deduction is ₹ 1,50,000 (Further, the overall limit of ₹ 1,50,000 prescribed in section 80CCE will continue to be applicable i.e. the maximum permissible deduction under sections 80C, 80CCC and 80CCD(1) put together is ₹ 1,50,000).

c) **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.

Deduction in respect of contribution to pension scheme notified by the Central Government [Section 80CCD]

i. **Pension Scheme of Central Government:** It is mandatory for persons entering the service of the Central Government on or after 1st January, 2004, to contribute 10% of their salary every month towards their pension account. A matching contribution is required to be made by the Government to the said account. The benefit of this scheme is also available to individuals employed by any other employer as well as to self-employed individuals.

ii. **Deduction:** Section 80CCD provides deduction in respect of contribution made to the pension scheme notified by the Central Government

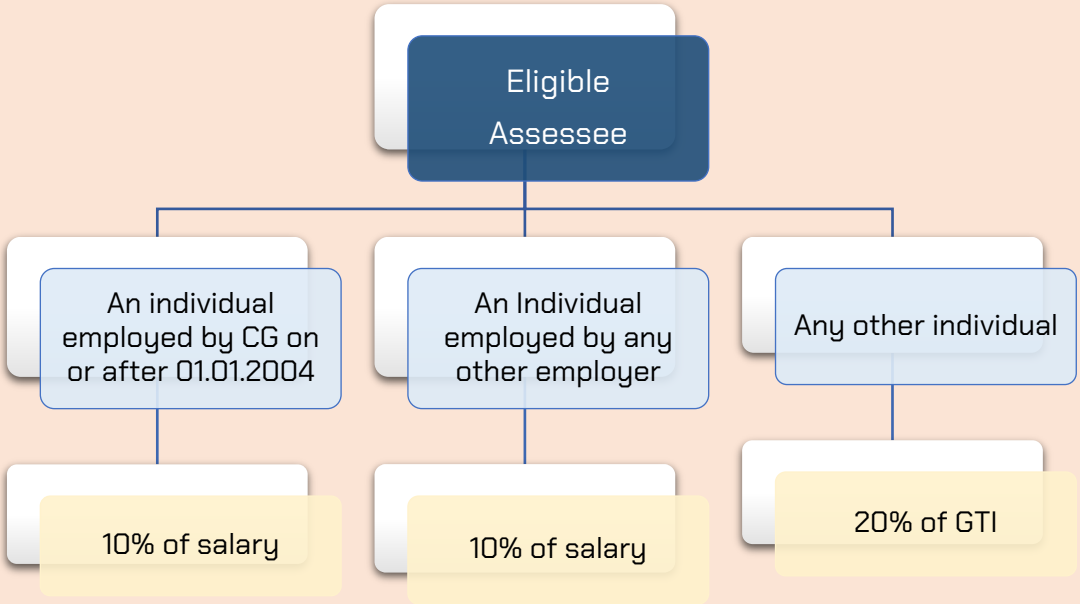
Accordingly, the Central Government has notified the 'Atal Pension Yojana (APY)' as a pension scheme, contribution to which would qualify for deduction under section 80CCD in the hands of the individual.

iii. Quantum of deduction:

a) Section 80CCD(1) provides a deduction for the amount paid or deposited by an employee in his pension account subject to a maximum of 10% of his salary. The deduction in the case of a self-employed individual would be restricted to 20% of his gross total income in the previous year.

Deduction u/s 80CCD(1) would be available to an assessee only if he exercises the option of shifting out of the default tax regime u/s 115BAC(1A) (i.e., if he pays tax under the optional tax regime – the normal provisions of the Act).

Deduction under section 80CCD(1)



b) Section 80CCD(1B) provides for an additional deduction of up to ₹ 50,000 in respect of the whole of the amount paid or deposited by an individual assessee under NPS in the previous year, whether or not any deduction is allowed u/s 80CCD(1).

c) Whereas the deduction under section 80CCD(1) is subject to the overall limit of ₹ 1.50 lakh under section 80CCE (i.e., the maximum permissible deduction under sections 80C, 80CCC and 80CCD(1) put together), the deduction of upto ₹ 50,000 under section 80CCD(1B) is in addition to the overall limit of ₹ 1.50 lakh provided under section 80CCE.

d) Under section 80CCD(2), contribution made by the Central Government or State Government or any

other employer in the previous year to the said account of an employee, is allowed as a deduction in computation of the total income of the assessee.

e) The entire employer's contribution would be included in the salary of the employee. However, deduction under section 80CCD(2) would be restricted to,

- In case of contribution made by the Central Government or State Government - 14% of salary And
- In case of contribution made by any other employer – 10% of salary (14% of salary in case assessee is paying tax as per default tax regime under section 115BAC)

Deduction u/s 80CCD(2) would be available to an assessee irrespective of the regime under which he pays tax.

1. The limit of ₹ 1,50,000 under section 80CCE does not apply to employer's contribution to pension scheme of Central Government which is allowable as deduction under section 80CCD(2).
2. No deduction will be allowed under section 80C in respect of amounts paid or deposited by the assessee, for which deduction has been allowed under section 80CCD(1) or under section 80CCD(1B).

d) **Deemed Income:** The amount standing to the credit of the assessee in the pension account (for which deduction has already been claimed by him under this section) and accretions to such account, shall be taxed as income in the year in which such amounts are received by the assessee or his nominee on –

a) closure of the account or
b) his opting out of the said scheme or
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.

1. Exemption on payment from NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme [Section 10(12A)]

- As per section 80CCD, any payment from National Pension System Trust to an assessee on account of closure or his opting out of the pension scheme is chargeable to tax.
- Section 10(12A) provides that any payment from National Pension System Trust to an assessee on account of closure or his opting out of the pension scheme referred to in section 80CCD, to the

extent it does not exceed 60% of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.

2. Exemption on payment from NPS Trust to an employee on partial withdrawal [Section 10(12B)]
3. To provide relief to an employee subscriber of NPS, section 10(12B) provides that any payment from National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawn made out of his account in accordance with the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made there under, shall be exempt from tax to the extent it does not exceed 25% of amount of contributions made by him.

Limit on deductions under sections 80C, 80CCC & 80CCD(1) [Section 80CCE]

This section restricts the aggregate amount of deduction under section 80C, 80CCC and 80CCD(1) to ₹ 1,50,000. It may be noted that the deduction of upto ₹ 50,000 under section 80CCD(1B) and employer's contribution to pension scheme, allowable as deduction under section 80CCD(2) in the hands of the employee, would be outside the overall limit of ₹ 1,50,000 stipulated under section 80CCE.

The following table summarizes the ceiling limit under these sections –

Section	Particulars	Ceiling limit (₹)
80C	Investment in LIP, Deposit in PPF/SPF/RPF etc.	1,50,000
80CCC	Contribution to certain pension funds	1,50,000
80CCD(1)	Contribution to NPS of Government	10% of salary Or 20% of GTI, as the case may be.
80CCE	Aggregate deduction under sections 80C, 80CCC & 80CCD(1)	1,50,000
80CCD(1B)	Contribution to NPS notified by the Central Government (outside the limit of ₹ 1,50,000 under section 80CCE)	50,000
80CCD(2)	Contribution by the Central Government or State Government to NPS A/c of its employees (outside the limit of ₹ 1,50,000 under section 80CCE)	14% of salary
	Contribution by any other employer to NPS A/c of its employees (outside the limit of	

	• ₹ 1,50,000 under section 80CCE) • Where assessee is paying tax as per optional tax regime • where assessee is paying tax as per default tax regime u/s 115BAC(1A)	10% of salary 14% of salary

For computation of limit under section 80CCD(1) and 80CCD(2), salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

ILLUSTRATION 5

The basic salary of Mr. A is ₹ 1,00,000 p.m. He is entitled to dearness allowance, which is 40% of basic salary. 50% of dearness allowance forms part of pay for retirement benefits. Both Mr. A and his employer, ABC Ltd., contribute 15% of basic salary to the pension scheme referred to in section 80CCD. Explain the tax treatment in respect of such contribution in the hands of Mr. A if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

What would be your answer if Mr. A pays tax under the default tax regime under section 115BAC?

SOLUTION

i. **Tax treatment in the hands of Mr. A in respect of employer's and own contribution to pension scheme referred to in section 80CCD, where Mr. A has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A) [i.e., where Mr. A pays tax under the normal provisions of the Act]**

a) Employer's contribution to such pension scheme would be treated as salary since it is specifically included in the definition of "salary" under section 17(1)(viii). Therefore, ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000, will be included in Mr. A's salary.

b) Mr. A's contribution to pension scheme is allowable as deduction under section 80CCD(1). However, the deduction is restricted to 10% of salary. Salary, for this purpose, means basic pay plus dearness allowance, if it forms part of pay.

Therefore, "salary" for the purpose of deduction under section 80CCD for Mr. A would be –

Particulars	₹
Basic salary = ₹ 1,00,000 × 12 =	12,00,000
Dearness allowance = 40% of ₹ 12,00,000 = ₹ 4,80,000	
50% of Dearness Allowance forms part of pay = 50% of ₹ 4,80,000	2,40,000

Salary for the purpose of deduction under section 80CCD	14,40,000
Deduction under section 80CCD(1) is restricted to 10% of ₹ 14,40,000 (as against actual contribution of ₹ 1,80,000, being 15% of basic salary of ₹ 12,00,000)	1,44,000
As per section 80CCD(1B), a further deduction of upto ₹ 50,000 is allowable. Therefore, deduction under section 80CCD(1B) is ₹ 36,000 (₹ 1,80,000 - ₹ 1,44,000).	36,000

₹ 1,44,000 is allowable as deduction under section 80CCD(1). This would be taken into consideration and be subject to the overall limit of ₹ 1,50,000 under section 80CCE. ₹ 36,000 allowable as deduction under section 80CCD(1B) is outside the overall limit of ₹ 1,50,000 under section 80CCE.

In the alternative, ₹ 50,000 can be claimed as deduction under section 80CCD(1B). The balance ₹ 1,30,000 (₹ 1,80,000- ₹ 50,000) can be claimed as deduction under section 80CCD(1).

c) Employer's contribution to pension scheme would be allowable as deduction under section 80CCD(2), subject to a maximum of 10% of salary. Therefore, deduction under section 80CCD(2), would also be restricted to ₹ 1,44,000, even though the entire employer's contribution of ₹ 1,80,000 is included in salary under section 17(1)(viii). However, this deduction of employer's contribution of ₹ 1,44,000 to pension scheme would be outside the overall limit of ₹ 1,50,000 under section 80CCE i.e., this deduction would be over and above the other deductions which are subject to the limit of ₹ 1,50,000

ii. Where Mr. A pays tax under the default tax regime under section 115BAC

Mr. A would not be eligible for deduction under section 80CCD(1)/(1B) in respect of his contribution to pension scheme under the default tax regime under section 115BAC. However, he would be allowed deduction of upto ₹ 2,01,600, being 14% of salary [₹ 14,40,000, computed in (i) above] under section 80CCD(2) in respect of employer's contribution to pension scheme. Accordingly, entire employer's contribution of ₹ 1,80,000 would be allowed as deduction under section 80CCD(2).

ILLUSTRATION 6

The gross total income of Mr. X for the A.Y.2025-26 is ₹ 8,00,000. He has made the following investments/payments during the F.Y.2024-25 –

Particulars		₹
(1)	Contribution to PPF	1,10,000
(2)	Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000

(3)	Repayment of housing loan taken from Standard Chartered Bank	25,000
(4)	Contribution to approved pension fund of LIC	1,05,000

Compute the eligible deduction under Chapter VI-A for the A.Y.2025-26 if Mr. X exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Computation of deduction under Chapter VI-A for the A.Y.2025-26

Particulars	₹
Deduction under section 80C	
- Contribution to PPF	1,10,000
- Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
- Repayment of housing loan	25,000
	1,80,000
Restricted to ₹1,50,000, being the maximum permissible deduction u/s 80C	1,50,000
Deduction under section 80CCC	
- Contribution to approved pension fund of LIC	1,05,000
	2,55,000
As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD(1) has to be restricted to ₹1,50,000	
Deduction allowable under Chapter VIA for the A.Y. 2025-26	**1,50,000**

Deduction in respect of contribution to Agnipath Scheme [Section 80CCH]

i. **Meaning of Agnipath scheme**: Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.

ii. **Meaning of Agniveer Corpus Fund:** The Agniveer Corpus Fund means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

iii. **Features of the Agnipath Scheme:** Each Agniveer is to contribute 30% of his monthly customized

Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the 'Agniveer Corpus Fund'. The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account.

iv. **Deduction:** Section 80CCH provides deduction in respect of contribution made in the Agniveer Corpus Fund by the individual enrolled in the Agnipath Scheme and the Central Government.

v. Quantum of deduction:

a) Section 80CCH(1) provides a deduction for the amount paid or deposited by an assessee, being an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1.11.2022, in his account in the Agniveer Corpus Fund.

Deduction u/s 80CCH(1) would be available to an individual only if he has exercised the option of shifting out of the default tax regime provided u/s 115BAC(1A).

b) Under section 80CCH(2), the whole amount of contribution made by the Central Government to the said account of an assessee in the Agniveer Corpus Fund, is allowed as a deduction in computation of the total income of the assessee

c) The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction under section 80CCH(2) would be available for the same.

Deduction u/s 80CCH(2) would be available to an individual irrespective of the regime under which he pays tax.

Exemption on payment from Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee [Section 10(12C)]

Any payment from the Agnipath Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee would be exempt from tax.

Deduction in respect of medical insurance premium [Section 80D]

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

The following table summarizes the provisions of section 80D –

<table>
<tr><th>S. No.</th><th>Nature of payment/ expenditure</th><th>Expenditure on behalf of</th><th>Deduction</th></tr>
<tr><td>I</td><td>1. Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health
2. Contribution to Central Government Health Scheme (CGHS)
3. Preventive health check up expenditure</td><td><table><tr><td>In case of individual</td><td>Self, spouse and dependent children</td></tr><tr><td>In case of HUF</td><td>Family member</td></tr></table>
In case any of the above persons is of the age of 60 years or more + resident in India</td><td>₹25,000

₹50,000</td></tr>
<tr><td>II</td><td>(i) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health
(ii) Preventive health check up</td><td>Parents

In case either or both the parents is of the age of 60 years or more + Resident in India</td><td>₹25,000

₹50,000</td></tr>
<tr><td colspan="4">Maximum ₹5,000 allowed as deduction for aggregate of preventive health check-up expenditure, by any mode including cash, mentioned in I and II (Subject to overall limit of ₹25,000 or ₹50,000, as the case may be)</td></tr>
<tr><td>III</td><td>Amount paid on account of medical expenditure</td><td>For self/spouse/parents + who is of the age of 60 years or more + Resident in India + no payment has been made to keep in force an insurance on the health of such person</td><td>₹50,000</td></tr>
</table>

Note: In case the individual or any of his family members is a senior citizen, the aggregate of deduction, in respect of payment of premium, contribution to CGHS and medical expenditure incurred, as specified in (I) & (III) above, cannot exceed ₹ 50,000.

In case one of the parents is a senior citizen who is covered under mediclaim policy and another is also a senior citizen but not covered under mediclaim policy, the aggregate of deduction, in respect of payment of medical insurance premium and medical expenditure incurred, as specified in (II) & (III) above, cannot exceed ₹ 50,000.

FOCUS AREA

- Deduction where premium for health insurance is paid in lump sum [Section 80D(4A)]

i. Appropriate fraction of lump sum premium allowable as deduction: In a case where mediclaim

premium is paid in lumpsum for more than one year by:

a) an individual, to effect or keep in force an insurance on his health or health of his spouse, dependent children or parents; or

b) a HUF, to effect or keep in force an insurance on the health of any member of the family,

then, the deduction allowable under this section for each of the relevant previous year would be equal to the appropriate fraction of such lump sum payment.

ii. Meaning of certain terms

Term	Meaning
Appropriate fraction	1 ÷ Total number of relevant previous years
Relevant previous year	The previous year in which such lump sum amount is paid; and the subsequent previous year(s) during which the insurance would be in force.

ILLUSTRATION 7

Mr. A, aged 40 years, paid medical insurance premium of ₹ 20,000 during the P.Y. 2024-25 to insure his health as well as the health of his spouse. He also paid medical insurance premium of ₹ 47,000 during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed ₹ 3,600 to Central Government Health Scheme during the year. He has incurred ₹ 3,000 in cash on preventive health check-up of himself and his spouse and ₹ 4,000 by cheque on preventive health check-up of his father. Compute the deduction allowable under section 80D for the A.Y. 2025-26 if Mr. A has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Deduction allowable under section 80D for the A.Y.2025-26

	Particulars	**Actual Payment ₹**	**Maximum deduction allowable ₹**
A.	Premium paid and medical expenditure incurred for self and spouse		
(i)	Medical insurance premium paid for self and spouse	20,000	20,000
(ii)	Contribution to CGHS	3,600	3,600
(iii)	Exp. on preventive health check-up of self & spouse	3,000	1,400
		26,600	**25,000**

B.	Premium paid or medical expenditure incurred for father, who is a senior citizen		
(i)	Mediclaim premium paid for father, who is over 60 years of age	47,000	47,000
(ii)	Expenditure on preventive health check-up of father	4,000	3,000
		51,000	**50,000**
	Total deduction under section 80D (₹ 25,000 + ₹ 50,000)		75,000

Notes:

1. The total deduction under A. (i), (ii) and (iii) above should not exceed ₹ 25,000. Therefore, the expenditure on preventive health check-up for self and spouse would be restricted to ₹ 1,400, being (₹ 25,000 – ₹ 20,000 – ₹ 3,600)
2. The total deduction under B. (i) and (ii) above should not exceed ₹ 50,000. Therefore, the expenditure on preventive health check-up for father would be restricted to ₹ 3,000, being (₹ 50,000 – ₹ 47,000).
3. In this case, the total deduction allowed on account of expenditure on preventive health check-up of self, spouse and father is ₹ 4,400 (i.e., ₹ 1,400 + ₹ 3,000), which is within the maximum permissible limit of ₹ 5,000.

ILLUSTRATION 8

Mr. Y, aged 40 years, paid medical insurance premium of ₹ 22,000 during the P.Y. 2024-25 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of ₹ 33,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him. He incurred medical expenditure of ₹ 20,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him. He contributed ₹ 6,000 to Central Government Health Scheme during the year. Compute the deduction allowable under section 80D for the A.Y. 2025-26 if Mr. Y has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Deduction allowable under section 80D for the A.Y.2025-26

Particulars	₹	₹
(i) Medical insurance premium paid for self, spouse and dependent children	22,000	
(ii) Contribution to CGHS	6,000	
	28,000	
restricted to		25,000

(iii)	Mediclaim premium paid for mother, who is over 60 years of age	33,000	
(iv)	Medical expenditure incurred for father, who is over 60 years of age and not covered by any insurance	20,000	
		53,000	
	restricted to		50,000
			75,000

Deduction in respect of maintenance including medical treatment of a dependant disabled [Section 80DD]

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

1. **Eligible assessee:** Section 80DD provides deduction to an assessee, who is a resident in India, being an individual or Hindu undivided family.
2. **Payments qualifying for deduction:**
   a) Any amount –
      - incurred for the 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 Life Insurance Corporation or any other insurer or the Administrator or the Specified Company2 for the maintenance of a dependant, being a person with disability

   qualifies for deduction.

   b) The benefit of deduction under this section is also available to assessees incurring expenditure on maintenance including medical treatment of persons suffering from autism, cerebral palsy and multiple disabilities.
3. **Quantum of deduction:** The quantum of deduction is ₹ 75,000 and in case of severe disability (i.e., person with 80% or more disability) the deduction shall be ₹ 1,25,000.
4. **Conditions:**
   a) The scheme should provide for payment of annuity or a lump sum amount for the benefit of a dependant, being a person with disability,

i. in the event of the death of the individual or member of the HUF, in whose name subscription was made; or

ii. on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued

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.

5. Deemed income:

If the dependent, being a person with disability, predeceases the individual or the member of HUF, in whose name subscription was made, then, the amount paid or deposited under the said scheme would be the deemed income and chargeable to tax in the hands of the assessee (individual or member of HUF) in the previous year in which such amount is received by him.

However, such deeming provisions would not apply, to the amount received by the dependent, being a person with disability, before his death, by way of annuity or lump sum under the scheme mentioned in II of (a) above i.e., when the individual or member of HUF attains the age of 60 years or more, and the payment or deposit to such scheme has been discontinued.

6. Meaning of "Dependent":

	Assessee	Dependant
(1)	Individual	the spouse, children, parents, brother or sister of the individual who is wholly or mainly dependant on such individual and not claimed deduction under section 80U in the computation of his income
(2)	HUF	a member of the HUF, wholly or mainly dependant on such HUF and not claimed deduction under section 80U in the computation of his income

ILLUSTRATION 9

Mr. X is a resident individual. He deposits a sum of ₹ 50,000 with Life Insurance Corporation every year for the maintenance of his disabled grandfather who is wholly dependent upon him. The disability is one which comes under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A copy of the certificate from the medical authority is submitted. Compute the amount of deduction available under section 80DD for the A.Y. 2025-26, if Mr. X has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Since the amount deposited by Mr. X was for his grandfather, he will not be allowed any deduction under section 80DD. The deduction is available if the individual assessee incurs any expense for a "dependant" disabled person. Grandfather does not come within the meaning of "dependant" as defined under section 80DD.

ILLUSTRATION 10

What will be the deduction if Mr. X had made this deposit for his dependant father?

SOLUTION

Since the expense was incurred for a dependant disabled person, Mr. X will be entitled to claim a deduction of ₹ 75,000 under section 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be ₹ 1,25,000.

Deduction in respect of medical treatment etc. [Section 80DDB]

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

i. **Eligible assessee:** This section provides deduction to an assessee, who is resident in India, being an individual and Hindu undivided family. The deduction is available to an individual for medical expenditure incurred on himself or a dependant. It is also available to a Hindu undivided family (HUF) for such expenditure incurred on any of its members.

ii. Meaning of "Dependent":

	Assessee	Dependent
(1)	Individual	the spouse, children, parents, brother or sister of the individual or any of them, wholly or mainly dependant on such individual for his support and maintenance.
(2)	HUF	a member of the HUF, wholly or mainly dependant on such HUF for his support and maintenance.

iii. **Payment qualifying for deduction:** Any amount actually paid for the medical treatment of such disease or ailment as may be specified 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.

iv. **Quantum of deduction:** The amount of deduction under this section shall be equal to the amount actually paid or ₹ 40,000, whichever is less, in respect of that previous year in which such amount was actually paid.

In case the amount is paid in respect of a senior citizen, i.e., a resident individual of the age of 60 years or more at any time during the relevant previous year, then the deduction would be the amount actually paid or ₹ 1,00,000, whichever is less.

The deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the assessee or the dependant.

v. **Maximum deduction:** The maximum limit of deduction under section 80DDB for these two categories of dependant are summarized hereunder:

	Dependent	Maximum limit (₹)
(1)	A senior citizen, being a resident individual	1,00,000
(2)	Other than a senior citizen	40,000

vi. **Condition:** No such deduction shall be allowed unless the assessee obtains the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a hematologist, an immunologist or such other specialist, as may be prescribed

Deduction in respect of interest on loan taken for higher education [Section 80E]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

1. **Eligible assessee:** Section 80E provides deduction to an individual-assessee in respect of any interest on loan paid by him in the previous year out of his income chargeable to tax.
2. **Conditions:** The loan must have been taken for the purpose of pursuing his higher education or for the purpose of higher education of his or her relative. The loan must have been taken from any financial institution or approved charitable institution.
3. **Meaning of certain terms:**

	Term	Meaning
(a)	Relative	Spouse and children of the individual or the student for whom the individual is the legal guardian

(b)	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.
(c)	Period of deduction	The deduction is allowed in computing the total income in respect of the initial assessment year (i.e. the assessment year relevant to the previous year, in which the assessee starts paying the interest on the loan) and seven assessment years immediately succeeding the initial assessment year or until the interest is paid in full by the assessee, whichever is earlier.
(d)	Approved charitable institution	It means an institution established for charitable purposes and approved by the prescribed authority3 or an institution referred to in section 80G(2)(a).
(e)	Financial institution	It means – 1. a banking company to which the Banking Regulation Act, 1949 applies (including a bank or banking institution referred to in section 51 of the Act); or 2. any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf

ILLUSTRATION 11

Mr. B has taken three education loans on April 1, 2024, the details of which are given below:

	Loan 1	Loan 2	Loan 3
For whose education loan was taken	B	Son of B	Daughter of B
Purpose of loan	MBA	B. Sc.	B.A.
Amount of loan (₹)	5,00,000	2,00,000	4,00,000
Annual repayment of loan (₹)	1,00,000	40,000	80,000
Annual repayment of interest (₹)	20,000	10,000	18,000

Compute the amount deductible under section 80E for the A.Y.2025-26 if Mr. B has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Deduction under section 80E is available to an individual assessee exercising the option of shifting out of the default tax regime provided under section 115BAC(1A), in respect of any interest paid by him in the previous year in respect of loan taken for pursuing his higher education or higher education of his spouse or children. Higher education means any course of study pursued after senior secondary examination.

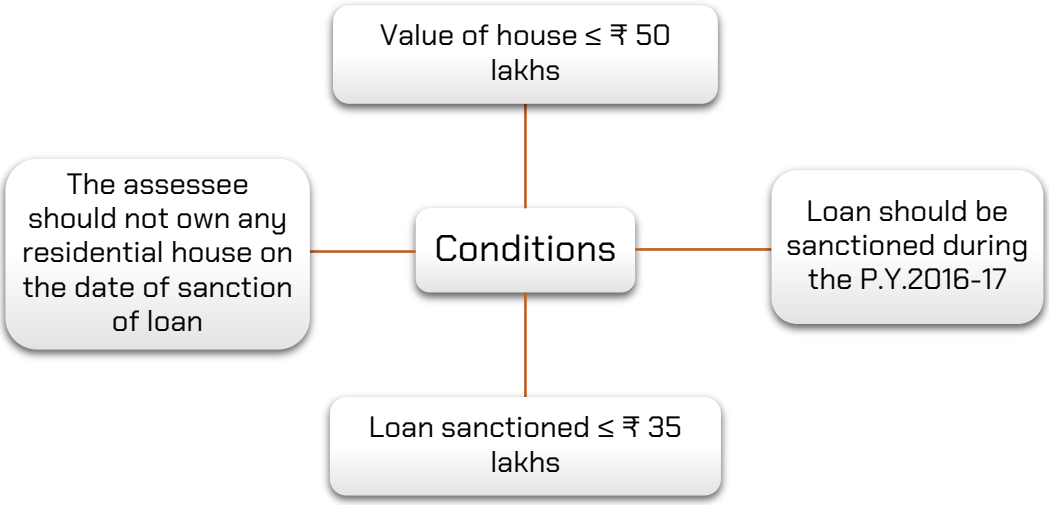
Therefore, interest repayment in respect of all the above loans would be eligible for deduction.

Deduction under section 80E = ₹ 20,000 + ₹ 10,000 + ₹ 18,000 = ₹ 48,000.

Deduction for interest payable on loan borrowed for acquisition of residential house property by an individual [Section 80EE]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

1. **Eligible assessee:** An individual who has taken a loan for acquisition of residential house property from any financial institution. Interest payable on such loan would qualify for deduction under this section.
2. **Conditions:** The conditions to be satisfied for availing this deduction are as follows –



3. **Period of benefit:** The benefit of deduction under this section would be available till the repayment of loan continues.
4. **Quantum of deduction:** The maximum deduction allowable is ₹ 50,000. The deduction of upto ₹ 50,000 under section 80EE is over and above the deduction of upto ₹ 2,00,000 available under section 24 for interest paid in respect of loan borrowed for acquisition of a self-occupied property.

5. **No deduction under any other provision:** The interest allowed as deduction under section 80EE will not be allowed as deduction under any other provision of the Act for the same or any other assessment year.

6. **Meaning of certain terms:**

	Term	Meaning
(a)	Financial institution	○ A banking company to which the Banking Regulation Act, 1949 applies; or ○ Any bank or banking institution referred to in section 51 of the Banking Regulation Act, 1949; or ○ A housing finance company.
(b)	Housing finance company	A public company formed or 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.

ILLUSTRATION 12

Mr. A purchased a residential house property for self-occupation at a cost of ₹ 45 lakh on 1.4.2017, in respect of which he took a housing loan of ₹ 35 lakh from Bank of India@11% p.a. on the same date. The loan was sanctioned on 28th March, 2017. Compute the eligible deduction in respect of interest on housing loan for A.Y.2025-26 if Mr. A has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A), assuming that the entire loan was outstanding as on 31.3.2025 and he does not own any other house property

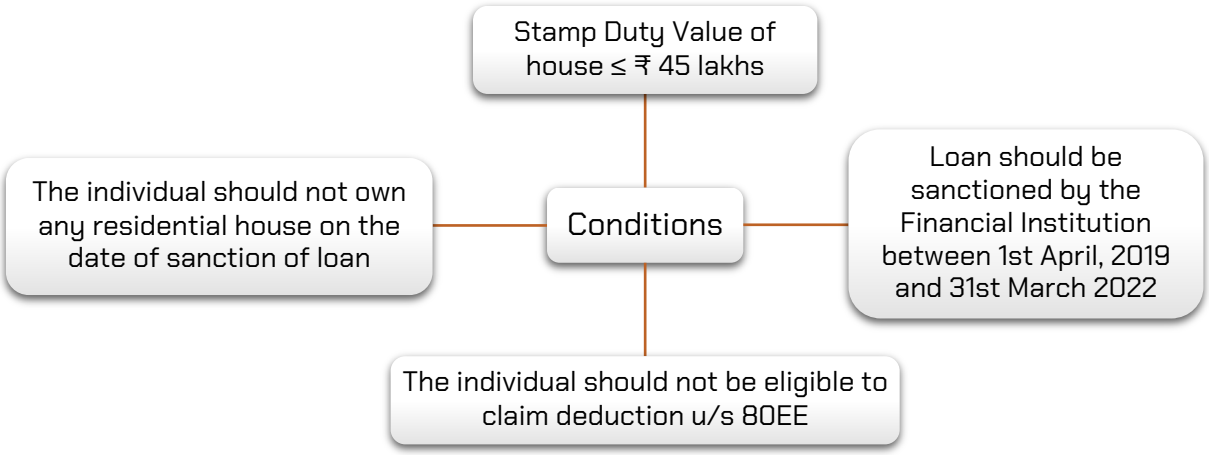
SOLUTION

Particulars	₹
Interest deduction for A.Y.2025-26 (i) Deduction allowable while computing income under the head "Income from house property" Deduction under section 24(b) ₹3,85,000 [₹ 35,00,000 × 11%]	
Restricted to	2,00,000
(ii) Deduction under Chapter VI-A from Gross Total Income Deduction under section 80EE ₹ 1,85,000 [₹ 3,85,000 – ₹ 2,00,000] Restricted to	50,000

Deduction for interest payable on loan borrowed for acquisition of residential house property [Section 80EEA]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

1. **Eligible assessee:** An individual who has taken a loan for acquisition of residential house property from any financial institution. Interest payable on such loan would qualify for deduction under this section.
2. **Conditions:** The conditions to be satisfied for availing this deduction are as follows –

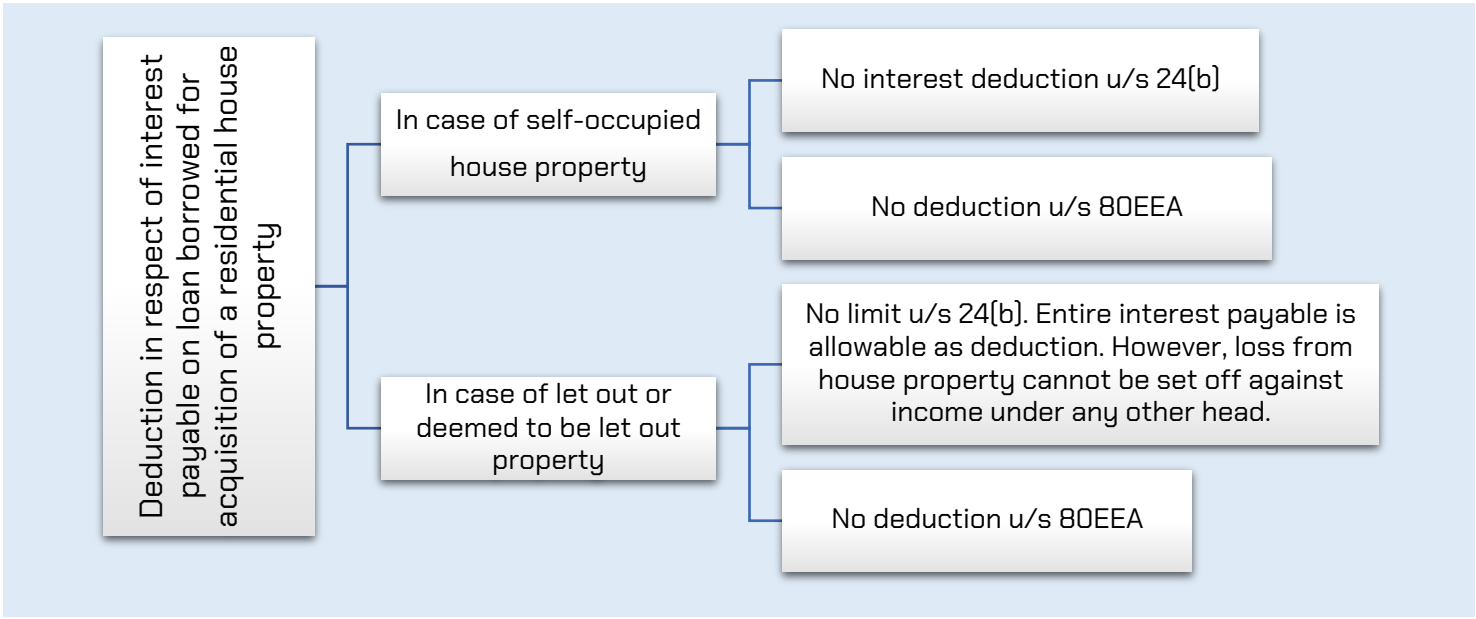


3. **Period of benefit:** The benefit of deduction under this section would be available for interest payable for each assessment year.
4. **Quantum of deduction:** The maximum deduction allowable is ₹ 1,50,000. The deduction of upto ₹ 1,50,000 under section 80EEA is over and above the deduction available under section 24(b) in respect of interest payable on loan borrowed for acquisition of a residential house property.
5. **No deduction under any other provision:** 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.
6. **Meaning of certain terms:**

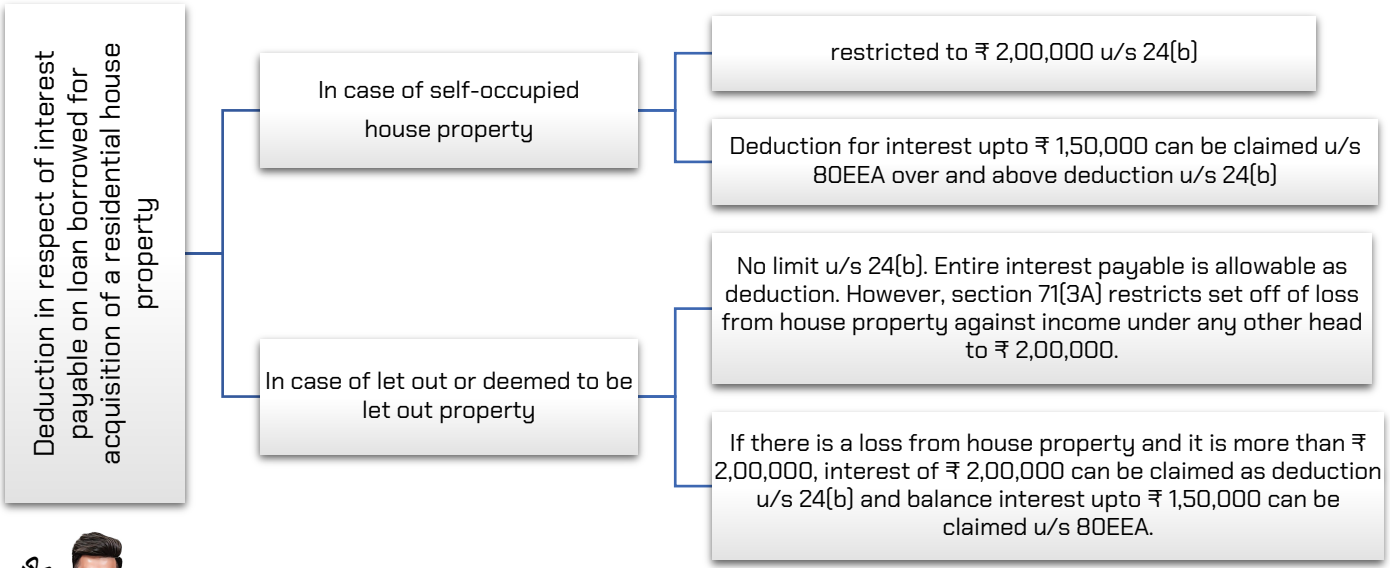
	Term	Meaning
(a)	Financial institution	○ A banking company, to which the Banking Regulation Act, 1949 applies; or ○ Any bank or banking institution referred to in section 51 of the Banking Regulation Act, 1949; or

		○ A housing finance company.
(b)	Housing finance company	A public company formed or 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.

In case the assessee pays tax under default tax regime under section 115BAC



In case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

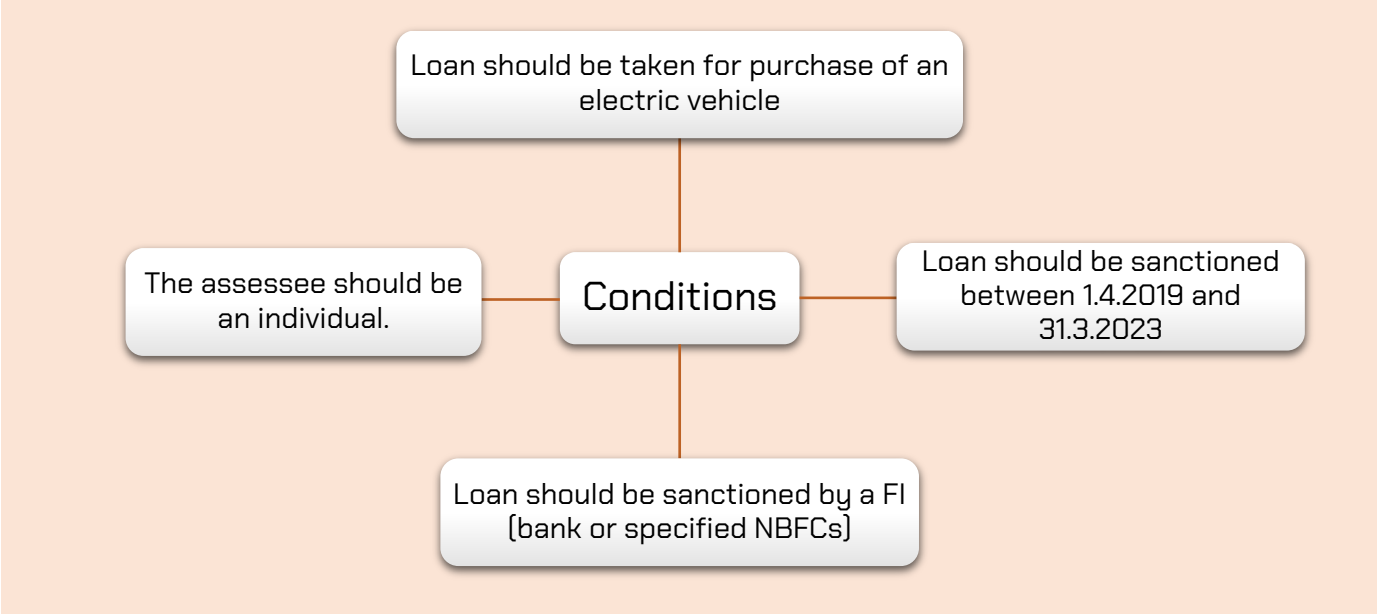


Deduction in respect of interest payable on loan taken for purchase of electric vehicle [Section 80EEB]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

I. **Eligible Assessee:** An individual who has taken a loan for purchase of an electric vehicle from any financial institution. Interest payable on such loan would qualify for deduction under this section.

II. **Conditions:** The conditions to be satisfied for availing this deduction are as follows –



III. **Period of benefit:** The benefit of deduction under this section would be available for interest payable on such loan for each assessment year.

IV. **Quantum of deduction:** Interest payable, subject to a maximum of ₹ 1,50,000.

V. **No deduction under any other provision:** 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.

VI. **Meaning of certain terms:**

	Term	Meaning
(a)	Financial institution	○ A banking company to which the Banking Regulation Act, 1949 applies; or

		○ Any bank or banking institution referred to in section 51 of the Banking Regulation Act, 1949; or ○ Any deposit taking NBFC; or ○ A systemically important non-deposit taking NBFC i.e., a NBFC which is not accepting or holding public deposits and having total assets of not less than ₹ 500 crore as per the last audited balance sheet and is registered with the RBI.
(b)	Electric Vehicle	A vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle. The vehicle

ILLUSTRATION 13

The following are the particulars relating to Mr. A, Mr. B, Mr. C and Mr. D, salaried individuals, for A.Y. 2025-26 –

Particulars	Mr. A	Mr. B	Mr. C	Mr. D
Amount of loan taken	₹ 43 lakhs	₹ 45 lakhs	₹ 20 lakhs	₹ 15 lakhs
Loan taken from	HFC	Deposit taking NBFC	Deposit taking NBFC	Public sector bank
Date of sanction of loan	1.4.2021	1.4.2020	1.4.2020	30.3.2019
Date of disbursement of loan	1.5.2021	1.5.2020	1.5.2020	1.5.2019
Purpose of loan	Acquisition of residential house property for self-occupation	Acquisition of residential house property for self-occupation	Purchase of electric vehicle for personal use	Purchase of electric vehicle for personal use
Stamp duty value of house property	₹ 45 lakhs	₹ 48 lakhs	-	-
Cost of electric vehicle	-	-	₹ 22 lakhs	₹ 18 lakhs
Rate of interest	9% p.a.	9% p.a.	10% p.a.	10% p.a.

Compute the amount of deduction, if any, allowable under the provisions of the Income-tax Act, 1961 for A.Y.2025-26 in the hands of Mr. A, Mr. B, Mr. C and Mr. D if they have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). Assume that there has been no principal repayment in respect of any of the above loans upto 31.3.2025.

SOLUTION

9643036663 (only WhatsApp)

Particulars	₹
Mr. A **Interest deduction for A.Y.2025-26**	
a. Deduction allowable while computing income under the head "Income from house property" Deduction u/s 24(b) ₹ 3,87,000 [₹ 43,00,000 × 9%] Restricted to	2,00,000
b. Deduction under Chapter VI-A from Gross Total Income Deduction u/s 80EEA ₹ 1,87,000 [₹ 3,87,000 – ₹ 2,00,000] Restricted to	1,50,000
Mr. B **Interest deduction for A.Y.2025-26**	
1. Deduction allowable while computing income under the head "Income from house property" Deduction u/s 24(b) ₹ 4,05,000 [₹ 45,00,000 × 9%] Restricted to	2,00,000
2. Deduction under Chapter VI-A from Gross Total Income Deduction u/s 80EEA is not permissible since: ○ loan is taken from NBFC ○ stamp duty value exceeds ₹ 45 lakh. Deduction under section 80EEA would not be permissible due to either violation listed above.	Nil
Mr. C Deduction under Chapter VI-A from Gross Total Income Deduction u/s 80EEB for interest payable on loan taken for purchase of electric vehicle [₹ 20 lakhs x 10% = ₹ 2,00,000, restricted to ₹ 1,50,000, being the maximum permissible deduction]	1,50,000
Mr. D Deduction under Chapter VI-A from Gross Total Income Deduction u/s 80EEB is not permissible since loan was sanctioned before 1.4.2019.	Nil

Deduction in respect of donations to certain funds, charitable institutions etc. [Section 80G]

i. **Eligible assessee:** An assessee who pays any sum as donation to eligible funds or institutions, is entitled to a deduction, subject to certain limitations, from the gross total income.

In case of an individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person, deduction would be available only if they have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). It would not be available if they pay concessional rates of tax under the default tax regime u/s 115BAC.

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/115BAB and section 115BAD/115BAE, respectively. In other words, deduction would be available only if they pay tax under the normal provisions of the Act.

ii. Quantum of deduction:

There are four categories of deductions. The following table gives the details of the institutions and funds to which donations can be made for the purpose of claiming deduction under section 80G, –

I	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 constituted in any district for improvement of 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 in India of the services related to 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 dependents.
(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 Development 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
(24)	Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM Cares Fund)

II	Donation qualifying for 50% deduction, without any qualifying limit
(1)	Prime Minister's Drought Relief Fund
III	Donation qualifying for 100% deduction, subject to qualifying limit
(1)	The Government or to any approved local authority, institution or association 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 for the development of infrastructure for sports or games, or the sponsorship of sports and games in India
IV	Donation qualifying for 50% deduction, subject to qualifying limit
(1)	Any Institution or Fund established in India for charitable purposes fulfilling prescribed conditions

(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 dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or both
(4)	Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community
(5)	for renovation or repair of Notified temple, mosque, gurdwara, church or other place of historic, archaeological or artistic importance or which is a place of public worship of renown throughout any State or States

iii. **Qualifying limit:** The eligible donations referred to in III and IV should be aggregated and the sum total should be limited to 10% of the adjusted gross total income. This would be the maximum permissible deduction.

The donations qualifying for 100% deduction would be first adjusted from the maximum permissible deduction and thereafter 50% deduction of the balance would be allowed.

Steps for computation of qualifying limit

Step 1:	Compute adjusted total income i.e., the GTI as reduced by the following: I. Deductions under Chapter VI-A, except under section 80G II. Short-term capital gain taxable under section 111A III. Long-term capital gains taxable under sections 112 & 112A IV. Any income on which income-tax is not payable
Step 2:	Calculate 10% of adjusted total income
Step 3:	Calculate the actual donation, which is subject to qualifying limit (Total of Category III and IV donations, shown in the table above)
Step 4:	Lower of Step 2 or Step 3 is the maximum permissible deduction.
Step 5:	The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category III donations). Thereafter, 50% of balance qualifies for deduction under section 80G.

iv. Other points:

1. 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.
2. Donations in kind shall not qualify for deduction

3. No deduction shall be allowed in respect of donation of any sum exceeding ₹ 2,000 unless such sum is paid by any mode other than cash.
4. The deduction under section 80G can be claimed whether it has any nexus with the business of the assessee or not.
5. As per Circular No.2/2005 dated 12.1.2005, in cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund through their respective employers, it is not possible for such funds to issue separate certificate to every such employee in respect of donations made to such funds as contributions made to these funds are in the form of a consolidated cheque. An employee who makes donations towards these funds is eligible to claim deduction under section 80G. It is, hereby, clarified that the claim in respect of such donations as indicated above will be admissible under section 80G on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf.
6. The claim of the assessee for deduction in respect of any donation made to an institution or fund [referred to in point (1) under (IV) "Donation qualifying for 50% deduction, subject to qualifying limit"], in the return of income for any assessment year filed by him, will be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority or person authorized by such authority, subject to verification as per the risk management strategy formulated by the CBDT from time to time.

ILLUSTRATION 14

Mr. Shiva aged 58 years, has gross total income of ₹ 7,75,000 comprising of income from salary and house property. He has made the following payments and investments:

i. Premium paid to insure the life of her major daughter (policy taken on 1.4.2018) (Assured value ₹ 1,80,000) – ₹ 20,000.
ii. Medical Insurance premium for self – ₹ 12,000; Spouse – ₹ 14,000
iii. Donation to a public charitable institution ₹ 50,000 by way of cheque.
iv. LIC Pension Fund – ₹ 60,000
v. Donation to National Children's Fund - ₹ 25,000 by way of cheque
vi. Donation to Prime Minister's Drought Relief Fund - ₹ 25,000 by way of cheque
vii. Donation to approved institution for promotion of family planning - ₹ 40,000 by way of cheque
viii. Deposit in PPF – ₹ 1,00,000

Compute the total income of Mr. Shiva for A.Y. 2025-26 if he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

Computation of Total Income of Mr. Shiva for A.Y. 2025-26

Particulars	₹	₹
Gross Total Income		7,75,000
Less: Deduction under section 80C		
Deposit in PPF	1,00,000	
Life insurance premium paid for insurance of major daughter (Maximum 10% of the assured value ₹ 1,80,000, as the policy is taken after 31.3.2012)	18,000	
	1,18,000	
Deduction under section 80CCC in respect of LIC pension fund	60,000	
	1,78,000	
As per section 80CCE, deduction under section 80C &80CCC is restricted to		1,50,000
Deduction under section 80D		
Medical Insurance premium in respect of self and spouse	26,000	25,000
Restricted to		
Deduction under section 80G (See Working Note		87,500
below)		
Total income		**5,12,500**

Working Note: Computation of deduction under section 80G

	Particulars of donation	Amount donated (₹)	% of deduction	Deduction u/s 80G (₹)
(i)	National Children's Fund	25,000	100%	25,000
(ii)	Prime Minister's Drought Relief Fund	25,000	50%	12,500
(iii)	Approved institution for promotion of family planning	40,000	100%, subject to qualifying limit	40,000
(iv)	Public Charitable Trust	50,000	50% subject to qualifying limit (See Note below)	10,000
				87,500

Note - Adjusted total income = Gross Total Income – Amount of deductions under section 80C to 80U except section 80G i.e., ₹ 6,00,000, in this case.

₹ 60,000, being 10% of adjusted total income is the qualifying limit, in this case.

Firstly, donation of ₹ 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, has to be adjusted against this amount. Thereafter, donation to public charitable trust qualifying for 50% deduction, subject to qualifying limit is adjusted. Hence, the contribution of ₹ 50,000 to public charitable trust is restricted to 20,000 (being, ₹ 60,000 - ₹ 40,000), 50% of which would be the deduction under section 80G. Therefore, the deduction under section 80G in respect of donation to public charitable trust would be ₹ 10,000, which is 50% of ₹ 20,000.

Deduction in respect of rent paid [Section 80GG]

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

i. **Eligible assessee:** Assessee, who is not in receipt of HRA qualifying for exemption under section 10(13A) from employer and who pays rent for accommodation occupied by him for residential purposes.

ii. **Conditions:** The following conditions have to be satisfied for claiming deduction under section 80GG –

1. The assessee should not be receiving any house rent allowance exempt under section 10(13A).
2. The expenditure incurred by him on rent of any furnished or unfurnished accommodation should exceed 10% of his total income arrived at after all deductions under Chapter VI-A except section 80GG.
3. The accommodation should be occupied by the assessee for the purposes of his own residence.
4. The assessee should fulfill such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations.
5. The assessee or his spouse or his minor child or a 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
6. 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).
7. The assessee should file a declaration in the prescribed form, confirming the details of rent paid and fulfillment of other conditions, with the return of income

iii. **Quantum of deduction:** The deduction admissible will be the least of the following:

1. Actual rent paid minus 10% of the total income of the assessee before allowing the deduction, or

2. 25% of such total income (arrived at after making all deductions under Chapter VI A but before making any deduction under this section), or
3. Amount calculated at ₹ 5,000 p.m.

ILLUSTRATION 15

Mr. Ganesh, a businessman, whose total income (before allowing deduction under section 80GG) for A.Y.2025-26 is ₹ 4,60,000, paid house rent at ₹ 12,000 p.m. in respect of residential accommodation occupied by him at Mumbai. Compute the deduction allowable to him under section 80GG for A.Y.2025-26 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

The deduction under section 80GG will be computed as follows:

1. Actual rent paid less 10% of total income

$$₹\ 1,44,000\ (-)\ \frac{(10 \times 4,60,000)}{100} =\ ₹\ 98,000$$

2. 25% of total income = $\frac{25 \times 4,60,000}{100}$ = ₹ 1,15,000

3. Amount calculated at ₹ 5,000 p.m. = ₹ 60,000

Deduction allowable u/s 80GG [least of (i), (ii) and (iii)] = ₹ 60,000

Deduction in respect of donations for scientific research and rural development [Section 80GGA]

I. **Eligible assessee:** Any assessee not having income chargeable under the head "Profits and gains of business or profession", who makes donations for scientific research or rural development.
An individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person will be eligible for deduction u/s 80GGA only if they have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

II. **Donations qualifying for deduction:**

a) Any sum paid by the assessee in the previous year to a research association which has, as its object, the undertaking of scientific research or to a University, college or other institution to be used for scientific research;

Such association, University, college or institution must be approved under section 35(1)(ii).

b) Any sum paid to a research association which has as its object the undertaking of research in social science or statistical research, University, College or other institution to be used for research in social science or statistical research.
Such association, University, college or institution must be approved under section 35(1)(iii).

c) Any sum paid by the assessee in the previous year to an association or institution which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved by the prescribed authority for purposes of section 35CCA or to an institution or association which has as its object the training of persons for implementing programmes of rural development.
It has been clarified that the deduction to which an assessee (i.e. donor) is entitled on account of payment of any sum to
- a research association or university or college or other institution for scientific research or research in a social science or statistical research or
- an association or institution for carrying out the programme of rural development or
shall not be denied merely on the ground that subsequent to payment of such sum by the assessee, the approval granted to any of the aforesaid entities is withdrawn.

d) Any sum paid to a public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme.
It has been clarified that the deduction to which an assessee (i.e. donor) is entitled on account of above shall not be denied merely on the ground that subsequent to payment of such sum by the assessee, the approval granted to any of the aforesaid entities is withdrawn or the notification notifying the eligible project or scheme carried out aforesaid entities has been withdrawn.

e) Any sum paid to a rural development fund set up and notified under section 35CCA.

f) Any sum paid by the assessee in the previous year to National Urban Poverty Eradication Fund (NUPEF).

III. Restrictions on deduction:

1. No deduction under this section would be allowed in the case of an assessee whose gross total income includes income which is chargeable under the head "Profits and gains of business or profession."

2. Where a deduction under this section is claimed and allowed for any assessment year, deduction shall not be allowed in respect of such payment under any provision of this Act for the same or any other assessment year.

3. No deduction shall be allowed in respect of donation of any sum exceeding ₹ 2,000 unless such sum is paid by any mode other than cash.

4. The claim of the assessee for deduction in respect of any sum referred to under "(ii) Donations qualifying for deduction" in the return of income for any assessment year filed by him, will be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or person authorized by such authority, subject to verification as per the risk management strategy formulated by the CBDT from time to time.

Deduction in respect of contributions given by companies to political parties [Section 80GGB]

I. Deduction & Conditions: This section provides for deduction of any sum contributed in the previous year by an Indian company4 to any political party or an electoral trust. However, no deduction shall be allowed in respect of any sum contributed by way of cash.

II. Meaning of "Contribute": For the purposes of this section, the word "contribute" has the same meaning assigned to it under section 293A of the Companies Act, 19565 , which provides that –

a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;

b) the expenditure incurred, directly or indirectly, by a company on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

III. Meaning of "Political party": It means a political party registered under section 29A of the Representation of the People Act, 1951.

ILLUSTRATION 16

During the P.Y. 2024-25, ABC Ltd., an Indian company,

1) contributed a sum of ₹ 2 lakh to an electoral trust; and

2) incurred expenditure of ₹ 25,000 on advertisement in a brochure of a political party

Is the company eligible for deduction in respect of such contribution/expenditure, assuming that the contribution was made by cheque? If so, what is the quantum of deduction? ABC Ltd. does not opt for section 115BAA/115BAB.

SOLUTION

An Indian company is eligible for deduction under section 80GGB in respect of any sum contributed by it in the previous year to any political party or an electoral trust. Further, the word "contribute" in section 80GGB has the meaning assigned to it in section 293A of the Companies Act, 1956, and accordingly, it includes the amount

of expenditure incurred on advertisement in a brochure of a political party.

Therefore, ABC Ltd. is eligible for a deduction of ₹ 2,25,000 under section 80GGB in respect of sum of ₹ 2 lakh contributed to an electoral trust and ₹ 25,000 incurred by it on advertisement in a brochure of a political party.

It may be noted that there is a specific disallowance under section 37(2B) in respect of expenditure incurred on advertisement in a brochure of a political party. Therefore, the expenditure of ₹ 25,000 would be disallowed while computing business income/gross total income. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income under section 80GGB.

Deduction in respect of contributions given by any person to political parties [Section 80GGC]

a) **Deduction & Conditions:** This section provides for deduction of any sum contributed in the previous year by any person to a political party or an electoral trust. However, no deduction shall be allowed in respect of any sum contributed by way of cash.

b) **Persons not eligible for deduction:** This deduction will, however, not be available to a local authority and an artificial juridical person, wholly or partly funded by the Government.

c) **Meaning of "Political party":** It means a political party registered under section 29A of the Representation of the People Act, 1951.

An individual, HUF, AoP (other than a co-operative society) or BoI would be eligible for deduction u/s 80GGC only if they have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). A co-operative society will not be eligible for deduction if it opts for special provisions of section 115BAD/115BAE.

DEDUCTIONS IN RESPECT OF CERTAIN INCOMES

Deduction in respect of employment of new employees [Section 80JJAA]

I. **Quantum and period of deduction:** Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the previous year, would be allowed for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

II. **Conditions to be fulfilled:** The deduction would be allowed only subject to fulfilment of the following conditions:

The business should not be formed by splitting up, or the reconstruction, of an existing business

The business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation

The report of the accountant, giving the prescribed particulars, has to be furnished before 30th September of the A.Y., being the specified date referred to in Section 44AB i.e., the date one month prior to due date for filing ROI u/s 139(1)

III. Meaning of certain terms:

	Term	Meaning	
(a)	Additional employee cost	Total emoluments paid or payable to additional employees employed during the previous year.	
		In the case of an existing business	The additional employee cost shall be Nil, if - (a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year; (b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through any other prescribed electronic mode [credit card, debit card, net banking, IMPS (Immediate Payment Services), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Fund Transfer), BHIM (Bharat Interface for Money) Aadhar Pay].
		In the first year of a new business	The emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost.

(b)	Additional employee	An employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year. Exclusions from the definition: (a) an employee whose total emoluments are more than ₹ 25,000 per month; or (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or (c) an employee who does not participate in the recognised provident fund. (d) an employee employed for a period of less than 240 days during the previous year. In case of an assessee engaged in the business of manufacturing of apparel or footwear or leather products, an employee employed for a period of less than 150 days during the previous year; or Note – If an employee is employed during the previous year for less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year. Accordingly, the employer would be entitled to deduction of 30% of additional employee cost of such employees for three years from the succeeding year.
(c)	Emoluments	any sum paid or payable to an employee in lieu of his employment by whatever name called. Exclusions from the definition: (a) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and (b) any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

ILLUSTRATION 17

Mr. A has commenced the business of manufacture of computers on 1.4.2024. He employed 350 new employees during the P.Y. 2024-25, the details of whom are as follows –

	No. of employees	Date of employment	Regular/ Casual	Total monthly emoluments per employee (₹)
(i)	75	1.4.2024	Regular	24,000
(ii)	125	1.5.2024	Regular	26,000
(iii)	50	1.8.2024	Casual	24,500
(iv)	100	1.9.2024	Regular	24,000

The regular employees participate in recognized provident fund while the casual employees do not. Compute the deduction, if any, available to Mr. A for A.Y. 2025-26, if the profits and gains derived from manufacture of computers that year is ₹ 75 lakhs and his total turnover is ₹ 10.16 crores.
What would be your answer if Mr. A has commenced the business of manufacture of footwear on 1.4.2024?

SOLUTION

Mr. A is eligible for deduction under section 80JJAA since he is subject to tax audit under section 44AB for A.Y. 2025-26 and he has employed "additional employees" during the P.Y. 2024-25.

I. If Mr. A is engaged in the business of manufacture of computers

Additional employee cost = ₹ 24,000 × 12 × 75 [See Working Note below] = ₹ 2,16,00,000
Deduction under section 80JJAA = 30% of ₹ 2,16,00,000 = ₹ 64,80,000.

Working Note:

Number of additional employees

Particulars		No. of workmen
Total number of employees employed during the year		350
Less: Casual employees employed on 1.8.2024 who do not participate in recognized provident fund	50	
Regular employees employed on 1.5.2024, since their total monthly emoluments exceed ₹ 25,000	125	
Regular employees employed on 1.9.2024 since they have been employed for less than 240 days in the P.Y.2024-25.	100	275
Number of "additional employees"		75

Notes –

1) Since casual employees do not participate in recognized provident fund, they do not qualify as additional employees. Further, 125 regular employees employed on 1.5.2024 also do not qualify as additional employees since their monthly emoluments exceed ₹ 25,000. Also, 100 regular employees employed on 1.9.2024 do not qualify as additional employees for the P.Y.2024-25, since they are employed for less than 240 days in that year.

   Therefore, only 75 employees employed on 1.4.2024 qualify as additional employees, and the total emoluments paid or payable to them during the P.Y.2024-25 is deemed to be the additional employee cost

2) As regards 100 regular employees employed on 1.9.2024, they would be treated as additional employees for previous year 2025-26, if they continue to be employees in that year for a minimum period of 240 days. Accordingly, 30% of additional employee cost in respect of such employees would be allowable as deduction under section 80JJAA in the hands of Mr. A for the A.Y. 2026-27.

II. If Mr. A is engaged in the business of manufacture of footwear

If Mr. A is engaged in the business of manufacture of footwear, then, he would be entitled to deduction under section 80JJAA in respect of employee cost of regular employees employed on 1.9.2024, since they have been employed for more than 150 days in the previous year 2024-25.

Additional employee cost = ₹ 2,16,00,000 + ₹ 24,000 × 7 × 100 = ₹ 3,84,00,000
Deduction under section 80JJAA = 30% of ₹ 3,84,00,000 = ₹ 1,15,20,000.

Deduction in respect of royalty income, etc., of authors of certain books other than text books [Section 80QQB]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

(i) Eligible assessee & Quantum of deduction: Under section 80QQB, deduction of up to a maximum ₹ 3,00,000 is allowed to an individual resident in India in respect of income derived as author or joint author i.e., the deduction shall be the income derived as author or as joint author or ₹ 3,00,000, whichever is less.

(ii) Eligible Income:

a) This income may be received either by way of a lumpsum consideration for the assignment or grant of any of his interests in the copyright of any book.

b) Such book should be a work of literary, artistic or scientific nature, or of royalties or copyright fees (whether receivable in lump sum or otherwise) in respect of such book.

c) This deduction shall not, however, be available in respect of royalty income from textbook for

schools, guides, commentaries, brochures, diaries, magazines, newspapers, journals, pamphlets, tracts and other publications of similar nature.

Note - Where an assessee claims deduction under this section, no deduction in respect of the same income may be claimed under any other provision of the Income-tax Act, 1961.

(iii) Manner of computation of deduction: For the purpose of calculating the deduction under this section, the amount of eligible income (royalty or copyright fee received otherwise than by way of lumpsum) before allowing expenses attributable to such income, shall not exceed 15% of the value of the books sold during the previous year.

However, this condition is not applicable where the royalty or copyright fees is receivable in lump sum in lieu of all rights of the author in the book.

(iv) Conditions:

a) Furnishing of certificate in prescribed form: For claiming the deduction, the assessee shall have to furnish a certificate in the prescribed manner in the prescribed format, duly verified by the person responsible for making such payment, setting forth such particulars as may be prescribed.

b) Period for repatriation of income earned outside India: Where the assessee earns any income from any source outside India, he should bring such income into India in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf for the purpose of claiming deduction under this section.

The competent authority shall mean the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

ILLUSTRATION 18

Mr. Aakash earned royalty of ₹ 2,88,000 from a foreign country for a book authored by him, being a work of literary nature. The rate of royalty is 18% of value of books. The expenditure incurred by him for earning this royalty was ₹ 40,000. The amount remitted to India till 30th September, 2025 is ₹ 2,30,000. The remaining amount was not remitted till 31st March, 2026. Compute the amount includible in the gross total income of Mr. Aakash and the amount of deduction which he will be eligible for under section 80QQB if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

The net royalty of ₹ 2,48,000 (i.e., royalty of ₹ 2,88,000 less ₹ 40,000, being expenditure to earn such income) is includible in gross total income. Deduction u/s 80QQB would be ₹ 1,90,000 as calculated hereunder –

Deduction in respect of royalty on patents [Section 80RRB]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

(i) Eligible assessee: A resident individual who is registered as the true and first inventor in respect of an invention under the Patents Act, 1970, including the co-owner of the patent and earning income by way of royalty of a patent registered on or after 1.4.2003.

(ii) Quantum of deduction: Income by way of royalty of a patent registered on or after 1.4.2003, subject to a maximum of ₹ 3 lakhs.

Note - No deduction in respect of such income will be allowed under any other provision of the Income-tax Act, 1961

(iii) Eligible income: This exemption shall be restricted to the royalty income including consideration for transfer of rights in the patent or for providing information for working or use of a patent, use of a patent or the rendering of any services in connection with these activities.

The exemption shall not be available on any consideration for sale of product manufactured with the use of the patented process or patented article for commercial use.

(iv) The exemption shall not be available on any consideration for sale of product manufactured with the use of the patented process or patented article for commercial use.

DEDUCTION IN RESPECT OF OTHER INCOME

Deduction in respect of interest on deposits in savings accounts [Section 80TTA]

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

(i) Eligible assessee and Quantum of deduction: Section 80TTA provides that in case the gross total income of an assessee, being an individual or a Hindu Undivided Family, includes any income by way of an interest on deposits in a saving account (not being time deposits, which are deposits repayable on expiry of fixed periods), deduction up to ₹ 10,000 in aggregate shall be allowed while computing the total income of such assessee. Such deduction shall be allowed in case the saving account is maintained with:

1. a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);
2. a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or
3. a post office.

Deduction under this section would, however, not be available to a senior citizen eligible for deduction under section 80TTB.

ii. Restrictions:

If the aforesaid income is derived from any deposit in a savings account held by, or on behalf of, a firm, an AOP/BOI, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the AOP or any individual of the BOI.

In effect, the deduction under this section shall be allowed only in respect of the income derived in form of the interest on the saving bank deposit (other than time deposits) made by the individual or Hindu Undivided Family directly.

Deduction in respect of interest on deposits in case of senior citizens [Section 80TTB]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

I. Eligible assessee: A senior citizen (a resident individual who is of the age of 60 years or more at any time during the relevant previous year), whose gross total income includes income by way of interest on deposits (both fixed deposits and saving accounts) with –
   a) a banking company to which Banking Regulation Act, 1949 applies
   b) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank)
   c) a Post Office.

I. Quantum of deduction: Actual amount of interest on deposits or ₹ 50,000, whichever is lower.

II. Non-availability of deduction to partner/member, where deposit held by firm/AOP/BOI: Where interest income is derived from any deposit held by, or on behalf of, a firm, an AOP or a BOI, the partner of the firm or member of AOP/BOI would not be allowed deduction in respect of such income while computing their total income

ILLUSTRATION 19

Mr. A, a resident individual aged 61 years, has earned business income (computed) of ₹ 1,35,000, lottery income of ₹ 1,20,000 (gross) during the P.Y. 2024-25. He also has interest on Fixed Deposit of ₹ 30,000 with banks. He invested an amount of ₹ 1,50,000 in Public Provident Fund account. What is the total income of Mr. A for the A.Y. 2025-26 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)?

SOLUTION

Computation of total income of Mr. A for A.Y.2025-26

Note: In case of resident individuals of the age of 60 years or more, interest on bank fixed deposits qualifies for deduction upto ₹ 50,000 under section 80TTB.

Though the aggregate of deductions under Chapter VI-A is ₹ 1,80,000, however, the maximum permissible deduction cannot exceed the gross total income exclusive of long term capital gains taxable under section 112 and section 112A, short-term capital gains covered under section 111A and winnings from lotteries of the assessee.

Therefore, the maximum permissible deduction under Chapter VI-A = ₹ 2,85,000 – ₹ 1,20,000 = ₹ 1,65,000.

ILLUSTRATION 20

Mr. Gurnam, aged 42 years, has salary income (computed) of ₹ 5,50,000 for the previous year ended 31.03.2025. He has earned interest of ₹ 14,500 on the saving bank account with State Bank of India during the year. Compute the total income of Mr. Gurnam for the assessment year 2025-26 from the following particulars, assuming he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A):

(i) Life insurance premium paid to Birla Sunlife Insurance in cash amounting to ₹ 25,000 for insurance of life of his dependent parents. The insurance policy was taken on 15.07.2021 and the sum assured on life of his dependent parents is ₹ 2,00,000.

(ii) Life insurance premium of ₹ 19,500 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is ₹ 3,50,000 and the life insurance policy was taken on 30.3.2012.

(iii) Life insurance premium paid by cheque of ₹ 22,500 for insurance of his life. The insurance policy was taken on 08.09.2020 and the sum assured is ₹ 2,00,000.

(iv) Premium of ₹ 26,000 paid by cheque for health insurance of self and his wife

(v) ₹ 1,500 paid in cash for his health check-up and ₹ 4,500 paid in cheque for preventive health check-up for his parents, who are senior citizens.

(vi) Paid interest of ₹ 6,500 on loan taken from bank for MBA course pursued by his daughter.

(vii) A sum of ₹ 5,000 donated in cash to an institution approved for purpose of section 80G for promoting family planning.

SOLUTION

Computation of total income of Mr. Gurnam for the Assessment Year 2025-26

Particulars	₹	₹
Profits and gains of business or profession		1,35,000
Income from other sources		

- Interest on Fixed Deposit with banks		30,000
- lottery income		1,20,000
Gross Total Income		**2,85,000**
Less: Deductions under Chapter VIA [See Note below]		
Under section 80C		
- Deposit in Public Provident Fund	1,50,000	
Under section 80TTB		
- Interest on fixed deposits with banks	30,000	
	1,80,000	
Restricted to		1,65,000
Total Income		**1,20,000**

Notes:

1. As per section 80C, no deduction is allowed in respect of premium paid for life insurance of parents, whether they are dependent or not. Therefore, no deduction is allowable in respect of ₹ 25,000 paid as premium for life insurance of dependent parents of Mr. Gurnam.
   In respect of insurance policy issued on or after 01.04.2012, deduction shall be allowed for life insurance premium paid only to the extent of 10% of sum assured. In case the insurance policy is issued before 01.04.2012, deduction of premium paid on life insurance policy shall be allowed up to 20% of sum assured

   Therefore, in the present case, deduction of ₹ 19,500 is allowable in full in respect of life insurance of Mr. Gurnam's son since the insurance policy was issued before 01.04.2012 and the premium amount is less than 20% of ₹ 3,50,000. However, in respect of premium paid for life insurance policy of Mr. Gurnam himself, deduction is allowable only up to 10% of ₹ 2,00,000 since, the policy was issued on or after 01.04.2012 and the premium amount exceeds 10% of sum assured.

2. As per section 80D, in case the premium is paid in respect of health of a person specified therein and for health check-up of such person, deduction shall be allowed up to ₹ 25,000. Further, deduction up to ₹ 5,000 in aggregate shall be allowed in respect of health check-up of self, spouse, children and parents. In order to claim deduction under section 80D, the payment for health-checkup can be made in any mode including cash. However, the payment for health insurance premium has to be paid in any mode other than cash.

   Therefore, in the present case, in respect of premium of ₹ 26,000 paid for health insurance of self and wife, deduction would be restricted to ₹ 25,000. Since the limit of ₹ 25,000 has been exhausted against medical insurance premium, no deduction is allowable for preventive health check-up for self

and wife. However, deduction of ₹ 4,500 is allowable in respect of health check-up of his parents, since it falls within the limit of ₹ 5,000.

3. No deduction shall be allowed under section 80G in case the donation is made in cash of a sum exceeding ₹ 2,000. Therefore, deduction under section 80G is not allowable in respect of cash donation of ₹ 5,000 made to an institution approved for the purpose of section 80G for promotion of family planning.

4. As per section 80TTA, deduction shall be allowed from the gross total income of an individual or Hindu Undivided Family in respect of income by way of interest on deposit in the savings account included in the assessee's gross total income, subject to a maximum of ₹ 10,000. Therefore, deduction of ₹ 10,000 is allowable from the gross total income of Mr. Gurnam, though the interest from savings bank account is ₹ 14,500.

OTHER DEDUCTIONS

Deduction in the case of a person with disability [Section 80U]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

i. Section 80U harmonizes the criteria for defining disability as existing under the Income-tax Rules with the criteria prescribed under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

ii. Eligible assessee: This section is applicable to a resident individual, who, at any time during the previous year, is certified by the medical authority to be a person with disability

The benefit of deduction under this section is also available to persons suffering from autism, cerebral palsy and multiple disabilities.

iii. Quantum of deduction: A deduction of ₹ 75,000 in respect of a person with disability and ₹ 1,25,000 in respect of a person with severe disability (having disability over 80%) is allowable under this section.

iv. Conditions:
   a) The assessee claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed.
   b) Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned on the original certificate in order to continue to claim the deduction.

DEDUCTION UNDER SECTION 10AA

A deduction of profits and gains which are derived by an assessee being an entrepreneur from the export of articles or things or providing any service, shall be allowed from the total income of the assessee.

In case of an individual, HUF, AoP (other than a co-operative society) or BoI or an artificial juridical person, deduction would be available only if they have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). The deduction would be available only under the optional tax regime, where they pay tax under the normal provisions of the Act.

In case of companies and co-operative societies, deduction would not be available if they opt for the special provisions u/s 115BAA/ 115BAB and section 115BAD/ 115BAE, respectively. The deduction would be available if they pay tax under the normal provisions of the Act.

1. Assessees who are eligible for exemption

Exemption is available to all categories of assessees who derive any profits or gains from an undertaking, being a unit, engaged in the manufacturing or production of articles or things or provision of 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(9) of the said Act.

2. Essential conditions to claim exemption

The exemption shall apply to an undertaking which fulfils the following conditions:

(i) It has begun to manufacture or produce articles or things or provide any service in any SEZ during the previous year relevant to A.Y.2006-07 or any subsequent assessment year but not later than A.Y.2020-21.

However, in case where letter of approval, required to be issued in accordance with the provisions of the SEZ Act, 2005, has been issued on or before 31st March, 2020 and the manufacture or production of articles or things or providing services has not begun on or before 31st March, 2020 then, the date for manufacture or production of articles or things or providing services has been extended to 31st March, 2021 or such other date after 31st March, 2021, as notified by the Central Government.

For e.g. If the SEZ unit has received the necessary approval by 31.3.2020 and begins manufacture or production of articles or things or providing services on or before 31st March, 2021, then it would be deemed to have begun manufacture or production of articles or things or providing services during the A.Y. 2020-21 and would be eligible for exemption under section 10AA. [The Taxation and Other Laws (Relaxation of Certain Provisions) Act, 2020]

(ii) The assessee should furnish in the prescribed form, before the date specified in section 44AB i.e., one month prior to the due date for furnishing return of income u/s 139(1), the report of a chartered accountant certifying that the deduction has been correctly claimed.

(iii) No deduction under section 10AA would be allowed to an assessee who does not furnish a return of income on or before the due date specified u/s 139(1)

Example: An individual, subject to tax audit u/s 44AB, claiming deduction u/s 10AA is required to furnish return of income on or before 31.10.2025 for A.Y. 2025-26 and the report of a chartered accountant before 30.9.2025, certifying the deduction claimed u/s 10AA.

(iv) Deduction under section 10AA would be available to a Unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of 6 months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

The export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such export turnover is credited to a separate account maintained for that purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

Meaning of Competent authority – Competent authority means RBI or such authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

3. Period for which deduction is available

The unit of an entrepreneur, which begins to manufacture or produce any article or thing or provide any service in a SEZ on or after 1.4.2005, shall be allowed a deduction of:

(i) 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

(ii) 50% of such profits and gains for further 5 assessment years.

(iii) 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.

However, Explanation below section 10AA(1) clarified that amount of 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.

Example :

An undertaking is set up in a SEZ and begins manufacturing on 15.10.2010. The deduction under section 10AA shall be allowed as under:

a) 100% of profits of such undertaking from exports from A.Y.2011-12 to A.Y.2015-16.
b) 50% of profits of such undertaking from exports from A.Y.2016-17 to A.Y. 2020-21.
c) 50% of profits of such undertaking from exports from A.Y.2021-22 to A.Y.2025-26 provided certain conditions are satisfied.

4. Conditions to be satisfied for claiming deduction for further 5 years (after 10 years) [Section 10AA(2)]

Sub-section (2) provides that the deduction under (3)(iii) above shall be allowed only if the following conditions are fulfilled, namely:

a) the amount credited to the Special Economic Zone Re-investment Reserve Account is utilised-
   1. for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and
   2. until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking. However, it should not be utilized for
      i. distribution by way of dividends or profits; or
      ii. for remittance outside India as profits; or
      iii. for the creation of any asset outside India;

b) the particulars, as may be specified by the CBDT in this behalf, have been furnished by the assessee in respect of machinery or plant. Such particulars include details of the new plant/machinery, name and address of the supplier of the new plant/machinery, date of acquisition and date on which new plant/machinery was first put to use. Such particulars have to be furnished along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

5. Computation of profits and gains from exports of such undertakings

The profits derived from export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the undertaking i.e.

$$\text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit SEZ}}{\text{Total turnover of Unit SEZ}}$$

Clarification on issues relating to export of computer software

Section 10AA provides deduction to assessees who derive any profits and gains from export of articles or things or services (including computer software) from the year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, subject to fulfillment of the prescribed conditions. The profits and gains derived from the 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.

Meaning of Export turnover: It means the consideration in respect of export by the undertaking being the unit of articles or things or services received in India or brought into India by the assessee in convertible foreign exchange within 6 months from the end of the previous year or within such further period as the competent authority may allow in this behalf.

However, it does not include

- freight
- telecommunication charges
- insurance

attributable to the delivery of the articles or things outside India or expenses incurred in foreign exchange in rendering of services (including computer software) outside India.

Clarification on issues relating to deduction of freight, telecommunication charges and other expenses from total turnover

"Export turnover", inter alia, does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India.

CBDT has, vide circular No. 4/2018, dated 14/08/2018, clarified that freight, telecommunication charges and insurance expenses are to be excluded both from "export turnover" and "total turnover', while working out deduction admissible under section 10AA to the extent they are attributable to the delivery of articles or things outside India.

Similarly, expenses incurred in foreign exchange for rendering services outside India are to be excluded from both "export turnover" and "total turnover" while computing deduction admissible under section 10AA.

ILLUSTRATION 21

Mr. Y furnishes you the following information for the year ended 31.3.2025:

Particulars	₹ (in lacs)
Total turnover of Unit A located in Special Economic Zone	100
Profit of the business of Unit A	30

Export turnover of Unit A received in India in convertible foreign exchange on or before 30.9.2025	50
Total turnover of Unit B located in Domestic Tariff Area (DTA)	200
Profit of the business of Unit B	20

Compute deduction under section 10AA for the A.Y. 2025-26, assuming that Mr. Y commenced operations in SEZ and DTA in the year 2019-20 and Mr. Y has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

SOLUTION

50% of the profit derived from export of articles or things or services is eligible for deduction under section 10AA, since F.Y. 2024-25 is the sixth year commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. As per section 10AA(7), the profit derived from export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of articles or things or services bears to the total turnover of the business carried on by the undertaking.

Deduction under section 10AA

$$= \text{Profit of the business of Unit A} \times \frac{\text{Export Turnover of Unit A}}{\text{Total Turnover of Unit A}} \times 50\%$$

$$= ₹\ 30 \text{ lakhs} \times \frac{50}{100} \times 50\% = ₹\ 7.5 \text{ lakhs}$$

Note – No deduction under section 10AA is allowable in respect of profits of business of Unit B located in DTA.

Deductions in respect of certain payments			
Section	**Eligible Assessee**	**Eligible Payments**	**Permissible Deduction**
80C	Individual or HUF	Contribution to PPF, Payment of LIC premium, etc. Sums paid or deposited in the previous year by way of ○ Lifeinsurance premium ○ Contribution to PPF/ SPF/RPF and approved superannuation fund ○ Repayment of housing loan taken from Govt., bank, LIC, specified employer etc. ○ Tuition fees to any Indian university, college,	Sum paid or deposited, subject to a maximum of ₹ 1,50,000 [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]

		school for full-time education of any two children. ○ Term deposit for a fixed period of not less than 5 year with schedule bank ○ Subscription to notified bonds of NABARD ○ Five year post office time deposit ○ Senior Citizen's Savings Scheme Account etc. ○ Contribution by Central Govt. employee to additional account (Tier II A/c) of NPS referred to u/s 80CCD	
80CCC	Individual	Contribution to certain pension funds Any amount paid or deposited to keep in force a contract for any annuity plan of LIC of India or any other insurer for receiving pension from the fund.	Amount paid or deposited, subject to a maximum of ₹ 1,50,000 [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]
80CCD	Individuals employed by the Central Govt or any other employer; Any other individual assessee.	**Contribution to Pension Scheme of Central Government** An individual employed by the Central Government on or after 1.1.2004 or any other employer or any other assessee, being an individual, who has paid or deposited any amount in his account under a notified pension scheme [to his individual pension account [Tier I A/c] under National Pension Scheme & Atal Pension Yojana]	**Employee's Contribution/ Individual' Contribution** In case of a salaried individual, deduction of own contribution u/s 80CCD(1) is restricted to 10% of his salary. In any other case, deduction u/s 80CCD(1) is restricted to 20% of gross total income. Further, additional deduction of upto ₹ 50,000 is available u/s 80CCD(1B). [Deduction u/s 80CCD(1) and 80CCD(1B) would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)] **Employer's Contribution**

			The entire employer's contribution would be included in the salary of the employee. The deduction of employer's contribution under section 80CCD(2) would be restricted to 14% of salary, where the employer is the Central Government or State Government; and 10% of salary (14% under default tax regime), in case of any other employer. [Deduction u/s 80CCD(2) would be available irrespective of the regime under which he pays tax.]
Note – As per section 80CCE, maximum permissible deduction u/s 80C, 80CCC & 80CCD(1) is ₹ 1,50,000. However, the limit ₹ 1.50 lakh under section 80CCE does not apply to deduction under section 80CCD(2) and 80CCD(1B).			
80CCH	Individual	**Contribution to Agniveer Corpus Fund** An individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1.11.2022, who has paid or deposited any amount in his account in the Agniveer Corpus Fund	**Individual' Contribution** Whole of the amount paid or deposited [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)] Central Government's Contribution The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. Thereafter, deduction u/s 80CCH(2) would be available for the same. [Deduction u/s 80CCH(2) would be available irrespective of the regime under which he pays tax]
80D	Individual and HUF	Medical Insurance Premium	

<table>
<tr>
<td></td>
<td></td>
<td>(1) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health of –
<table>
<tr><td>in case of an individual</td><td>self, spouse and depende children</td></tr>
<tr><td>in case of HUF</td><td>family member</td></tr>
</table>
(2) In case of an individual, contribution, otherwise than by way of cash, to CGHS or any other scheme as notified by Central Government.</td>
<td>Maximum ₹ 25,000 (₹ 50,000, in case the individual or his or her spouse is a senior citizen)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) Any premium paid, otherwise than by way of cash, to keep in force an insurance on the health of parents, whether or not dependent on the individual.</td>
<td>Maximum ₹ 25,000 (₹ 50,000, in case either or both of the parents are senior citizen(s))</td>
</tr>
<tr>
<td></td>
<td></td>
<td colspan="2">Notes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i) Any amount paid, otherwise than by way of cash, on account of medical expenditure incurred on the health of the assessee or his family member or his parent, who is a senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person.
(ii) Payment, including cash payment, for preventive health check up of himself, spouse, dependent children and parents.</td>
<td>Amount paid subject to a cap of ₹ 50,000 (in case one parent is a senior citizen, in respect of whom insurance premium is paid, and the other is a senior citizen on whom medical expenditure is incurred, the total deduction cannot exceed ₹ 50,000)

Amount paid subject to a cap of ₹ 5,000, in aggregate (subject to the overall individual limits of ₹ 25,000/ ₹ 50,000, as the case may be)
[Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]</td>
</tr>
</table>

<table>
<tr>
<td>80DD</td>
<td>Resident Individual or HUF</td>
<td>Maintenance including medical treatment of a dependant disabled
Any amount incurred for the medical treatment (including nursing), training and rehabilitation of a dependent disabled
and / or
Any amount paid or deposited under the scheme framed in this behalf by the LIC or any other insurer or Administrator or Specified Company and approved by Board.

Meaning of Dependant
<table>
<tr><th>(1)
In case of</th><th>(2)
Dependant</th></tr>
<tr><td>An individual</td><td>Spouse, children, parents, brothers, sisters</td></tr>
<tr><td>A HUF</td><td>Any member</td></tr>
</table>
Persons mentioned in column (2) should be wholly or mainly dependant on the person mentioned in corresponding column (1) for support and maintenance. Such persons should not have claimed
Deduction under section 80U in computing total income of that year.</td>
<td>Flat deduction of ₹ 75,000. In case of severe disability (i.e. person with 80% or more disability) the flat deduction shall be ₹ 1,25,000. [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]</td>
</tr>
<tr>
<td>80DDB</td>
<td>Resident Individual or HUF</td>
<td>Deduction for medical treatment of specified diseases or ailments
<table>
<tr><th>Assessee</th><th>Amount spent</th></tr>
<tr><td>An individual</td><td>For himself Or his dependant being</td></tr>
</table>
</td>
<td>Actual sum paid or ₹ 40,000 (₹ 1,00,000, if the payment is for medical treatment of a senior citizen), whichever is less, Minus the amount received from the insurance company or reimbursed by the employer. [Deduction would</td>
</tr>
</table>

			spouse, children, parents, brothers or sisters wholly or mainly dependant on the individual for support and maintenance	be available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]
		A HUF	For any member	
80E	Individual	Interest on loan taken for higher education Interest on loan taken from any financial Institution or approved charitable institution. Such loan is taken for pursuing his higher education or higher education of his or her relative i.e., spouse or children of the individual or the student for whom the individual is the legal guardian.		The deduction is available for interest payment in the initial assessment year (year of commencement of interest payment) and seven assessment years immediately succeeding the initial assessment year (or) until the interest is paid in full by the assessee, whichever is earlier. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]
80EE	Individuals	Deduction for interest on loan borrowed from any financial institution [bank/housing finance company (HFC)] for Acquisition of residential house property		Deduction of upto ₹ 50,000 would be allowed in respect of interest on loan taken from a FI. **Conditions:** Loan should be sanctioned during P.Y.2016-17 Loan sanctioned ≤ ₹ 35 lakhs Value of house ≤ ₹ 50 lakhs The assessee should not own any residential house on the date of sanction of loan. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

80EEA	Individual	Deduction in respect of interest payable on loan taken from a FI (bank or HFC) for acquisition of residential house property	Deduction of upto ₹ 1,50,000 would be allowed in respect of interest payable on loan taken from a FI for acquisition of house property. **Conditions:** ○ Loan should be sanctioned by a FI during the period between 1st April 2019 to 31st March 2022. ○ Stamp Duty Value of house ≤ ₹ 45 lakhs ○ The individual should not own any residential house on the date of sanction of loan. ○ The individual should not be eligible to claim deduction u/s 80EE. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]
80EEB	Individual	Deduction in respect of interest payable on loan taken from a FI (bank or certain NBFCs) for purchase of electric vehicle	Deduction of upto ₹ 1,50,000 would be allowed in respect of interest payable on loan taken for purchase of electric vehicle. Loan should be sanctioned by a FI during the period from 1.4.2019 to 31.3.2023. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]
80G	All assessees	Donations to certain funds, charitable institutions etc.	

There are four categories of deductions –

	Category	Donee
1.	100% deduction of amount donated, without any qualifying limit	Prime Minister's National Relief Fund, National Children's Fund, Swachh Bharat Kosh, National Defence Fund, PM CARES Fund etc.
2.	50% deduction of amount donated, without any qualifying limit	Prime Minister's Drought Relief Fund.
3.	100% deduction of amount donated, subject to qualifying limit	Government or local authority, institution for promotion of family planning etc.
4.	50% deduction of amount donated, subject to qualifying limit.	Government or any local authority to be used for charitable purpose, other than promotion of family planning, notified temple, church, gurudwara, mosque etc.

Calculation of Qualifying limit for Category III & IV donations:

Step 1: Compute adjusted total income, i.e., the gross total income as reduced by the following:

- Deductions under Chapter VI-A, except u/s 80G
- Short term capital gains taxable u/s 111A
- Long term capital gains taxable u/s 112 & 112A

Step 2: Calculate 10% of adjusted total income.

Step 3: Calculate the actual donation, which is subject to qualifying limit.

Step 4: Lower of Step 2 or Step 3 is the maximum permissible deduction.

Step 5: The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category III donations). Thereafter, 50% of balance qualifies for deduction under section 80G.

Note - No deduction shall be allowed for donation in excess of ₹ 2,000, if paid in cash.

[In case of individuals, HUF, AoP (other than a co- operative society) or BoI or an artificial juridical person, deduction would be available only if they exercise the option of shifting out of the default tax regime provided under section 115BAC(1A)]

80GG	Individual not in receipt of house rent allowance	Rent paid for residential accommodation	Least of the following is allowable as deduction: 1. 25% of total income; 2. Rent paid – 10% of total income 3. ₹ 5,000 p.m. No deduction if any residential accommodation is owned by the assessee /his spouse /minor child/HUF at the place where he ordinarily resides or performs the duties of his office or employment or carries on his business or profession. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]
80GGA	Any assessee not having income chargeable under the head "Profits and gains of business or profession"	Donations for scientific research and rural development	Actual donation [No deduction shall be allowed for donation in excess of ₹ 2,000, if paid in cash] [Deduction would be available to individual, HUF, AoP (other than a co- operative society) or BoI or an artificial juridical person only if they exercise the option of shifting out of the default tax regime provided u/s 115BAC(1A)]
80GGB	Indian company (not opting for section 115BAA/ 115BAB)	Contributions to political parties Any sum contributed by it to a registered political party or an electoral trust.	Actual contribution (otherwise than by way of cash)
80GGC	Any person, other than local authority and an artificial juridical person funded by the Government.	Contributions to political parties Amount contributed to a registered political party or an electoral trust.	Actual contribution (otherwise than by way of cash) [An individual, HUF, AoP (other than a co-operative society) or BoI would be eligible for deduction u/s 80GGC only if the assessee exercise the option of shifting out of the default tax regime provided u/s 115BAC(1A)]

Deductions in respect of Certain Incomes			
As per section 80AC, furnishing return of income on or before due date is mandatory for claiming deduction in respect of certain incomes.			
Section	Eligible Assessee	Eligible Income	Permissible Deduction
80JJAA	An assessee to whom section 44AB applies, whose Gross total income includes profits and gains derived from business	Deduction in respect of employment of new employees	30% of additional employee cost incurred in the previous year. Deduction is allowable for 3 assessment years including assessment year relevant to the previous year in which such employment is provided. [Deduction would be available irrespective of the regime under which the employer pays tax]
80QQB	Resident individual, being an author	Royalty income, etc., of authors of certain books other than text books Consideration for assignment or grant of any of his interests in the copyright of any book, being a work of literary, artistic or scientific nature or royalty or copyright fee received as lumpsum or otherwise.	Income derived in the exercise of profession or ₹3,00,000, whichever is less. In respect of royalty or copyright fee received otherwise than by way of lumpsum, income to be restricted to 15% of value of books sold during the relevant previous year. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]
80RRB	Resident individual, being a patentee	**Royalty on patents** Any income by way of royalty on patents registered on or after 1.4.2003	Whole of such income or ₹3,00,000, whichever is less. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]

Deductions in respect of Other Income			
Section	Eligible Assessee	Eligible Income	Permissible Deduction

80TTA	Individual or a HUF, other than a resident senior citizen	Interest on deposits in savings account Interest on deposits in a savings account with a bank, a co-operative society or a post office (not being time deposits, which are repayable on expiry of fixed periods)	Actual interest subject to a maximum of ₹ 10,000. [Deduction would be available only if the individual/HUF exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]
80TTB	Resident senior citizen (i.e. an individual of the age of 60 years or more at any time during the previous year)	Interest on deposits Interest on deposits (both fixed deposits and saving accounts) with banking company, co-operative society engaged in the business of banking or a post office.	Actual interest or ₹ 50,000, whichever is less. [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]

Other Deductions

Section	Eligible Assessee	Condition for deduction	Permissible Deduction
80U	Resident Individual	Deduction in case of a person with disability Any person, who is certified by the medical authority to be a person with disability.	Flat deduction of ₹ 75,000, in case of a person with disability. Flat deduction of ₹ 1,25,000, in case of a person with severe disability (80% or more disability). [Deduction would be available only if the individual exercises the option of shifting out of the default tax regime provided u/s 115BAC(1A)]

Deduction under section 10AA

Section	Eligible Assessee	Eligible Income	Permissible Deduction
10AA	An assessee who derives profits from an under- taking, being a Unit established in SEZ, which begins to manufacture or produce articles or	Profits derived from exports of such articles or things or export of services (including computer software). Conditions for deduction a. Proceeds to be received in convertible foreign exchange within 6 months from the end of the P.Y. or such further period as	Deduction for 15 consecutive assessment years Amount of deduction = Profits of Unit in SEZ x Export turnover of Unit SEZ Total turnover of Unit SEZ

	things or provide any service on or after 1.4.2005 but before 1.4.2021	the competent authority may allow in this behalf. b. The report of chartered accountant certifying that the deduction has been correctly claimed should be furnished before the date specified in section 44AB. **c.** Return of income to be filed on or before due date u/s 139(1).	**Years 1 to 5 -** 100% of such profits would be exempt in the first five years; **Years 6 to 10 -** 50% of such profits in the next five years; and **Years 11 to 15 -** In the last five years, 50% of such profits subject to transfer to SEZ Re-investment Reserve Account. [In case of individuals, HUF, AoP (other than a co- operative society), BoI or an artificial juridical person, deduction would be available only if they exercise the option of shifting out of the default tax regime provided u/s 115BAC(1A)]

TEST YOUR KNOWLEDGE

1. Examine the following statements with regard to the provisions of the Incometax Act, 1961:
   i. During the financial year 2024-25, Mr. Amit paid interest on loan availed by him for his son's higher education. His son is already employed in a firm. Mr. Amit will get the deduction under section 80E.
   ii. Subscription to notified bonds of NABARD would qualify for deduction under section 80C.
   iii. In order to be eligible to claim deduction under section 80C, investment/ contribution/ subscription etc. in eligible or approved modes, should be made from out of income chargeable to tax.
   iv. Where an individual repays a sum of ₹ 30,000 towards principal and ₹ 14,000 as interest in respect of loan taken from a bank for pursuing eligible higher studies, the deduction allowable under section 80E is ₹ 44,000 irrespective of the tax regime.
   v. Mrs. Sheela, widow of Mr. Satish (who was an employee of M/s. XYZ Ltd.), received ₹ 7 lakhs on 1.5.2024, being amount standing to the credit of Mr. Satish in his NPS Account, in respect of which deduction has been allowed under section 80CCD to Mr. Satish in the earlier previous years. Such amount received by her as a nominee on closure of the account is deemed to be her income for A.Y.2025-26

vi. Mr. Vishal, a Central Government employee, contributed ₹ 50,000 towards Tier II account of NPS. The same would be eligible for deduction under section 80CCD. He has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

2. Examine the allowability of the following if the assessees have exercised the option of shifting out of the default tax regime provided under section 115BAC(1A):
   I. Rajan, a resident individual, has to pay to a hospital for treatment ₹ 62,000 and spent nothing for life insurance or for maintenance of dependent disabled.
   II. Varun, a resident Indian, has spent nothing for treatment in the previous year and deposited ₹ 25,000 with LIC for maintenance of dependant disabled.
   III. Hari, a resident individual, has incurred ₹ 20,000 for treatment and ₹ 25,000 was deposited with LIC for maintenance of dependant disabled.

3. For the A.Y. 2025-26, the Gross total income of Mr. Chaturvedi, a resident in India, was ₹ 8,18,240 which includes long-term capital gain of ₹ 2,45,000 taxable under section 112 and Short-term capital gain of ₹ 58,000. The Gross total income also includes interest income of ₹ 12,000 from savings bank deposits with banks and ₹ 40,000 interest on fixed deposits with banks. Mr. Chaturvedi has invested in PPF ₹ 1,20,000 and also paid a medical insurance premium ₹ 51,000. Mr. Chaturvedi also contributed ₹ 50,000 to Public Charitable Trust eligible for deduction under section 80G by way of an account payee cheque. Compute the total income and tax thereon of Mr. Chaturvedi, who is 70 years old as on 31.3.2025, in a tax efficient manner.

4. Mr. Rajmohan whose gross total income was ₹ 6,40,000 for the financial year 2024-25, furnishes you the following information:
   (i) Repayment of loan taken from SBI for acquisition of residential house (self-occupied) - ₹ 50,000.
   (ii) Five-year post-office time deposit - ₹ 20,000
   (iii) Donation to a recognized charitable trust ₹ 25,000 which is eligible for deduction under section 80G at the applicable rate.
   (iv) Interest on loan taken for higher education of spouse paid during the year - ₹ 10,000.
   Compute the total income of Mr. Rajmohan for the A.Y. 2025-26 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

5. Compute the eligible deduction under Chapter VI-A for the A.Y. 2025-26 of Ms. Roma, aged 40 years, who has a gross total income of ₹ 15,00,000 for the A.Y. 2025-26 and has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). She provides the following information about her investments/payments during the P.Y. 2024-25

Sl.	Particulars	Amount
I.	Life Insurance premium paid (Policy taken on 31-03- 2012 and sum assured is ₹ 4,70,000)	35,000
II.	Public Provident Fund contribution	1,50,000
III.	Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	20,000
IV.	Payment to L.I.C. Pension Fund	1,40,000
V.	Mediclaim Policy taken for self, wife and dependent children, premium paid by cheque	30,000
VI.	Medical Insurance premium paid by cheque for parents (Senior Citizens)	52,000

6. Mr. Rudra has one unit at Special Economic Zone (SEZ) and other unit at Domestic Tariff Area (DTA). He provides the following details for the previous year 2024-25.

Particulars	Mr. Rudra	Unit in DTA
Total Sales	6,00,00,000	2,00,00,000
Export Sales	5,60,00,000	1,60,00,000
Net Profit	80,00,000	20,00,000

Proceeds from export sales in SEZ received in convertible foreign exchange by 30.9.2025 is ₹ 3,00,00,000. He has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). Calculate the eligible deduction under section 10AA of the Income-tax Act, 1961, for the Assessment Year 2025-26 if both the units were set up and start manufacturing from 22- 05-2016.

ANSWERS

1.

i. **The statement is correct.** The deduction under section 80E is available to an individual in respect of interest on loan taken for his higher education or for the higher education of his relative only if he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A). For this purpose, relative means, inter alia, spouse and children of the individual. Therefore, Mr. Amit will get the deduction under section 80E in respect of interest on loan availed by him for his son's higher education, if he exercises the option of shifting out of the default tax regime provided under section

115BAC(1A). It is immaterial that his son is already employed in a firm. This would not affect Mr. Amit's eligibility for deduction under section 80E.

ii. **The statement is correct.** Under section 80C(2) subscription to such bonds issued by NABARD (as the Central Government may notify in the Official Gazette) would qualify for deduction under section 80C, if the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

iii. **The statement is not correct.** There is no stipulation under section 80C that the investment, subscription, etc. should be made from out of income chargeable to tax.

iv. **The statement is not correct.** An individual would not be eligible for deduction u/s 80E if he pays tax under default tax regime under section 115BAC. If he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A), deduction under section 80E would be available in respect of interest paid on education loan. Hence, the deduction will be limited to interest of ₹ 14,000, if he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

v. **The statement is not correct.** The proviso to section 80CCD(3) provides that the amount received by the nominee, on closure of NPS account on the death of the assessee, shall not be deemed to be the income of the nominee. Hence, amount received by Mrs. Sheela would not be deemed to be her income for A.Y. 2025-26

vi. **The statement is not correct**. Contribution to Tier II account of NPS would qualify for deduction under section 80C and not section 80CCD.

2.

i. The deduction of ₹ 75,000 under section 80DD is allowable to Rajan, irrespective of the amount of expenditure incurred or paid by him. If the expenditure is incurred in respect of a dependant with severe disability, the deduction allowable is ₹ 1,25,000.

ii. The assessee Varun has deposited ₹ 25,000 for maintenance of dependent disabled. He is, however, eligible to claim ₹ 75,000 since the deduction of ₹ 75,000 is allowed, irrespective of the amount deposited with LIC. In the case of dependant with severe disability, the deduction allowable is ₹ 1,25,000.

iii. Section 80DD allows a deduction of ₹ 75,000 irrespective of the actual amount spent on maintenance of a dependent disabled and/or actual amount deposited with LIC. Therefore, the deduction will be ₹ 75,000 even though the total amount incurred/deposited is only ₹ 45,000. If the dependant is a person with severe disability the quantum of deduction is ₹ 1,25,000.

3. Computation of total income and tax liability of Mr. Chaturvedi for the A.Y. 2025-26 under default tax regime

Particulars	₹
Gross total income incl. long term capital gain	8,18,240
Less: Deductions under Chapter VI-A	-
No deduction would be available under default tax regime u/s 115BAC	
Total income	8,18,240
Tax on total income	
LTCG ₹ 2,45,000 x 20%	49,000
Balance total income ₹ 5,73,240	13,662
	62,662
Add: Health and Education cess @4%	2,506
Total tax liability	**65,168**
Total tax liability (Rounded off)	**65,170**

Computation of total income and tax liability of Mr. Chaturvedi for the A.Y. 2025-26 under the optional tax regime (i.e., the normal provisions of the Act)

Particulars	₹	₹
Gross total income incl. long term capital gain		8,18,240
Less: Long term capital gain		2,45,000
		5,73,240
Less: Deductions under Chapter VI-A		
Under section 80C in respect of PPF deposit	1,20,000	
Under section 80D (it is assumed that premium of ₹ 51,000 is paid by otherwise than by cash. The deduction would be restricted to ₹ 50,000, since Mr. Chaturvedi is a senior citizen)	50,000	
Under section 80G (See Notes 1 & 2 below)	17,662	
Under section 80TTB (See Note 3 below)	50,000	2,37,662
Total income (excluding long term capital gains)		3,35,578

Total income (including long term capital gains)		5,80,578
Total income (rounded off)		5,80,580
Tax on total income (including long-term capital gains of ₹ 2,45,000)		
LTCG ₹ 2,45,000 x 20%		49,000
Balance total income ₹ 3,35,580 (See Note 4 below)		1,779
Add: Health and Education cess @4%		50,779 2,031
Total tax liability		52,810

Since the tax liability is lower under the optional tax regime (i.e., normal provisions of the Act) as compared to the default tax regime, Mr. Chaturvedi should exercise the option of shifting out of the default tax regime provided under section 115BAC(1A)

Notes:

i. Computation of deduction under section 80G:

Particulars	₹
Gross total income (excluding long term capital gains)	5,73,240
Less: Deduction under section 80C, 80D & 80TTB	2,20,000
	3,53,240
10% of the above	35,324
Contribution made	50,000
Lower of the two eligible for deduction under section	35,324
Deduction under section 80G – 50% of ₹ 35,324	**17,662**

ii. Deduction under section 80G is allowed only if amount is paid by any mode other than cash, in case of amount exceeding ₹ 2,000. Therefore, the contribution made to public charitable trust is eligible for deduction since it is made by way of an account payee cheque.

iii. Deduction of upto ₹ 50,000 under section 80TTB is allowed to a senior citizen if gross total income includes interest income on bank deposits, both fixed deposits and savings account.

iv. Mr. Chaturvedi, being a senior citizen is eligible for a higher basic exemption of ₹ 3,00,000

4. Computation of total income of Mr. Rajmohan for the A.Y.2025-26

Particulars		₹	₹
Gross Total Income			6,40,000
Less:	Deduction under Chapter VI-A		
	Under section 80C		
	Repayment of loan taken for acquisition of residential house	50,000	
	Five year time deposit with Post Office	20,000	
		70,000	
	Under section 80E		
	Interest on loan taken for higher education of spouse, being a relative.	10,000	
	Under section 80G (See Note below) Donation to recognized charitable trust (50% of ₹ 25,000)	12,500	92,500
Total Income			5,47,500

Note: In case of deduction under section 80G in respect of donation to a charitable trust, the net qualifying amount has to be restricted to 10% of adjusted total income, i.e., gross total income less deductions under Chapter VI-A except 80G. The adjusted total income is, therefore, ₹ 5,60,000 (i.e. 6,40,000 – ₹ 80,000), 10% of which is ₹ 56,000, which is higher than the actual donation of ₹ 25,000. Therefore, the deduction under section 80G would be ₹ 12,500, being 50% of the actual donation of ₹ 25,000.

5. Computation of eligible deduction under Chapter VI-A of Ms. Roma for A.Y. 2025-26

Particulars	**₹**	**₹**
Deduction under section 80C		
Life insurance premium paid ₹ 35,000 (allowed in full since the same is within the limit of 20% of the sum assured, the policy being taken before 1.4.2012)	35,000	
Public Provident Fund	1,50,000	

Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	20,000	
	2,05,000	
Restricted to a maximum of ₹ 1,50,000	1,50,000	
Deduction under section 80CCC for payment towards LIC pension fund	1,40,000	
	2,90,000	
As per section 80CCE, aggregate deduction under, inter alia, section 80C and 80CCC, is restricted to		1,50,000
Deduction under section 80D		
Payment of medical insurance premium of ₹ 30,000 towards medical policy taken for self, wife and dependent children restricted to	25,000	
Medical insurance premium paid ₹ 52,000 for parents, being senior citizens, restricted to	50,000	75,000
Eligible deduction under Chapter VI-A		2,25,000

6. Computation of deduction u/s 10AA of the Income-tax Act, 1961

As per section 10AA, in computing the total income of Mr. Rudra from his unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce articles or things or provide any services during the previous year relevant to the assessment year commencing on or after 01.04.2006 but before 01.04.2021, there shall be allowed a deduction of 100% of the profit and gains derived from export of such articles or things or from services for a period of five 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, as the case may be, and 50% of such profits for further five assessment years

Since Mr. Rudra has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A), he would be eligible for deduction u/s 10AA.

The deduction u/s 10AA would be available only if Mr. Rudra furnishes report of chartered accountant before the date specified in section 44AB and files return of income on or before due date u/s 139(1).

Since A.Y. 2025-26 is the 9th assessment year from A.Y. 2017-18, relevant to the previous year 2016-17, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 50% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.

= Profits of Unit in SEZ x $\frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}}$ x 50%

= 60 lakhs x $\frac{300 \text{ lakhs}}{400 \text{ lakhs}}$ x 50% = ₹ 22.50 lakhs

Export turnover of Unit in SEZ is the export sales in SEZ received in convertible foreign exchange by 30.9.2025 which is ₹ 3,00,00,000.

The unit set up in Domestic Tariff Area is not eligible for the benefit of deduction u/s 10AA in respect of its export profits, in both the situations.

Working Note:

Computation of total sales, export sales and net profit of unit in SEZ

Particulars	Rudra Ltd. (₹)	Unit in DTA (₹)	Unit in SEZ (₹)
Total Sales	6,00,00,000	2,00,00,000	4,00,00,000
Export Sales	4,60,00,000	1,60,00,000	3,00,00,000
Net Profit	80,00,000	20,00,000	60,00,000

CHAPTER - 6

ADVANCE TAX, TAX DEDUCTION AT SOURCE AND TAX COLLECTION AT SOURCE

CHAPTER OVERVIEW

Tax deduction at source

- Deduction of tax at source [Section 192 to 196]
- Certificate of deduction of tax at a lower rate [Section 197]
- No deduction of tax in certain cases [Section 197A]
- Miscellaneous Provisions [Section 198 to 206AB]

Advance Tax

- Liability to pay nadvance tax [Section 207 to 208]
- Computation of advance tax [Section 209]
- Instalments of advance tax and due dates [Section 211]
- Credit for advance tax [Section 219]
- Interest on non-payment / short payment or deferment of advance tax [Section 234B & 234C]

Tax collection at source

- Collection of tax at source [Section 206C]
- TCS for non- filers of income- tax return and non-furnishers of PAN [Section 206CCA & 206CC]
- Difference between TDS and TCS
- Common Number for TDS and TCS [Section 203A]

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DEDUCTION OF TAX AT SOURCE AND ADVANCE PAYMENT [SECTION 190]

The total income of an assessee for the previous year is taxable in the relevant assessment year. For example, the total income for the P.Y. 2023-24 is taxable in the A.Y. 2024-25. However, income-tax is recovered from the assessee in the previous year itself through –

(1) Tax deduction at source (TDS)
(2) Tax collection at source (TCS)
(3) Payment of advance tax

Another mode of recovery of tax is from the employer through tax paid by him under section 192(1A) on the non-monetary perquisites provided to the employee.

These taxes are deductible from the total tax due from the assessee. The assessee, while filing his return of income, has to pay self-assessment tax under section 140A, if tax is due on the total income as per his return of income after adjusting, inter alia, TDS, TCS, relief of tax claimed under section 89, tax credit claimed to be set off in accordance with the provisions of section 115JD, in case assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A), any tax or interest payable according to the provisions of section 191(2) and advance tax.

DIRECT PAYMENT [SECTION 191]

Direct payment of tax - Section 191(1) provides that in the following cases, tax is payable by the assessee directly –

i. in the case of income in respect of which tax is not required to be deducted at source; and
ii. income in respect of which tax is liable to be deducted but is not actually deducted.

In view of this provision, the proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

In order to overcome this difficulty, the Explanation to this section provides that if any person, including the principal officer of a company –

(i) who is required to deduct tax at source; or
(ii) an employer paying tax on non-monetary perquisites under section 192(1A),

does not deduct, or after deducting fails to pay such tax, or does not pay, the whole or part of the tax, then, such person shall be deemed to be an assessee-in default.

However, if the assessee himself has paid the tax, this provision will not apply.

DEDUCTION OF TAX AT SOURCE

Salary [Section 192]

1. Applicability of TDS under section 192

This section casts an obligation on every person responsible for paying any income chargeable to tax under the head 'Salaries' to deduct income-tax at the time of payment on the amount payable.

2. Manner of deduction of tax

i. Such income-tax has to be calculated at the average rate of income tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee where the employee intimates to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).

ii. Average rate of income-tax means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.

iii. A deductor, being an employer, has to seek information from each of its employees having income under section 192 regarding their intended tax regime and each such employee would intimate the same to the deductor, being his employer, regarding his intended tax regime for each year and upon intimation, the deductor has to compute his total income, and deduct tax at source thereon according to the option exercised.

If intimation is not made by the employee, it would be presumed that the employee continues to be in the default tax regime u/s 115BAC and has not exercised the option to opt out of the default tax regime. Accordingly, in such a case, the employer has to deduct tax at source, on income under section 192, in accordance with the rates provided under section 115BAC(1A).

It is also clarified that the intimation would not amount to exercising option under section 115BAC (6) and the person shall be required to do so separately in accordance with the provisions of that section [Circular No. 4/2023 dated 5.4.2023].

iv. The concept of payment of tax on non-monetary perquisites has been provided in sections 192(1A) and (1B). These sections provide that the employer may pay this tax, at his option, in lieu of deduction of tax at source from salary payable to the employee. Such tax will have to be worked

out at the average rate applicable to aggregate salary income of the employee and payment of tax will have to be made every month along with tax deducted at source on monetary payment of salary, allowances etc.

ILLUSTRATION 1

Mr. A, the employer, pays gross salary including allowances and monetary perquisites amounting to ₹ 7,30,000 to his General Manager. Besides, the employer provides non-monetary perquisites to him whose value is estimated at ₹ 1,20,000. The General Manager is exercising the option to shift out of the default tax regime and pay tax under the optional tax regime as per the normal provisions of the Act. What is the tax implication in the hands of Mr. A, the employer and General Manager, the employee?

SOLUTION

	Rs.
Gross salary, allowances and monetary perquisites	7,30,000
Non-Monetary perquisites	1,20,000
	8,50,000
Less: Standard deduction under section 16(ia)	50,000
	8,00,000
Tax Liability	75,400
Average rate of tax (₹ 75,400 / ₹ 8,00,000 × 100)	9.425%

Mr. A can deduct ₹ 75,400 at source from the salary of the General Manager at the time of payment. Alternatively, Mr. A can pay tax on non-monetary perquisites as under –
Tax on non-monetary perquisites = 9.425% of ₹ 1,20,000 = ₹ 11,310

Balance to be deducted from salary = ₹ 64,090

If Mr. A pays tax of ₹ 11,310 on non-monetary perquisites, the same is not a deductible expenditure as per section 40(a). The amount of tax paid towards non-monetary perquisite by the employer, however, is not chargeable to tax in the hands of the employee as per section 10(10CC).

v. In cases where an assessee is employed simultaneously under more than one employer or the assessee takes up a job with another employer during the financial year after his resignation or retirement from the services of the former employer, he may furnish the details of the income under the head "Salaries" due or received by him from the other employer, the tax deducted therefrom and such other particulars to his current employer. Thereupon, the subsequent employer should take such information into consideration and then deduct the tax remaining

payable in respect of the employee's remuneration from both the employers put together for the relevant financial year.

vi. In respect of salary payments to employees of Government or to employees of companies, co-operative societies, local authorities, universities, institutions, associations or bodies, deduction of tax at source should be made after allowing relief u/s 89(1), where eligible.

vii. A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following particulars of:

a) such other income and of any tax deducted under any other provision;

b) loss, if any, under the head 'Income from house property' if the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).

The employer shall take the above particulars into account while calculating tax deductible at source.

viii. It is also provided that except in cases where loss from house property has been adjusted against salary income, the tax deductible from salary should not be reduced as a consequence of making the above adjustments. Loss from house property would be adjusted against salary where the assessee intimated to the employer his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A). However, loss under the head "income from house property" shall be allowed to be set off against salary and income under any other head subject to maximum of ₹ 2,00,000.

3. Furnishing of statement of particulars of perquisites or profits in lieu of salary by employer to employee

Sub-section (2C) provides that the 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 provided to him and the value thereof. The statement shall be in the prescribed form and manner. This requirement is applicable only where the salary paid/payable to an employee exceeds ₹ 1,50,000. For other employees, the particulars of perquisites/profits in lieu of salary shall be given in Form 16 itself.

4. Circular issued by CBDT

Every year, the CBDT issues a circular giving details and direction to all employers for the purpose of deduction of tax from salaries payable to the employees during the relevant financial year. These instructions should be followed.

5. Requirement to obtain evidence/ proof/ particulars of claims from the employee by the employer

Sub-section (2D) casts responsibility on the person responsible for paying any income chargeable under the head "Salaries" to obtain from the assessee, the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner, for the purposes of –

a) estimating income of the assessee; or
b) computing tax deductible under section 192(1).

In case an employee has intimated his employer of his intent to exercise the option of shifting out of the default tax regime provided under section 115BAC(1A), Rule 26C requires furnishing of evidence of the following claims by him to the person responsible for making payment under section 192(1) in Form No.12BB for the purpose of estimating his income or computing the amount of tax to be deducted at source:

S. No.	Nature of Claim	Evidence or particulars
1.	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
2.	Leave Travel Concession or Assistance	Evidence of expenditure
3.	Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
4.	Deduction under Chapter VI-A	Evidence of investment or expenditure.

Interest on securities [Section 193]

1. Person responsible for deduction of tax at source

This section casts responsibility on every person responsible for paying to a resident any income by way of interest on securities.

2. Meaning of interest on securities [Section 2(28B)]

Interest on securities means

a) interest on any security of the Central Government or a State Government

b) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.

3. Rate of TDS

Such person is vested with the responsibility to deduct income-tax at the rates in force from the amount of interest payable.

The rate at which tax is deductible under section 193 is 10%, both in the case of domestic companies and non-corporate resident assessees.

4. Time of tax deduction at source

Tax should be deducted at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Where any income by way of interest on securities is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and tax has to be deducted at source. The account to which such interest is credited may be called "Interest Payable account" or "Suspense account" or by any other name.

5. Non-applicability of TDS under section 193

No tax deduction is to be made from any interest payable:

a) on National Development Bonds;

b) on 7-year National Savings Certificates (IV Issue);

c) on debentures issued by any institution or authority or any public sector company or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as notified by the Central Government;

Accordingly, the Central Government has, vide Notification No. 27 & 28/2018, dated 18-06-2018, notified-

1. "Power Finance Corporation Limited 54EC Capital Gains Bond" issued by Power Finance Corporation Limited {PFCL} and
2. "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond" issued by Indian Railway Finance Corporation Limited {IRFCL}

Thus, no tax is required to be deducted at source on interest payable on "Power Finance Corporation Limited 54EC Capital Gains Bond" and "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond".

d) on any security of the Central Government or a State Government

Note – It may be noted that tax has to be deducted at source in respect of interest payable on 8% Savings (Taxable) Bonds, 2003, or 7.75% Savings (Taxable) Bonds, 2018, only if such interest payable exceeds ₹ 10,000 during the financial year.

e) on any debentures (whether listed or not listed on a recognized stock exchange) issued by the company in which the public are substantially interested to a resident individual or HUF. However
- the interest should be paid by the company by an account payee cheque;
- the amount of such interest or the aggregate thereof paid or likely to be paid during the financial year by the company to such resident individual or HUF should not exceed ₹ 5,000.

f) on securities to LIC, GIC, subsidiaries of GIC or any other insurer, provided –
- the securities are owned by them or
- they have full beneficial interest in such securities.

Interest other than interest on securities [Section 194A]

This section deals with the scheme of deduction of tax at source from interest other than interest on securities. The main provisions are the following:

1. Applicability of TDS under section 194A

This section applies only to interest, other than "interest on securities", credited or paid by assessees other than individuals or Hindu undivided family. However, an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year is liable to deduct tax at source under this section.

2. Time of tax deduction at source

The deduction of tax must be made at the time of crediting such interest to the account of the payee or at the time of its payment in cash or by any other mode, whichever is earlier.

Where any such interest is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such interest is credited may be called "Interest Payable account" or "Suspense account" or by any other name.

3. Rate of TDS

The rate at which the deduction is to be made is given in Part II of the First Schedule to the Annual

Finance Act. The rate at which tax is to be deducted is 10% both in the case of non-corporate resident assessees and domestic companies.

4. Non-applicability of TDS under section 194A

No deduction of tax shall be made in the following cases:

a) If the aggregate amount of interest paid or credited during the financial year does not exceed ₹ 5,000.

This limit is ₹ 40,000 where the payer is a –

- banking company;
- a co-operative society engaged in banking business; and
- post office and interest is credited or paid in respect of any deposit under notified schemes.

In respect of (i), (ii) and (iii) above, the limit is ₹ 50,000, in case of payee, being a senior citizen.

The limit will be calculated with respect to income credited or paid by a branch of a banking company or a co-operative society or a public company in case of:

(i) time deposits with a banking company

(ii) time deposits with a co-operative society carrying on the business of banking; and

(iii) deposits with housing finance companies, provided:

- they are public companies formed and registered in India
- their main object is to carry on the business of providing long-term finance for construction or purchase of houses in India for residential purposes.

The threshold limit will be reckoned with reference to the total interest credited or paid by the banking company or the co-operative society or the public company, as the case may be, (and not with reference to each branch), where such banking company or co-operative society or public company has adopted core banking solutions.

Section 206A requires every banking company or co-operative society or public company referred to in above to prepare such statement, for such period as may be prescribed

- if they are responsible for paying to a resident,
- the payment should be of any income not exceeding ₹ 40,000, where the payer is a banking company or a co-operative society, and ₹ 5,000 in any other case and
- such income should be by way of interest (other than interest on securities)

The statement should be in the prescribed form and should be delivered to the DGIT (Systems) or person authorized by him.

b) Interest paid or credited by a firm to any of its partners;

c) Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;

d) Interest income credited or paid in respect of deposits (other than time deposits made on or after 1.7.1995) with a bank to which the Banking Regulation Act, 1949 applies;

e) Income paid or credited by a co-operative society (other than a co operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society;

f) Interest income credited or paid in respect of –

- deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co operative land development bank;
- deposit (other than time deposits made on or after 1.7.1995) with a co-operative society [other than cooperative society or bank referred to in (i)] engaged in carrying on the business of banking.

From a combined reading of (e) and (f), it can be inferred that a co operative bank other than mentioned in (i) above is required to deduct tax at source on payment of interest on time deposit to its members. However, it is not required to deduct tax from the payment of interest on time deposit, to a depositor, being a co-operative society.

However, a cooperative society referred to in (e) or (f) is liable to deduct tax if –

1. the total sales, gross receipts or turnover of the co-operative society exceeds ₹ 50 crore during the financial year immediately preceding the financial year in which interest is credited or paid; and
2. the amount of interest or the aggregate amount of interest credited or paid, or is likely to be credited or paid, during the financial year is more than ₹ 50,000 in case of payee being a senior citizen and ₹ 40,000, in any other case.

Thus, such co-operative society is required to deduct tax under section 194A on interest credited or paid by it –

- to its member or to any other co-operative society; or
- in respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank or

- in respect of deposits with a co-operative bank other than a co operative society or bank engaged in carrying on the business of banking

g) Interest income credited or paid by the Central Government under any provision of the Income-tax Act, 1961.

h) Interest paid or credited to the following entities:

- banking companies, or co-operative societies engaged in the business of banking, including co-operative land mortgage banks;
- financial corporations established by or under any Central, State or Provincial Act.
- the Life Insurance Corporation of India.
- companies and co-operative societies carrying on the business of insurance.
- the Unit Trust of India; and
- notified institution, association, body or class of institutions, associations or bodies (National Skill Development Fund and Housing and Urban Development Corporation Ltd. (HUDCO), New Delhi have been notified by the Central Government for this purpose).

i) income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

j) income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed ₹ 50,000.

k) income paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

Notes

- The expression "time deposits" [for the purpose of (4)(a), (d) and (f) above] means the deposits, including recurring deposits, repayable on the expiry of fixed periods.
- Senior citizen means an individual resident in India who is of the age of 60 years or more at any time during the relevant previous year.

5. Power to the Central Government to issue notification

The Central Government is empowered to issue notification for non-deduction of tax at Source deduction of tax at a lower rate, from such payment to such person or class of persons, specified in that notification.

ILLUSTRATION 2

Examine the TDS implications under section 194A in the cases mentioned hereunder–

1. On 1.10.2023, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2024.
2. On 1.6.2023, Mr. Ganesh made three nine months fixed deposits of ₹ 3 lakh each, carrying interest@9% p.a. with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2024.
3. On 1.10.2023, Mr. Rajesh started a six months recurring deposit of ₹ 2,00,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2024.

SOLUTION

1. ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 45,000 (9% × ₹ 10 lakh × ½) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹ 4,500.
2. XYZ Bank has to deduct tax at source@10% u/s 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [3,00,000 × 3 × 9% × 9/12], which exceeds the threshold limit of ₹ 40,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of ₹ 60,750 exceeds the threshold limit of ₹ 40,000, tax has to be deducted@10% u/s 194A.
3. No tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 28,000 falling due on recurring deposit on 31.3.2024 to Mr. Rajesh, since such interest does not exceed the threshold limit of ₹ 40,000.

Payments to contractors and sub-contractors [Section 194C]

1. Applicability of TDS under section 194C

Section 194C provides for deduction of tax at source from the payment made to resident contractors and sub-contractors.

Tax has to be deducted at source under section 194C by any person responsible for paying any sum to a resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the –

I. the Central Government or any State Government; or

II. any local authority; or

III. any statutory corporation; or

IV. any company; or

V. any co-operative society; or

VI. any statutory authority dealing with housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both; or

VII. any society registered under the Societies Registration Act, 1860; or

VIII. any trust; or

IX. any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under the UGC Act, 1956; or

X. any firm; or

XI. any Government of a foreign State or foreign enterprise or any association or body established outside India; or

XII. any person, being an individual, HUF, AOP or BOI, who has total sales, gross receipts or turnover from the business or profession carried on by him exceeding ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor.

2. Time of deduction

Tax has to be deducted at the time of payment of such sum or at the time of credit of such sum to the account of the contractor, whichever is earlier.

Where any such sum is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

However, no tax has to be deducted at source in respect of payments made by individuals/HUF to a contractor exclusively for personal purposes.

3. Rate of TDS

The rate of TDS under section 194C on payments to contractors would be 1%, where the payee is an individual or HUF and 2% in respect of other payees. The same rates of TDS would apply for both contractors and sub-contractors.

The applicable rates of TDS under section 194C are as follows –

Payee	TDS rate
Individual HUF contractor/sub-contractor	1%
Other than individual/HUF contractor/ sub-contractor	2%
Contractor in transport business (if PAN is furnished)	Nil
Sub-contractor in transport business (if PAN is furnished)	Nil

4. Threshold limit for deduction of tax at source under section 194C

No deduction will be required to be made if the consideration for the contract does not exceed ₹ 30,000. However, to prevent the practice of composite contracts being split up into contracts valued at less than ₹ 30,000 to avoid tax deduction, it has been provided that tax will be required to be deducted at source where the amount credited or paid or likely to be credited or paid to a contractor or sub-contractor exceeds ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during a financial year.

Therefore, even if a single payment to a contractor does not exceed ₹ 30,000, TDS provisions under section 194C would be attracted where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid to the contractor during the financial year exceeds ₹ 1,00,000.

ILLUSTRATION 3

ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y.2023-24–
Rs. 20,000 on 1.5.2023
Rs. 25,000 on 1.8.2023
Rs. 28,000 on 1.12.2023

On 1.3.2024, a payment of ₹ 30,000 is due to Mr. X on account of a contract work.

Discuss whether ABC Ltd. is liable to deduct tax at source under section 194C from payments made to Mr. X.

SOLUTION

In this case, the individual contract payments made to Mr. X does not exceed ₹ 30,000. However, since the aggregate amount paid to Mr. X during the P.Y. 2023-24 exceeds ₹ 1,00,000 (on account of the last payment of ₹ 30,000, due on 1.3.2024, taking the total from ₹ 73,000 to ₹ 1,03,000), the TDS provisions under section 194C would get attracted. Tax has to be deducted@1% on the entire amount of ₹ 1,03,000 from the last payment of ₹ 30,000 and the balance of ₹ 28,970 (i.e., ₹ 30,000 – ₹ 1,030) has to be paid to Mr. X.

5. Definition of work

Work includes –

a) advertising;

b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

c) carriage of goods or passengers by any mode of transport other than by railways;

d) catering;

e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person related to the customer in such manner as defined u/s 40A(2)(b), (i.e., the customer would be in the place of assessee; and the associate would be the related person(s) mentioned in that section).

However, "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person, other than such customer or associate of such customer, as such a contract is a contract for 'sale'. However, this will not be applicable to a contract which does not entail manufacture or supply of an article or thing (e.g. a construction contract).

It may be noted that the term "work" would include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate. In such a case, tax shall be deducted on the invoice value excluding the value of material purchased from such customer or its associate, if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value.

6. Non-applicability of TDS under section 194C

No deduction is required to be made from the sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if he furnishes his PAN to the deductor.

In order to convey the true intent of law, it has been clarified that this relaxation from the requirement to deduct tax at source shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to a contractor, who fulfills the following three conditions cumulatively –

Exemption u/s 194C(6)

- owns ten or less goods carriages at any time during the previous year.
- is engaged in the business of plying, hiring or leasing goods carriages.
- has furnished a declaration to this effect along with his PAN

Meaning of Goods carriage:

Goods carriage means –

- any motor vehicle constructed or adapted for use solely for the carriage of goods; or
- any motor vehicle not so constructed or adapted, when used for the carriage of goods.

The term "motor vehicle" does not include vehicles having less than four wheels and with engine capacity not exceeding 25cc as well as vehicles running on rails or vehicles adapted for use in a factory or in enclosed premises.

7. Important points

i. The deduction of income-tax will be made from sums paid for carrying out any work or for supplying labour for carrying out any work. In other words, the section will apply only in relation to 'works contracts' and 'labour contracts' and will not cover contracts for sale of goods.

ii. Contracts for rendering professional services by lawyers, physicians, surgeons, engineers, accountants, architects, consultants etc., cannot be regarded as contracts for carrying out any "work" and, accordingly, no deduction of income-tax is to be made from payments relating to such contracts under this section. Separate provisions for fees for professional services have been made under section 194J.

iii. The deduction of income-tax must be made at the time of credit of the sum to the account of the contractor, or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

ILLUSTRATION 4

Certain concessions are granted to transport operators in the context of cash payments u/s 40A(3) and deduction of tax at source u/s 194-C. Elucidate.

SOLUTION

Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of

payments made to a person in a day exceeds ₹ 10,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft or use of electronic clearing system through bank account or through other prescribed electronic modes.

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payment made to a person in a day exceeds ₹ 35,000. Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft or use of electronic system through bank account or through other prescribed electronic modes, without attracting disallowance u/s 40A(3).

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1%, in case the payment is made to individual or Hindu Undivided Family or at the rate of 2%, in any other case. However, no deduction is required to be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if the following conditions are fulfilled:-

i. He owns ten or less goods carriages at any time during the previous year.
ii. He is engaged in the business of plying, hiring or leasing goods carriages;
iii. He has furnished a declaration to this effect along with his PAN.

Commission or brokerage [Section 194H]

1. Applicability and Rate of TDS

Any person other than an individual or HUF, who is responsible for paying any income by way of commission (other than insurance commission) or brokerage to a resident shall deduct income tax at the rate of 5%.

However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding financial year in which such commission or brokerage is credited or paid, is liable to deduct tax at source.

2. Time of deduction

The deduction shall be made at the time such income is credited to the account of the payee or at the time of payment in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

Even where income is credited to some other account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit to the account of the payee for the purposes of this section.

3. Threshold limit

No deduction is required if the amount of such income or the aggregate of such amount does not exceed Rs. 15,000 during the financial year.

4. Meaning of "Commission or brokerage"

"Commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person

- for services rendered, or
- for any services in the course of buying or selling of goods, or
- in relation to any transaction relating to any asset, valuable article or thing, other than securities.

5. Non-applicability of TDS under section 194H

a) This section is not applicable to professional services. "Professional Services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as notified by the CBDT for the purpose of compulsory maintenance of books of account under section 44AA.

b) Further, there would be no requirement to deduct tax at source on commission or brokerage payments by BSNL or MTNL to their public call office (PCO) franchisees.

6. Applicability of TDS provisions on payments by television channels and publishing houses to advertisement companies for procuring or canvassing for advertisements [Circular No. 05/2016, dated 29-2-2016]

There are two types of payments involved in the advertising business:

- Payment by client to the advertising agency, and
- Payment by advertising agency to the television channel/newspaper company

The applicability of TDS on these payments has already been dealt with in Circular No. 715 dated 8-8-1995, where it has been clarified in Question Nos. 1 & 2 that while TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS under section 194C on the second type of payment e.g. payment by advertising agency to the media company. However, another issue has been raised in various cases as to whether the fees/charges taken or retained by advertising companies from media companies for canvasing/booking advertisements (typically 15% of the billing) is 'commission' or 'discount' for attracting the provisions of section 194H.

The CBDT has clarified that no TDS is attracted on payments made by television channels/newspaper companies to the advertising agency for booking or procuring of or canvassing for advertisements. It is

also further clarified that 'commission' referred to in Question No.27 of the CBDT's Circular No. 715 dated 8-8-1995 does not refer to payments by media companies to advertising companies for booking of advertisements but to payments for engagement of models, artists, photographers, sportspersons, etc. and, therefore, is not relevant to the issue of TDS referred to in this Circular.

ILLUSTRATION 5

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source under section 194C? Discuss. Also, examine whether the provisions of tax deduction at source under section 194C would be attracted if the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house.

SOLUTION

In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, and the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' under section 194C. Therefore, the payment of ₹ 50 lakhs made by Moon TV to the production house would be subject to tax deduction at source under section 194C.

If, however, the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house, there is no contract for "carrying out any work", as required in section 194C(1). Therefore, such payment would not be liable for tax deduction at source under section 194C.

Rent [Section 194-I]

1. Applicability and Rate of TDS

Any person other than individual or HUF, who is responsible for paying to a resident any income by way of rent, is liable to deduct tax at source.

However, an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding financial year in which such rent was credited or paid, is liable to deduct tax at source.

2. Rate of TDS

Tax has to be deducted at the rate of:

- 2% in respect of rent for plant, machinery or equipment;

- 10% in respect of other rental payments (i.e., rent for use of any land or building, including factory building, or land appurtenant to a building, including factory building, or furniture or fittings).

3. Time of deduction

This deduction is to be made at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

Where any such income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section will apply accordingly.

4. Threshold limit

No deduction need be made where the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of the payee does not exceed Rs. 2,40,000.

5. Meaning of Rent

"Rent" means any payment, by whatever name called, under any lease, sub lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any –

- land; or
- building (including factory building); or
- land appurtenant to a building (including factory building); or
- machinery; or
- plant; or
- equipment; or
- furniture; or
- fittings,

whether or not any or all of the above are owned by the payee.

6. Applicability of TDS provisions under section 194-I to payments made by the customers on account of cooling charges to the cold storage owners

CBDT Circular No.1/2008 dated 10.1.2008 provides clarification regarding applicability of provisions of section 194-I to payments made by the customers on account of cooling charges to the cold storage owners.

The main function of the cold storage is to preserve perishable goods by means of a mechanical process, and storage of such goods is only incidental in nature. The customer is also not given any right to use any demarcated space/place or the machinery of the cold store and thus does not become a

tenant. Therefore, the provisions of 194-I are not applicable to the cooling charges paid by the customers of the cold storage.

However, since the arrangement between the customers and cold storage owners are basically contractual in nature, the provision of section 194-C will be applicable to the amounts paid as cooling charges by the customers of the cold storage.

7. No requirement to deduct tax at source under section 194-I on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [Circular No. 21/2017, dated 12.06.2017]

The primary requirement of any payment to qualify as rent is that the payment must be for the use of land and building and mere incidental/minor/ insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I.

Accordingly, the CBDT has, vide this circular, clarified that the provisions of section 194-I shall not be applicable on payment of PSF by an airline to Airport Operator.

8. Applicability of TDS provisions under section 194-I to service tax component of rental income

CBDT Circular No.4/2008 dated 28.4.2008 provides clarification on deduction of tax at source (TDS) on service tax component of rental income under section 194-I.

As per the provisions of 194-I, tax is deductible at source on income by way of rent paid to any resident. Further, rent has been defined in 194-I to mean any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,-

- land; or
- building (including factory building); or
- land appurtenant to a building (including factory building); or
- machinery; or
- plant; or
- equipment; or
- furniture; or
- fittings,

whether or not any or all of the above are owned by the payee.

Service tax paid by the tenant doesn't partake the nature of income of the landlord. The landlord only acts as a collecting agency for Government for collection of service tax. Therefore, tax deduction at source under section 194-I would be required to be made on the amount of rent paid/payable without including the service tax.

Note - It is possible to take a view that the clarification given in Circular No.4/2008 would apply in the GST regime also.

Clarification regarding TDS on Goods and Services Tax (GST) component comprised in payments made to residents [Circular No. 23/2017 dated 19.07.2017]

The CBDT has, vide this circular, clarified that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid or payable without including such 'GST on services' component.

GST shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.

Further, for the purposes of this Circular, any reference to "service tax" in an existing agreement or contract which was entered into prior to 01.07.2017 shall be treated as "GST on services" with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract.

9. Clarification on applicability of TDS provisions of section 194-I on lumpsum lease premium paid for acquisition of long-term lease [Circular No.35/2016, dated 13-10-2016]

The issue of whether or not TDS under section 194-I is applicable on 'lump sum lease premium' or 'one-time upfront lease charges" paid by an assessee for acquiring long-term leasehold rights for land or any other property has been examined by the CBDT.

Accordingly, the CBDT has, vide this Circular, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property are not payments in the nature of rent within the meaning of section 194-I. Therefore, such payments are not liable for TDS under section 194-I.

ILLUSTRATION 6

XYZ Ltd. pays ₹ 50,000 per month as rent to the Mr. Kishore for a building in which one of its branches is situated. Discuss whether TDS provisions under section 194-I are attracted.

SOLUTION

Section 194-I, which governs the deduction of tax at source on payment of rent, exceeding ₹ 2,40,000 p.a., is applicable to all taxable entities except individuals and HUFs, whose total sales, gross receipts or turnover from the business or profession carried on by him does not exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding financial year in which such rent was

credited or paid, is liable to deduct tax at source.

Since the rent paid by XYZ Ltd. to Mr. Kishore exceeds ₹ 2,40,000, the provisions of section 194-I for deduction of tax at source attracted.

The rate applicable for deduction at source under section 194-I on rent paid is 10%, assuming that Mr. Kishore had furnished his PAN to XYZ Ltd.

Therefore, the amount of tax to be deducted at source = ₹ 6,00,000 x 10% = ₹ 60,000

Payment of rent by certain individuals or Hindu undivided family [Section 194-IB]

1. Applicability and Rate of TDS

Section 194-IB requires any person, being individual or HUF, other than those individual or HUF whose total sales, gross receipts or turnover from the business or profession exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession in the financial year immediately preceding the financial year in which such rent was credited or paid, responsible for paying to a resident any income by way of rent, to deduct income tax @5%.

2. Threshold limit

Under this section, tax has to be deducted at source only if the amount of such rent exceeds ₹ 50,000 for a month or part of a month during the previous year.

3. Time of deduction

This deduction is to be made at the time of credit of such rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

4. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194-IB.

5. Meaning of "Rent"

"Rent" means any payment, by whatever name called, under any lease, sub lease, tenancy or any other agreement or arrangement for the use of any land or building or both.

6. Deduction not to exceed rent for last month

Where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be [Section 206AA providing for deduction of tax at source at a higher rate is discussed at length later on in this chapter]

ILLUSTRATION 7

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2023. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax to be deducted at source.

Would your answer change if Mr. X vacated the premises on 31st December, 2023?

Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

SOLUTION

Since Mr. X pays rent exceeding ₹ 50,000 per month in the F.Y. 2023-24, he is liable to deduct tax at source @5% of such rent for F.Y. 2023-24 under section 194-IB. Thus, ₹ 27,500 [₹ 55,000 x 5% x 10] has to be deducted from rent payable for March, 2024.

If Mr. X vacated the premises in December, 2023, then tax of ₹ 19,250 [₹ 55,000 x 5% x 7] has to be deducted from rent payable for December, 2023.

In case Mr. Y does not provide his PAN to Mr. X, tax would be deductible@20%, instead of 5%.

In case 1 above, this would amount to ₹ 1,10,000 [₹ 55,000 x 20% x 10], but the same has to be restricted to ₹ 55,000, being rent for March, 2024.

In case 2 above, this would amount to ₹ 77,000 [₹ 55,000 x 20% x 7], but the same has to be restricted to ₹ 55,000, being rent for December, 2023.

Fees for professional or technical services [Section 194J]

1. Applicability and Rate of TDS

Every person other than an individual or a HUF, who is responsible for paying to a resident any sum by way of –

i. fees for professional services; or

ii. fees for technical services; or

iii. any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company; or

iv. royalty, or

v. non-compete fees referred to in section 28(va)

shall deduct tax at source at the rate of –

a) 2% in case of fees for technical services (not being professional services) or royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; and

b) 10% in other cases.

However, in case of a payee, engaged only in the business of operation of call centre, the tax shall be deducted at source @2%

2. Time of deduction

The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier. Where such sum is credited to any account, whether called suspense account or by any other name, in the books of accounts of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and tax has to be deducted accordingly.

3. Threshold limit

No tax deduction is required if the amount of fees or the aggregate of the amounts of fees credited or paid or likely to be credited or paid during a financial year does not exceed ₹ 30,000 in the case of fees for professional services, ₹ 30,000 in the case of fees for technical services, ₹ 30,000 in the case of royalty and ₹ 30,000 in the case of non-compete fees.

The limit of ₹ 30,000 under section 194J is applicable separately for fees for professional services, fees for technical services, royalty and non-compete fees referred to in section 28(va). It implies that if the payment to a person towards each of the above is less than ₹ 30,000, no tax is required to be deducted at source, even though the aggregate payment or credit exceeds ₹ 30,000. However, there is no such exemption limit for deduction of tax on any remuneration or fees or commission payable to director of a company.

Summary of rates and threshold limit under section 194J for deduction of tax at source

Nature of payment	TDS rate	Separate Limit
Fees for technical services (not being professional services)	2%	₹ 30,000
Fees for professional services	10%	₹ 30,000
Royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films	2%	₹ 30,000
Other royalty	10%	

Any remuneration or fees or commission, by whatever name called, other than those on which tax is deductible under section 192, to a director of a company	10%	Nil
Non-compete fees	10%	₹ 30,000

In case of a payee, engaged only in the business of operation of call centre, the tax shall be deducted at source @2%

ILLUSTRATION 8

XYZ Ltd. makes a payment of ₹ 28,000 to Mr. Ganesh on 2.8.2023 towards fees for professional services and another payment of ₹ 25,000 to him on the same date towards fees for technical services. Discuss whether TDS provisions under section 194J are attracted.

SOLUTION

TDS provisions under section 194J would not get attracted, since the limit of ₹ 30,000 is applicable for fees for professional services and fees for technical services, separately. It is assumed that there is no other payment to Mr. Ganesh towards fees for professional services and fees for technical services during the P.Y.2023-24.

4. Non-applicability of TDS under section 194J

i. An individual or a Hindu undivided family is not liable to deduct tax at source.
However, an individual or HUF, whose total sales, gross receipts or turnover from business or profession carried by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession in the financial year immediately preceding the financial year in which the fees for professional services or fees for technical services is credited or paid is required to deduct tax on such fees.

Since this provision requires such individuals/HUFs to deduct tax at source only in respect of fees for professional services or fees for technical services, it can be inferred that individuals and HUFs are not required to deduct tax at source under section 194J on royalty and non-compete fees.

ii. Further, an individual or Hindu Undivided Family, shall not be liable to deduct income-tax on the sum payable by way of fees for professional services, in case such sum is credited or paid exclusively for personal purposes.

5. Meaning of "Professional services"

"Professional services" means services rendered by a person in the course of carrying on legal, medical,

engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the CBDT for the purposes of section 44AA or of this section.

Other professions notified for the purposes of section 44AA are as follows:

a) Profession of "authorised representatives";
b) Profession of "film artist";
c) Profession of "company secretary";
d) Profession of "information technology".

The CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:

a) Sports Persons,
b) Umpires and Referees,
c) Coaches and Trainers,
d) Team Physicians and Physiotherapists,
e) Event Managers,
f) Commentators,
g) Anchors and
h) Sports Columnists.

Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions. The term "profession", as such, is of a very wide import. However, the term has been defined in this section exhaustively. For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.

6. Meaning of "Fees for technical services"

The term 'fees for technical services' means any consideration (including any lump sum consideration) for rendering of any of the following services:

i. Managerial services;
ii. Technical services;
iii. Consultancy services;
iv. Provision of services of technical or other personnel.

It is expressly provided that the term 'fees for technical services' will not include following types of consideration:

- Consideration for any construction, assembly, mining or like project, or

- Consideration which is chargeable under the head 'Salaries'.

7. TPAs liable to deduct tax under section 194J on payment to hospitals on behalf of insurance companies

The CBDT has, through Circular No.8/2009 dated 24.11.2009, clarified that TPAs (Third Party Administrator's) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 194J on all such payments to hospitals etc. This is because the services rendered by hospitals to various patients are primarily medical services and, therefore, the provisions of section 194J are applicable to payments made by TPAs to hospitals etc.

8. Consideration for use or right to use of computer software is royalty within the meaning of section 9(1)(vi)

As per section 9(1)(vi), any income payable by way of royalty in respect of any right, property or information is deemed to accrue or arise in India. The term "royalty" means consideration for transfer of all or any right in respect of certain rights, property or information.

As per Explanation 4 to section 9(1)(vi), the consideration for use or right to use of computer software would be royalty. This Explanation clarifies that transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Consequently, the provisions of tax deduction at source under section 194J would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty as per the provisions of the Income-tax Act, 1961.

The Central Government has, vide Notification No.21/2012 dated 13.6.2012, effective from 1st July, 2012, exempted certain software payments from the applicability of tax deduction under section 194J. Accordingly, where payment is made by the transferee for acquisition of software from a resident-transferor, the provisions of section 194J would not be attracted if-

1. the software is acquired in a subsequent transfer without any modification by the transferor;
2. tax has been deducted under section 194J on payment for any previous transfer of such software; and
3. the transferee obtains a declaration from the transferor that tax has been so deducted along with the PAN of the transferor.

Payment made by an individual or a HUF for contract work or by way of commission or brokerage or fees for professional services [Section 194M]

1. Applicability and rate of TDS

Section 194M provides for deduction of tax at source @5% by an individual or a HUF responsible for paying any sum during the financial year to any resident-

a) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or

b) by way of commission (not being insurance commission referred to in section 194D) or brokerage; or

c) by way of fees for professional services.

It may be noted that only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident.

2. Time of deduction

The tax should be deducted at the time of credit of such sum or at the time of payment of such sum, whichever is earlier.

3. Threshold limit

No tax is required to be deducted where such sum or, as the case may be, aggregate amount of such sums credited or paid to a resident during the financial year does not exceed ₹ 50,00,000

4. Non-applicability of TDS under section 194M

An individual or a Hindu undivided family is not liable to deduct tax at source u/s 194M if -

a) they are required to deduct tax at source u/s 194C for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

b) they are required to deduct tax at source u/s 194H on commission (not being insurance commission referred to in section 194D) or brokerage i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year.

c) they are required to deduct tax at source u/s 194J on fees for professional services i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

5. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194M.

Note - For the meaning of the terms "Work", "Professional services" and "Commission or brokerage" refer sub-heading "3.4 Payments to contractors and sub-contractors [Section 194C]", "3.8 Fees for professional or technical services [Section 194J]" and "3.5 Commission or brokerage [Section 194H]", respectively.

ILLUSTRATION 9

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

	Particulars of the payer	Nature of payment	Aggregate of payments made in the F.Y.2023-24
1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2022-23	Contract Payment for repair of residential house	₹ 5 lakhs
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000
2.	Mr. Rajesh, a wholesale trader whose turnover was 95 lakhs in P.Y. 2022-23.	Contract Payment for reconstruction of residential house (made during the period January- March, 2024)	20 lakhs in January, 2024, 15 lakhs in Feb 2024 and 20 lakhs in March 2024.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2024	₹ 51 lakhs
4.	Mr. Dheeraj, a pensioner	Contract payment made during October-November 2023 for reconstruction of residential house	₹ 48 lakhs

SOLUTION

	Particulars of the payer	Nature of payment	Aggregate of payments in the F.Y.2023-24	Whether TDS provisions are attracted?

1.	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y.2022-23	Contract Payment for repair of residential house	₹ 5 lakhs	No; TDS under section 194C is not attracted since the payment is for Personal purpose. TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y.2023-24 does not exceed ₹ 50 lakh.
		Payment of commission to Mr. Vallish for Business purposes	₹ 80,000	Yes, u/s 194H, since the payment exceeds ₹ 15,000, and Mr. Ganesh's turnover exceeds ₹ 1 crore in the P.Y.2022-23.
2.	Mr. Rajesh, a wholesale trader whose turnover was ₹ 95 lakhs in P.Y. 2022-23	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, u/s 194M, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed 50 lakhs. Since, his turnover does not exceed 1 crore in the P.Y.2022-23, TDS provisions under section 194C are not attracted in Respect of payments made in the P.Y. 2023-24.
3.	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, u/s 194M, since the payment of ₹ 51 lakhs made in March 2024 exceeds the threshold of 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 194H are not applicable in this case.
4.	Mr. Dheeraj, a pensioner	Contract payment for reconstruction of residential house	₹ 48 lakhs	TDS provisions under section 194C are not Attracted since Mr. Dheeraj is a pensioner. TDS provisions under section 194M are also not applicable in this case, since the payment of ₹ 48 lakhs does not exceed the threshold of ₹ 50 lakhs.

TDS on cash withdrawal [Section 194N]

1. Applicability and rate of TDS

Section 194N provides that every person, being

- a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred under 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, being the amount or aggregate of amounts, as the case may be, in cash exceeding ₹ 1 crore during the previous year, to any person from one or more accounts maintained by such recipient-person with it, shall deduct tax at source @2% of such sum

However, if the recipient is a co-operative society, tax is required to be deducted on any sum exceeding ₹ 3 crore.

2. Time of deduction

This deduction is to be made at the time of payment of such sum.

3. Modification in rate of TDS and threshold limit of withdrawal for recipient who has not furnished return of income for last 3 years

If the recipient has not furnished the returns of income for all the three assessment years relevant to the three previous years, for which the time limit to file return of income under section 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made, "the sum" shall mean the amount or the aggregate of amounts, as the case may be, in cash > ₹ 20 lakhs during the previous year, and the tax shall be deducted at the rate of –

- 2% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > ₹ 20 lakhs but ≤ ₹ 1 crore (₹ 3 crore in case the recipient is a co-operative society)
- 5% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > ₹ 1 crore (₹ 3 crore in case the recipient is a co-operative society).

However, the Central Government is empowered to specify, with the consultation of RBI, by notification, the recipient in whose case this provision shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification.

4. Non-applicability of TDS under section 194N

Liability to deduct tax at source under section 194N shall not be applicable to any payment made to –

i. the Government
ii. any banking company or co-operative society engaged in carrying on the business of banking or a post-office
iii. any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines

iv. 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 RBI under the Payment and Settlement Systems Act, 2007 .

The Central Government may specify, with the consultation of RBI, by notification, the recipient in whose case section 194N shall not apply or apply at reduced rate, subject to the satisfaction of the conditions specified in such notification.

Example

The persons referred to in (i) to (vi) in Column (2) of the table below have always been filing their returns of income on or before the due date u/s 139(1). The persons mentioned in (vii) to (x) in Column (2) of the table below have not filed their returns of income for the last five years. Determine the liability of deduction of tax at source u/s 194N by the bank/co-operative bank referred to in column (3) of the table below in each of the following individual cases, assuming that this is the only withdrawal in the P.Y.2023-24 by the persons referred to in Column (2).

(1)	(2)	(3)	(4)	(5)	(6)
	Person making the withdrawal	**Bank/Co operative Bank from which money is withdrawn**	**Date of withdrawal**	**Amount of withdrawal (₹)**	**TDS u/s 194N (₹)**
(i)	Mr. Harishit	SBI	1.7.2023	1,10,00,000	₹ 10,00,000 x 2% = ₹ 20,000
(ii)	Mr. Pranav	SBI	1.8.2023	90,00,000	Nil (since withdrawals < ₹ 1 crore)
(iii)	ABC Cooperative Society	SBI	1.9.2023	2,70,00,000	Nil (since withdrawals < ₹ 3 crore)
(iv)	XYZ Cooperative Society	MNO Co operative bank	1.9.2023	3,10,00,000	₹ 10,00,000 x 2% = ₹ 20,000
(v)	Mr. Vaibhav	MNO Co operative bank	1.9.2023	2,10,00,000	₹ 1,10,00,000 x 2% = ₹ 2,20,000
(vi)	A Ltd.	MNO Co operative bank	1.10.2023	1,05,00,000	₹ 5,00,000 x 2% = ₹ 10,000

(vii)	M/s. DEF & Co., a firm	MNO Co operative bank	1.2.2024	90,00,000	₹ 70,00,000 x 2% = ₹ 1,40,000
(viii)	Mr. Varun	BOI	1.2.2024	1,20,00,000	₹ 80,00,000 x 2% (+) ₹ 20,00,000 x 5% = ₹ 2,60,000
(ix)	Mr. Rakesh	BOI	1.2.2024	45,00,000	₹ 25,00,000 x 2% = ₹ 50,000
(x)	PQR Co-operative Society	BOI	1.2.2024	3,30,00,000	₹ 2,80,00,000 x 2% (+) ₹ 30,00,000 x 5% = ₹ 7,10,000

OTHER TDS PROVISIONS

The other TDS provisions are given below in tabular form –

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction	Other relevant points
192A	Premature withdrawal from Employees' Provident Fund	Payment or aggregate payment ≥ ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	Individual (Employee)	10% on premature taxable withdrawal.	At the time of payment	Exemption from TDS ▪ Withdrawal after continuous service of 5 years ▪ Case of withdrawal before continuous service of 5 years and – a) employee opts for transfer of accumulated balance to the new employer b) termination is due to ill health, contraction or discontinuance of business, cessation of employment etc.

194	Dividend (including dividends on preference shares)	Amount or aggregate amount > ₹ 5,000 in a F.Y., in case Of dividend paid or Credited to an individual shareholder by any mode other than cash >No Threshold in other cases Of dividend paid or Credited to an individual shareholder by any mode other than cash No Threshold in other cases	The Principal Officer of a domestic company	Resident shareholder	10%	Before making any payment by any mode in respect of any dividend or before making any distribution or payment of dividend. respect of any dividend or before making any distribution or payment of dividend.	Exemption from TDS Dividend credited or paid to - ▪ LIC, GIC, subsidiaries of GIC or any other insurer provided the shares are owned by them, or they have full beneficial interest in such shares. ▪ any other person as may be notified by the Central Government insurer provided the shares are owned by them, or they have full beneficial interest in such shares ▪ any other person as may be notified by the Central Government.
194B	Winnings from any lottery, crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature (other than winnings from any online	Amount or the aggregate of amounts > ₹10,000 in a F.Y.	The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment.	a) Where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings. b) Where winnings are to be credited and

	game in respect of which TDS u/s 194BA would be applicable)						losses are to be debited to the individual a/c of the punter, tax has to be deducted on winnings before set-off of losses. Thereafter, the net amount, after deduction of tax and losses, has to be paid to the winner.
194BA	Winnings from online games	On the net winnings in a person's user account as computed in prescribed manner.	Any person responsible for paying income by way of such winnings	Any person	30%	At the end of the F.Y. In case, there is withdrawal from user account during the F.Y., tax would be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted on the remaining amount of net winnings in the user account as computed in prescribed	Where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. **<u>Meaning of certain terms:</u>** **Online gaming intermediary –** An intermediary that offers one or more online games. **User –** Any person who accesses or avails any computer resource of an online gaming intermediary. **User account –** Account of a user registered with an

						manner at the end of the F.Y.	online gaming intermediary.
194BB	Winnings from horse race	Amount or aggregate of amounts > ₹10,000 in a F.Y.	Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course.	Any Person	30%	At the time of payment	'Any horse race' includes, wherever the Circumstances so necessitate, more than one horse race.
194D	Insurance Commission	Amount or aggregate amount > ₹15,000 in a F.Y.	Any person responsible for paying any income by way of remuneration Or reward for soliciting or procuring insurance business (including the business relating to the continuance, renewal or Revival of Policies of insurance)	Any Resident	5%, if the payee is non-corporate resident 10%, if the Payee is domestic company	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.	

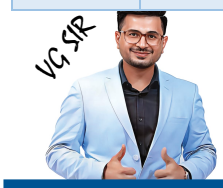
194DA	Any sum under a Life Insurance Policy not fulfilling the conditions specified u/s 10(10D)	Amount or aggregate amount ≥ ₹1,00,000 in A financial year	Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus	Any resident	5% of the amount of income comprised therein	At the time of payment	**Exemption from TDS** The sum received under a life insurance policy which fulfills the conditions specified under section 10(10D).
194G	Commission on sale of lottery tickets	> ₹15,000 in a F.Y.	Any person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets	Any person stocking, distributing, purchasing or selling lottery tickets	5%	At the Time of Credit of such Income to the account of the payee or at the time of payment, whichever is earlier.	Where income is credited to some other account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit to the account of the payee for the purposes of this section.
194-IA	Payment on Transfer of certain immovable property other than agricultural land	≥ ₹50 lakh (Consideration for transfer or stamp duty value)	Any person, Being a transferee (other than a person referred to in section 194LA responsible for	Resident transferor	1% of consideration for transfer or stamp duty value, whichever is higher. No requirement of	At the time of credit of such sum To the Account of the transferor or at the Time of payment,	**Meaning of Consideration for transfer of immovable property** Consideration for transfer of immovable property include all charges of the nature of club membership fee, car parking fee, electricity or water

			paying compensation for compulsory acquisition of immovable property other than rural agricultural land)		obtaining TAN u/s 203A.	whichever is earlier.	facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.
194K	Income on units other than in the nature of capital gains	Amount or aggregate amount > ₹5,000 in a F.Y.	Any person responsible for paying any income in respect of units of a mutual fund / Administrator of the specified undertaking/ specified company	Any resident	10%	At the time of credit of such sum To the account of the payee or at the time of payment, whichever is earlier.	
194LA	Compensation on acquisition Of certain immovable property (other than agricultural land situated in India)	Amount or aggregate amount > ₹2,50,000 in a F.Y.	Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable	Any Resident	10%	At the time of payment	TDS provisions are not applicable on compensation on acquisition of agricultural land in India, whether rural or urban.

			property (other than agricultural land situated in India)				
194P	Pension (along with interest on bank account)	Basic exemption limit [`3,00,000 (in case the specified senior citizen pays tax under the default tax regime u/s 115BAC), ₹ 3,00,000 / ₹5,00,000, as the case may be, if the specified senior citizen has exercised the option of shifting out of the default tax regime providing u/s 115BAC] [i.e., Total income after giving effect to the deduction allowable under Chapter VI-A, if any	Notified specified bank (a banking company which is a scheduled bank and has been appointed as agents of RBI u/s 45 of the RBI Act, 1934	Specified senior citizen	Rates in force, where the individual has exercised the option of shifting out of the default tax regime. Rates specified in section 115BAC, where the individual pays tax under the default tax regime.		Specified senior citizen means an individual, being a resident in India, who – - is of the age of 75 years or more at any time during the P.Y.; - is having pension income and no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and - has furnished a declaration to the specified bank. Specified bank to compute the total income for the relevant A.Y. of the specified senior citizen who furnishes declaration in prescribed form, and deduct income-tax, after giving effect to deduction under

		allowable should exceed the basic exemption limit. Further, in case the individual is entitled to rebate u/s 87A from tax payable, then the same should be given effect to]					Chapter VI-A, if any allowable (on the basis of evidence furnished by the specified senior citizen) and rebate allowable u/s 87A. [CBDT Notification No. 99/2021 dated 2.9.2021] The provisions of section 139, relating to filing of return, would not apply to a specified senior citizen for the A.Y. relevant to the P.Y. in which tax has been deducted u/s 194P(1).
194Q	Purchase of goods	₹50 lakhs in a previous year	Buyer, who is responsible for paying any sum to any resident for purchase of goods. Buyer means a person whose total sales, gross receipts or turnover from business exceeds ₹10 crores during the FY immediately	Any resident	0.1% of sum exceeding ₹50 lakhs	At the time of credit of such sum To the account of the seller or at the time of payment, whichever is earlier.	Non-applicability of TDS u/s 194Q Transactions on which (a) Tax is deductible under any of the provisions of the Act; (b) Tax is collectible u/s 206C, other than section 206C(1H) In case of a transaction to which both section 206(1H) and section 194Q applies, tax is required to be deducted u/s 194Q. **Other points** Where the sum is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such

			preceding the FY in which the purchase of goods is carried out.				crediting shall be deemed to be credit to the account of the payee for the purposes of this section.
194R	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. The provisions would apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.	Value or aggregate of value of benefit or perquisite > ₹20,000 in a F.Y.	Any person (other than an individual or HUF whose Total sales, gross receipts or turnover does not exceed ₹1 crore in case of Business or ₹50 lakhs in case of profession during the immediately preceding F.Y.) responsible for providing to a resident, any benefit or perquisite. In case of a company, "person responsible for paying" means the	Any resident	10% of value or aggre. of value of such benefit or perquisite	Before providing such benefit or perquisite	Where the benefit or perquisite is wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.



			company itself including the Principal Officer thereof.				

ILLUSTRATION 10

Examine the applicability of the provisions for tax deduction at source under section 194DA in the following cases –

i. Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 31.3.2024, towards maturity proceeds of LIC policy taken on 1.4.2021, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.

ii. Mr. Y, a resident, is due to receive ₹ 3.95 lakhs on 31.3.2024 on LIC policy taken on 31.3.2012, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹ 26,100.

iii. Mr. Z, a resident, is due to receive ₹ 95,000 on 1.8.2023 towards maturity proceeds of LIC policy taken on 1.8.2017 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 10,000.

SOLUTION

i. Since the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, the maturity proceeds of ₹ 4.50 lakhs due on 31.3.2024 are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted@5% under section 194DA on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the aggregate amount of insurance premium paid).

ii. Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 3.95 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.

iii. Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.3.2012, and consequently, the maturity proceeds of ₹ 95,000 due on 1.8.2023 would not be exempt under section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

ILLUSTRATION 11

Mr. X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Y on 1.8.2023. He has purchased the house property and the land in the year 2022 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 1.8.2023, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Examine the tax

implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians.

SOLUTION

(i)	**Tax implications in the hands of Mr. X**
	As per section 50C, the stamp duty value of house property (i.e. ₹ 85 lakh) would be deemed to be the full value of consideration arising on transfer of property, since the stamp duty value exceeds 110% of the consideration received. Therefore, ₹ 45 lakh (i.e., ₹ 85 lakh – ₹ 40 lakh, being the purchase price) would be taxable as short-term capital gains in the A.Y.2024-25. Since rural agricultural land is not a capital asset, the gains arising on sale of such land is not taxable in the hands of Mr. X.
(ii)	**Tax implications in the hands of Mr. Y**
	In case immovable property is received for inadequate consideration, the difference between the stamp value and actual consideration would be taxable under section 56(2)(x), if such difference exceeds the higher of ₹ 50,000 and 10% of the consideration. Therefore, in this case ₹ 25 lakh (₹ 85 lakh – ₹ 60 lakh) would be taxable in the hands of Mr. Y under section 56(2)(x). Since agricultural land is not a capital asset, the provisions of section 56(2)(x) are not attracted in respect of receipt of agricultural land for inadequate consideration, since the definition of "property" under section 56(2)(x) includes only capital assets specified thereunder.
(iii)	**TDS implications in the hands of Mr. Y**
	Since the sale consideration of house property or the stamp duty value of house property exceeds ₹ 50 lakh, Mr. Y is required to deduct tax at source under section 194-IA. The tax to be deducted under section 194-IA would be ₹ 85,000, being 1% of ₹ 85 lakhs (higher of ₹ 60 lakhs or ₹ 85 lakhs). TDS provisions under section 194-IA are not attracted in respect of transfer of rural agricultural land.

ILLUSTRATION 12

Mr. Sharma, a resident Indian aged 77 years, gets pension of ₹ 52,000 per month from the UP State Government. The same is credited to his savings account in SBI, Lucknow Branch. In addition, he gets interest@8% p.a. on fixed deposit of ₹ 20 lakh with the said bank. Out of the deposit of ₹ 20 lakh, ₹ 2 lakh represents five year term deposit made by him on 1.4.2023. Interest on savings bank credited to his SBI savings account for the P.Y.2023-24 is ₹ 9,500.

1. From the above facts, compute the total income and tax liability of Mr. Sharma for the A.Y. 2024-25, assuming that he has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).
2. What would be the amount of tax deductible at source by SBI, assuming that the same is a specified bank? Is Mr. Sharma required to file his return of income for A.Y.2024-25, if tax deductible at source has been fully deducted? Examine.
3. Is Mr. Sharma required to file his return of income for A.Y. 2024-25, if the fixed deposit of ₹ 20 lakh was with Canara Bank instead of SBI, other facts remaining the same?

SOLUTION

1) Computation of total income of Mr. Sharma for A.Y.2024-25

Particulars		`
I Salaries		
Pension (₹52,000 x 12)	6,24,000	
Less: Standard deduction u/s 16(ia)	50,000	
		5,74,000
II Income from Other Sources		
Interest on fixed deposit (₹20 lakh x 8%)	1,60,000	
Interest on savings account	9,500	1,69,500
Gross total income		**7,43,500**
Less: Deductions under Chapter VI-A		
Under Section 80C		
Five year term deposit (₹2 lakh, restricted to ₹1.5 lakh)	1,50,000	
Under section 80TTB		
Interest on fixed deposit and savings account, restricted to 50,000, since Mr. Sharma is a resident Indian of the age of 77 years.	50,000	2,00,000
Total Income		5,43,500

Computation of tax liability for A.Y.2024-25

Particulars	`
Tax payable [₹43,500 x 20% + ₹10,000] Add: Health and Education Cess@4% Tax liability	18,700 748
Tax liability (rounded off)	19,448
	19,450

2] SBI, being a specified bank, is required to deduct tax at source u/s 194P and remit the same to the Central Government. In such a case, Mr. Sharma would not be required to file his return of income u/s 139.

3] If the fixed deposit of ₹ 20 lakh is with a bank other than SBI, which is the bank where his pension is credited, then, Mr. Sharma would not qualify as a "specified senior citizen". In this case, Mr. Sharma would have to file his return of income u/s 139, since his total income (without giving effect to deduction under Chapter VI-A) exceeds the basic exemption limit.

Income payable "net of tax" [Section 195A]

1. Where, under an agreement or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon, be equal to the net amount payable under such agreement or arrangement.
2. However, no grossing up is required in the case of tax paid under section 192(1A) by an employer on the non-monetary perquisites provided to the employee.
3. When an amount is paid net of tax, the taxability has to be calculated by grossing up the amount, since the tax itself represents the income of the payee.

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations [Section 196]

1. No deduction of tax shall be made by any person from any sums payable to
   i. the Government; or
   ii. the Reserve Bank of India; or
   iii. a corporation established by or under a Central Act, which is, under any law for the time being in force, exempt from income-tax on its income; or

iv. a Mutual Fund.

2. This provision for non-deduction is applicable when such sum is payable to the above entities by way of-

   i. interest or dividend in respect of securities or shares

      (a) owned by the above entities; or
      (b) in which they have full beneficial interest or

   ii. any income accruing or arising to them.

CERTIFICATE FOR DEDUCTION OF TAX AT A LOWER RATE [SECTION 197]

1. This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be, at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA and 194M.
2. In such cases, the assessee can make an application to the Assessing Officer for deduction of tax at a lower rate or for non-deduction of tax.
3. If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, as the case may be, he may give to the assessee such certificate, as may be appropriate.
4. Where the Assessing Officer issues such a certificate, then the person responsible for paying the income shall deduct income-tax at such lower rates specified in the certificate or deduct no tax, as the case may be, until such certificate is cancelled by the Assessing Officer.
5. Enabling powers have been conferred upon the CBDT to make rules for prescribing the procedure in this regard.

NO DEDUCTION IN CERTAIN CASES [SECTION 197A]

1. Enabling provision for filing of declaration for receipt of dividend without deduction of tax [Sub-section (1)]

i. This section enables an individual, who is resident in India and whose estimated total income of the previous year is less than the basic exemption limit, to receive dividend, without deduction of tax at

source under section 194 on furnishing a declaration in duplicate in the prescribed form [Form 15G] and verified in the prescribed manner.

ii. The declaration in the above form is to be furnished in writing in duplicate by the declarant to the person responsible for paying any income of the nature referred to in section 194. The declaration will have to be to the effect that the tax on the estimated total income of the declarant of the previous year in which such income is to be included in computing his total income will be Nil.

2. Enabling provision for filing of declaration for non-deduction of tax under section 192A or 193 or 194A or 194D or 194DA or 194-I or 194K by persons, other than companies and firms [Sub-section (1A)]

No deduction of tax shall be made under the above provisions of the Act, where a person, who is not a company or a firm, furnishes to the person responsible for paying any income of the nature referred to in these sections, a declaration in writing in duplicate in the prescribed form [Form 15G] to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be Nil.

3. Filing declaration not permissible if income/aggregate of incomes exceed basic exemption limit [Sub-section (1B)]

Declaration cannot be furnished as per the above provisions, where

- payments of dividend; or
- payment of premature withdrawal from Employee Provident Fund; or
- income from interest on securities or
- interest other than "interest on securities" or units; or
- insurance commission; or
- payment in respect of life insurance policy; or
- rent; or
- income from units; or
- the aggregate of the amounts of such incomes in (i) to (viii) above

credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the basic exemption limit.

4. Enabling provision for filing of declaration by resident senior citizens for non-deduction of tax at source [Sub-section (1C)]

For a resident individual, who is of the age of 60 years or more at any time during the previous year, no deduction of tax shall be made under section 192A or section 193 or section 194 or section 194A or

section 194D or section 194DA or section 194EE or section 194-I or section 194K, if such individual furnishes a declaration in writing in duplicate in Form 15H to the payer, that tax on his estimated total income of the previous year in which such income is to be included in computing his total income is Nil. The restriction contained in sub-section (1B) will not apply to resident senior citizens.

5. Non-deduction of tax in certain cases

Payments to notified person or class of persons including institutions/class of institutions etc. [Sub-section (1F)]

No deduction of tax shall be made or deduction of tax shall be made at such lower rate, from such payment to such person or class of persons, including institution, association or body or class of institutions or associations or bodies as may be notified by the Central Government in the Official Gazette in this behalf. Therefore, in respect of such payments made to notified person or class of persons, no tax is to be deducted at source or tax is to be deducted at lower rate.

6. Time limit for delivery of one copy of declaration [Sub-section (2)]

On receipt of the declaration referred to in sub-sections (1), (1A) or (1C), the person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration on or before the 7th of the month following the month in which the declaration is furnished to him.

MISCELLANEOUS PROVISIONS

Tax deducted is income received [Section 198]

1. All sums deducted in accordance with the foregoing provisions shall, for the purpose of computing the income of an assessee, be deemed to be income received.
2. However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income
    i. the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees
    ii. tax deducted under section 194N

Credit for tax deducted at source [Section 199]

1. Tax deducted at source in accordance with the above provisions and paid to the credit of the Central

Government shall be treated as payment of tax on behalf of the

- person from whose income the deduction was made; or
- owner of the security; or
- depositor; or
- owner of property; or
- unit-holder; or
- shareholder.

2. Any sum referred to in section 192(1A) and paid to the Central Government, shall be treated as the tax paid on behalf of the person in respect of whose income, such payment of tax has been made.

3. The CBDT is empowered to frame rules for the purpose of giving credit in respect of tax deducted or tax paid under Chapter XVII. The CBDT also has the power to make rules for giving credit to a person other than the persons mentioned in (1) and (2) above. Further, the CBDT can specify the assessment year for which such credit may be given.

Duty of person deducting tax [Section 200]

1. The persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of the Central Government or as the Board directs, within the prescribed time.

2. Further, an employer paying tax on non-monetary perquisites provided to employees in accordance with section 192(1A), should deposit within the prescribed time, the tax to the credit of the Central Government or as the Board directs.

3. Rule 30 prescribes the time and mode of payment to Government account of TDS or tax paid under section 192(1A) and Rule 31A provides for submission of quarterly statements by every person responsible for deduction of tax [depicted in the diagram given in page 7.73]

   However, every person responsible for deduction of tax under section 194 IA, 194-IB or 194M have to furnish to the Principal Director General of Income-tax (Systems) (in case of sections 194-IB and 194M) or Director General of Income-tax (System) or the person authorised by them, a challan-cum-statement in Form No.26QB, 26QC or 26QD respectively, within thirty days from the end of the month of deduction of tax.

Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements [Section 200A]

1. At present, all statements of tax deducted at source are filed in an electronic mode, thereby facilitating computerised processing of these statements. Therefore, in order to process TDS statements on

computer, electronic processing on the same lines as processing of income-tax returns has been provided in section 200A.

2. The following adjustments can be made during the computerized processing of statement of tax deducted at source or a correction statement
   i. any arithmetical error in the statement; or
   ii. an incorrect claim, if such incorrect claim is apparent from any information in the statement.

3. The term "an incorrect claim apparent from any information in the statement" shall mean such claim on the basis of an entry, in the statement,
   i. of an item, which is inconsistent with another entry of the same or some other item in such statement;
   ii. in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act.

4. The interest, if any, has to be computed on the basis of the sums deductible as computed in the statement;

5. The fee, if any, has to be computed in accordance with the provision of section 234E. A fee of ₹ 200 for every day would be levied under section 234E for late furnishing of TDS statement from the due date of furnishing of TDS statement to the date of furnishing of TDS/ statement. However, the total amount of fee shall not exceed the total amount of tax deductible/collectible and such fee has to be paid before delivering the TDS statement.

6. The sum payable by, or the amount of refund due to, the deductor has to be determined after adjustment of interest and fee against the amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.

7. An intimation will be prepared and generated and sent to the deductor, specifying his tax liability or the refund due, within one year from the end of the financial year in which the statement is filed. The refund due shall be granted to the deductor.

8. For this purpose, the CBDT is empowered to make a scheme for centralized processing of statements of TDS to determine the tax payable by, or refund due to, the deductor.

Consequences of failure to deduct or pay [Section 201]

1. Deemed assessee-in-default

Any person including the principal officer of a company –

i. who is required to deduct any sum in accordance with the provisions of the Act; or

ii. an employer paying tax on non-monetary perquisites under section 192(1A). shall be deemed to be an assessee-in-default, if he does not deduct, or does not pay or after deducting, fails to pay, the whole or any part of the tax, as required by or under the provisions of the Income-tax Act, 1961.

2. Non-applicability of deeming provision

Any person (including the principal officer of the company) who fails to deduct the whole or any part of the tax on the amount credited or paid to a payee shall not be deemed to be an assessee-in-default in respect of such tax if such payee –

i. has furnished his return of income under section 139;
ii. has taken into account such sum for computing income in such return of income; and
iii. has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

3. Interest Liability

i. A person deemed to be an assessee-in-default under section 201(1), for failure to deduct tax or to pay the tax after deduction, is liable to pay simple interest @ 1% for every month or part of month on the amount of such tax from the date on which tax was deductible to the date on which such tax was actually deducted and simple interest @ 1½% for every month or part of month from the date on which tax was deducted to the date on which such tax is actually paid [Section 201(1A)].

ii. Such interest should be paid before furnishing the statements in accordance with section 200(3).

iii. Where the payer fails to deduct the whole or any part of the tax on the amount credited or payment made to a payee and is not deemed to be an assessee-in-default under section 201(1) on account of payment of taxes by such payee, interest under section 201(1A)(i) i.e.,@1% p.m. or part of month, shall be payable by the payer from the date on which such tax was deductible to the date of furnishing of return of income by such payee. The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee. However, where an order is made by the Assessing Officer for assessee-in-default, the interest shall be paid by the person in accordance with such order.

iv. Where the tax has not been paid after it is deducted, the amount of the tax together with the amount of simple interest thereon shall be a charge upon all the assets of the person or the company, as the case may be.

Certificate for tax deducted [Section 203]

i. Every person deducting tax at source have to issue a certificate to the effect that tax has been deducted and specify the amount so deducted, the rate at which tax has been deducted and such other particulars

as may be prescribed.

ii. Every person, being an employer, referred to in section 192(1A) shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.

iii. Certificate of TDS to be furnished under section 203 [Rule 31]

The certificate of deduction of tax at source to be furnished under section 203 shall be in Form No.16 in respect of tax deducted or paid under section 192 and in any other case, Form No.16A.

Form No.16 shall be issued to the employee annually by 15th June of the financial year immediately following the financial year in which the income was paid and tax deducted.

Form No.16A shall be issued quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A. Form No. 16B, 16C or 16D shall be issued by the every person responsible for deduction of tax under section 194-IA, 194-IB or 194M to the payee within fifteen days from the due date for furnishing the challan-cum statement in Form No. 26QB, 26QC or 26QD, respectively, under rule 31A.

Note – The entire TDS process can be understood at a glance from the diagram given in the next page. The reference to Rules and Forms are only for the information of students. They are, however, not required to memorize the Rule numbers and Form numbers for examination purposes.

Mandatory requirement of furnishing PAN in all TDS statements, bills, vouchers and correspondence between deductor and deductee [Section 206AA]

1. The non-furnishing of PAN by deductees in many cases have led to delay in issue of refund on account of problems in the processing of returns of income and in granting credit for tax deducted at source.
2. With a view to strengthening the PAN mechanism, section 206AA provides that any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates
   - the rate prescribed in the Act;
   - at the rate in force i.e., the rate mentioned in the Finance Act; or
   - at the rate of 20%. [5% in case tax is required to be deducted at source u/s 194Q]

   For instance, in case of rental payment for plant and machinery, where the payee does not furnish his PAN to the payer, tax would be deductible @20% instead of @2% prescribed under section 194-I. However, non-furnishing of PAN by the deductee in case of income by way of winnings from lotteries,

card games etc., would result in tax being deducted at the existing rate of 30% under section 194B. Therefore, wherever tax is deductible at a rate higher than 20%, this provision would not have any impact.

3. Tax would be deductible at the rates mentioned above also in cases where the taxpayer files a declaration in Form 15G or 15H (under section 197A) but does not provide his PAN.
4. Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant.
5. Both the deductor and the deductee have to compulsorily quote the PAN of the deductee in all correspondence, bills, vouchers and other documents exchanged between them.
6. If the PAN provided to the deductor is invalid or it does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor. Accordingly, tax would be deductible at the rate specified in (2) above.

Note: The applicability of provisions of section 206AA on non-resident will be dealt with at the Final Level.

Higher rate of TDS for non-filers of income-tax return [Section 206AB]

1. Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person to a specified person, at higher of the following rates –
   - at twice the rate prescribed in the relevant provisions of the Act;
   - at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
   - at 5%

   However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194M6 or 194N.

2. In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

3. Meaning of "specified person" – A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include

- a non-resident who does not have a permanent establishment in India7; or
- a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf

ADVANCE PAYMENT OF TAX [SECTIONS 207 TO 219]

Liability for payment of advance tax

1. Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219, in respect of an assessee's current income i.e. the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year [Section 207].

2. Under section 208, obligation to pay advance tax arises in every case where the advance tax payable is ₹ 10,000 or more.

   Note – An assessee who is liable to pay advance tax of less than ₹ 10,000 will not be saddled with interest under sections 234B and 234C for defaults in payment of advance tax. However, the consequences under section 234A regarding interest for belated filing of return would be attracted.

3. In case of senior citizens who have passive source of income like interest, rent, etc., the requirement of payment of advance tax causes genuine compliance hardship. Therefore, in order to reduce the compliance burden on such senior citizens, exemption from payment of advance tax has been provided to a resident individual-
   i. not having any income chargeable under the head "Profits and gains of business or profession"; and
   ii. of the age of 60 years or more.

   Such senior citizens need not pay advance tax and are allowed to discharge their tax liability (other than TDS) by payment of self-assessment tax.

Computation of advance tax

1. An assessee has to estimate his current income and pay advance tax thereon. He need not submit any estimate or statement of income to the Assessing Officer, except where he has been served with notice by the Assessing Officer.

2. Where an obligation to pay advance tax has arisen, the assessee shall himself compute the advance tax payable on his current income at the rates in force in the financial year and deposit the same, whether or not he has been earlier assessed to tax.

3. In the case of a person who has been already assessed by way of a regular assessment in respect of the total income of any previous year, the Assessing Officer, if he is of the opinion that such person is liable to pay advance tax, may serve an order under section 210(3) requiring the assessee to pay advance tax.
4. For this purpose, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income for any subsequent previous year, whichever is higher, shall be taken as the basis for computation of advance tax payable.
5. The above order can be served by the Assessing Officer at any time during the financial year but not later than the last date of February.
6. If, after sending the above notice, but before 1st March of the financial year, the assessee furnishes a return relating to any later previous year or an assessment is completed in respect of a later return of income, the Assessing Officer may amend the order for payment of advance tax on the basis of the computation of the income so returned or assessed.
7. If the assessee feels that his own estimate of advance tax payable would be less than the one sent by the Assessing Officer, he can file estimate of his current income and advance tax payable thereon.
8. Where the advance tax payable on assessee's estimation is higher than the tax computed by the Assessing Officer, then, the advance tax shall be paid based upon such higher amount.
9. In all cases, the tax calculated shall be reduced by the amount of tax deductible at source.

No reduction of 'tax deductible but not deducted' while computing advance tax liability

- As per the provisions of section 209, the amount of advance tax payable by a person is computed by reducing the amount of income-tax which would be deductible at source during the financial year from any income which has been taken into account in computing the total income.
- Some courts have opined that in case where the payer pays any amount (on which tax is deductible at source) without deduction of tax at source, the payee shall not be liable to pay advance tax to the extent tax is deductible from such amount.
- With a view to make such a person (payee) liable to pay advance tax, the proviso to section 209(1)(d) provides that the amount of tax deductible at source but not so deducted by the payer shall not be reduced from the income tax liability of the payee for determining his liability to pay advance tax.
- In effect, only if tax has actually been deducted at source, the same can be reduced for computing advance tax liability of the payee. Tax deductible but not so deducted cannot be reduced for computing advance tax liability of the payee.

10. The amount of advance tax payable by an assessee in the financial year calculated by-
    - the assessee himself based on his estimation of current income; or
    - the Assessing Officer as a result of an order under section 210(3) or amended order under section 210(4)

    is subject to the provisions of section 209(2), as per which the net agricultural income has to be considered for the purpose of computing advance tax.

Instalments of advance tax and due dates

1. Common advance tax payment schedule for both corporates and non corporates [Other than assessees computing profits on presumptive basis under section 44AD(1) or section 44ADA(1)]:

Due date of instalment	Amount payable
On or before 15th June	Not less than 15% of advance tax liability
On or before 15th September	Not less than 45% of advance tax liability, as reduced by the amount, if any, paid in the earlier instalment.
On or before 15th December	Not less than 75% of advance tax liability, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before 15th March	The whole amount of advance tax liability as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

2. Advance tax payment by assessees computing profits on presumptive basis under section 44AD(1)or section 44ADA(1)
   An eligible assessee, opting for computation of profits or gains of business on presumptive basis in respect of eligible business referred to in section 44AD(1) or for computation of profits or gains of profession on presumptive basis in respect of eligible profession referred to in section 44ADA(1), shall be required to pay advance tax of the whole amount in one instalment on or before 15th March of the financial year. However, any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

3. If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the interest leviable under sections 234B and 234C would not be charged.

4. Where advance tax is payable by virtue of the notice of demand issued8 by the Assessing Officer, the whole or the appropriate part of the advance tax specified in such notice shall be payable on or before each of such due dates as fall after the date of service of notice of demand.

5. Where the assessee does not pay any instalment by the due date, he shall be deemed to be an assessee in default in respect of such instalment.

Credit for advance tax [Section 219]

Any sum, other than interest or penalty, paid by or recovered from an assessee as advance tax, is treated as a payment of tax in respect of the income of the previous year and credit thereof shall be given in the regular assessment.

Interest for non-payment or short-payment of advance tax [Section 234B]

1. Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of assessed tax.

2. The interest liability would be 1% per month or part of the month from 1st April following the financial year upto the date of determination of income under section 143(1) and where a regular assessment is made, upto the date of such regular assessment.

3. Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.

4. Assessed tax is the tax calculated on total income determined under section 143(1) and where a regular assessment is made, the tax on the total income determined under such regular assessment less
   - tax deducted or collected at source.
   - any relief of tax allowed under section 89
   - any tax credit allowed to be set off in accordance with the provisions of section 115JD, in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

   Tax on the total income determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143.
   Tax on the total income determined under such regular assessment would not include the additional income-tax, if any, payable under section 140B.

   Section 140B is discussed in detail in Chapter 8.

5. However, where self-assessment tax is paid by the assessee under section 140A or otherwise, interest

shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section. Thereafter, interest shall be calculated at 1% on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

Interest payable for deferment of advance tax [Section 234C]

1. Manner of computation of interest under section 234C for deferment of advance tax by corporate and non-corporate assessees:

   In case an assessee, other than an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1), who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by such assessee on its current income on or before the dates specified in column (1) is less than the specified percentage [given in column (2)] of tax due on returned income, then simple interest@1% per month for the period specified in column (4) on the amount of shortfall, as per column (3) is leviable under section 234C.

Specified date	Specified %	Shortfall in advance tax	Period
(1)	(2)	(3)	(4)
15th June	15%	15% of tax due on returned income (-) advance tax paid up to 15th June	3 months
15th September	45%	45% of tax due on returned income (-) advance tax paid up to 15th September	3 months
15th December	75%	75% of tax due on returned income (-) advance tax paid up to 15th December	3 months
15th March	100%	100% of tax due on returned income (-) advance tax paid up to 15th March	1 month

   Note – However, if the advance tax paid by the assessee on the current income, on or before 15th June or 15th September, is not less than 12% or 36% of the tax due on the returned income, respectively, then, the assessee shall not be liable to pay any interest on the amount of the shortfall on those dates.

2. Computation of interest under section 234C in case of an assessee who declares profits and gains in accordance with the provisions of section 44AD(1) or section 44ADA(1):
   In case an assessee who declares profits and gains in accordance with the section 44AD(1) or section 44ADA(1), as the case may be, who is liable to pay advance tax under section 208 has failed to pay such

tax or the advance tax paid by the assessee on its current income on or before 15th March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of 1% on the amount of the shortfall from the tax due on the returned income.

3. Non-applicability of interest under section 234C in certain cases: Interest under section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimation of or failure to estimate-

- the amount of capital gains;
- income of nature referred to in section 2(24)(ix) i.e., winnings from lotteries, crossword puzzles etc.;
- income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time.
- the amount of dividend income other than deemed dividend referred u/s 2(22)(e)

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii) or (iv), as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by 31st March of the financial year.

4. Meaning of tax due on returned income Tax due on returned income means the tax calculated on total income declared in the return furnished by the assessee less

- tax deducted or collected at source
- any relief of tax allowed under section 89
- any tax credit allowed to be set off in accordance with the provisions of section 115JD, in case the assessee exercises the option of shifting out of the default tax regime provided under section 115BAC(1A).

TAX COLLECTION AT SOURCE

1. Applicability and Rates

i. Sale of certain goods

Under section 206C(1), sellers of certain goods are required to collect tax from the buyers at the specified rates. The specified percentage for collection of tax at source is as follows:

	Nature of Goods	Percentage
(a)	Alcoholic liquor for human consumption 1%	1%
(b)	Tendu leaves	5%

(c)	Timber obtained under a forest lease	2.5%
(d)	Timber obtained by any mode other than (c)	2.5%
(e)	Any other forest produce not being timber or tendu leaves	2.5%
(f)	Scrap	1%
(g)	Minerals, being coal or lignite or iron ore	1%

The tax should be collected at the time of debiting of the amount payable by the buyer to his account or at the time of receipt of such amount from the buyer, whichever is earlier.

Non-applicability of TCS u/s 206C(1) [Section 206C(1A)]

No collection of tax shall be made under section 206C(1), in the case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that goods referred to in section 206C(1) above are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

ii. Lease or a licence of parking lot, toll plaza or mine or a quarry

Section 206C(1C) provides for collection of tax by every person who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any

- parking lot or
- toll plaza or
- a mine or a quarry

to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such licence, contract or lease of the specified nature, at the rate of 2%. Mining and quarrying would not include mining and quarrying of mineral oil. Mineral oil includes petroleum and natural gas. The tax should be collected at the time of debiting of the amount payable by the licensee or lessee to his account or at the time of receipt of such amount from the licensee or lessee, whichever is earlier.

iii. Sale of motor vehicle of value exceeding ₹ 10 lakhs

Section 206C(1F) provides that every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ 10 lakhs, shall, at the time of receipt of such amount, collect tax from the buyer@1% of the sale consideration.

iv. Remittance under LRS of RBI through an authorized dealer or purchase of an overseas tour package

Section 206C(1G) provides for collection of tax by every person,

- being an authorized dealer, who receives amount, under the Liberalised Remittance Scheme of the RBI, for remittance from a buyer, being a person remitting such amount;
- being a seller of an overseas tour programme package who receives any amount from the buyer who purchases the package

Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

Rate of TCS in case of collection by an authorized dealer/ seller of an overseas tour programme package

S. No.	Amount and purpose of remittance	Rate of TCS upto 30.9.2023	Rate of TCS on or after 1.10.2023
(i)	Where the amount is for purchase of an overseas tour programme package	5% of such amount (without	5% till ₹7 lakhs, 20% thereafter
		any threshold limit)	
(ii)	1. Where the amount is remitted for the purpose of education or medical treatment; and 2. the amount or aggregate of the amounts being remitted by a buyer is less than ₹7 lakhs in a financial year	Nil (No tax to be collected at source)	
(iii)	1. Where the amount is remitted for the purpose other than mentioned in (ii) above; and 2. the amount or aggregate of the amounts being remitted by a buyer is less than ₹7 lakhs in a financial year	Nil (No tax to be collected at source)	
(iv)	a) where the amount is remitted for the purpose of education or medical treatment; and b) the amount or aggregate of the amounts in excess of ₹7 lakhs is remitted by the buyer in a financial year	5% of the amt or agg. of amts in excess of ₹7 lakh	

(v)	a) where the amount is remitted for the purpose other than mentioned in (iv) above; and b) the amount or aggregate of the amounts in excess of ₹7 lakhs is remitted by the buyer in a financial year	5% of the amt or agg. of amts in excess of ₹7 lakh	20% of the amt or agg. of amts in excess of ₹7 lakh
(vi)	(a) where the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education; and (b) the amount or aggregate of the amounts in excess of ₹7 lakhs is remitted by the buyer in a financial year	0.5% of the amt or agg. of amts in excess of ₹7 lakh	

Cases where no tax is to be collected

(i)	No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller
(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax
(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority9 or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder. Accordingly, the CBDT has, vide notification no. 99/2022 dated 17.8.2022, notified that the provisions of section 206C(1G) would not apply to a person (being a buyer) who is a non resident in India in terms of section 6 and does not have a permanent establishment in India.

v. Sale of goods of value exceeding ₹ 50 lakh

a) As per section 206C(1H), tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)]

b) Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs, at the time of receipt of consideration.

c) Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.

vi. Power of the CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of section 206C(1G)/(1H), the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.

Every guideline issued by the CBDT shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person liable to collect tax.

2. Meaning of certain terms

	Term	Meaning
(i)	Overseas tour program package	**For section 206C(1G)** Any tour package which offers visit to a country/(ies) or territory/(ies) outside India. It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto. [Clause (ii) of Explanation to section 206C(1G)]
(ii)	Buyer	**For section 206C(1H):** A person who purchases any goods but does not include – a) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State, or b) a local authority7; or c) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions. **For section 206C(1):** A person who obtains in any sale, by way of auction, tender, or any other mode, goods of the nature specified in the Table in point (1) or the right to receive any such goods but does not include – a) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State and a club, or b) a buyer in the retail sale of such goods purchased by him for personal consumption [Explanation to section 206C]

		For section 206C(1F): A person who obtains in any sale, goods of the nature specified therein, but does not include – a) the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or b) a local authority; or c) a public sector company which is engaged in the business of carrying passengers. [Explanation to section 206C]
(iii)	Seller	**For section 206C(1H):** A person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crores during the financial year immediately preceding the financial year in which sale of goods is carried out. However, seller does not include a person as notified by the Central Government for this purpose, subject to fulfillment of the stipulated conditions [Clause (b) of Explanation to section 206C(1H)] **For section 206C(1) and section 206C(1F):** - The Central Government, - a State Government or - any local authority or - corporation or - authority established by or under a Central, State or Provincial Act, or - any company or - firm or - co-operative society Seller also includes an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year in which the goods of the nature specified in the Table in point (1) are sold. [Explanation to section 206C]
(iv)	Scrap	Waste and scrap from the manufacture or mechanical working of materials which is definitely not usable as such because of breakage, cutting up, wear and other reasons. [Explanation to section 206C]

3. Higher rate of TCS for non-furnishers of PAN [Section 206CC]

i. The provisions of section 206CC require tax collection at the higher of the following two rates, in case of failure by the person paying any sum or amount on which tax is collectible at source (collectee) to furnish PAN [PAN or Aadhar number in case of section 206C(1H)] to the person responsible for collecting tax at source (collector)
   - at twice the rate specified in the relevant provision of the Act
   - at 5% [1%, in case tax is required to be collected at source u/s 206C(1H)]

However, the maximum the rate of TCS under this section shall not exceed 20%.

i. Tax would be collectible at the rates mentioned above also in case where the person furnishes a declaration under section 206C(1A) but does not provide his PAN.

ii. Both the collectee and the collector have to compulsorily quote the PAN of the collectee in all correspondence, bills, vouchers and other documents exchanged between them.

iii. If the PAN provided to the collector is invalid or it does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector. Accordingly, tax would be collectible at the rate specified in (i) above.

iv. The provisions of section 206CC do not apply to a non-resident who does not have a permanent establishment in India.

4. Higher rate of TCS for non-filers of income-tax return [Section 206CCA]

i. Section 206CCA requires tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person from a specified person, at higher of the following rates
   - at twice the rate specified in the relevant provision of the Act;
   - at 5%

   However, the maximum the rate of TCS under this section shall not exceed 20%.

ii. In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.

iii. Meaning of "specified person" – A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include –

- a non-resident who does not have a permanent establishment in India10; or
- a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.

5. CBDT Clarification relating to certain issues with respect to section 206C(1F)

These amendments in section 206C have given rise to certain issues relating to the scope and applicability of the provisions. Accordingly, the CBDT has, vide Circular No. 22/2016 dated 8.6.2016, clarified the following issues in "Question & Answer (Q&A)" format.

Q.1 Whether TCS@1% is on sale of motor vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/ distributors?

A. To bring high value transactions within the tax net, section 206C has been amended to provide that the seller shall collect the tax @ 1% from the purchaser on sale of motor vehicle of the value exceeding ₹ 10 lakhs. This is brought to cover all transactions of retail sales and accordingly, it will not apply on sale of motor vehicles by manufacturers to dealers/distributors.

Q.2 Whether TCS@1% on sale of motor vehicle is applicable only to luxury cars?

A. No, as per section 206C(1F), the seller shall collect tax@1% from the purchaser on sale of any motor vehicle of the value exceeding ₹ 10 lakhs.

Q.3 Whether TCS@1% is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions, of motor vehicle or any other goods or provision of services?

A. Government, institutions notified under United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS@1% under section 206C(1F).

Q.4 Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

A. Tax is to be collected at source@1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to aggregate value of sale made during the year.

Q.5 Whether TCS@1% on sale of motor vehicle is applicable in case of an individual?

A. The definition of "Seller" as given in clause (c) of the Explanation below sub-section (11) of section 206C shall be applicable in the case of sale of motor vehicles also.

Q.6 How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?

A. The provisions of TCS on sale of motor vehicle exceeding ₹ 10 lakhs is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS@1%.

6. CBDT Clarification relating to certain issues with respect to section 206C(1H)

In exercise of the power to issue guidelines, the CBDT has, with the approval of Central Government, vide Circular no. 17/2020 dated 29.9.2020, issued the following guidelines for removing certain difficulties-

1. **Applicability on sale of Motor vehicle:**

The provisions of section 206C(1F) apply to sale of motor vehicle of the value exceeding ₹ 10 lakhs. Section 206C(1H) excludes from its applicability goods covered under section 206C(1F). It may be noted that the scope of sections 206C(1H) and (1F) are different. While section 206C(1F) is based on single sale of motor vehicle, section 206C(1H) is for receipt above ₹ 50 lakhs. Hence, in order to remove difficulty that whether all motor vehicles are excluded from the applicability of section 206C(1H), it is clarified that,

- Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H), if such sales are not subjected to TCS under section 206C(1F)
- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ₹ 10 lakhs or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the previous year exceeds ₹ 50 lakhs during the previous year.
- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ₹ 10 lakhs would not be subjected to TCS under section 206C(1H) if such sales are subjected to TCS under section 206C(1F).

2. **Adjustment for sale return, discount or indirect taxes:**

It is been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.

Note – It can be inferred that no adjustment for GST is required to be made under section 206C(1F) also, since collection is made with reference to receipt of amount of sale consideration.

ILLUSTRATION 13

Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2022-23 was ₹ 12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2023-24 was ₹ 95 lakh (₹ 20 lakh on 1.6.2023, ₹ 25 lakh on 12.8.2023, ₹ 22 lakh on 23.11.2023 and ₹ 28 lakh on 25.3.2024). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2022-23 was ₹ 15 crores.

1. Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961.
2. Would your answer be different if Mr. Gupta's turnover for F.Y.2022-23 was ₹ 8 crores, all other facts remaining the same?
3. Would your answer to (1) and (2) change, if PAN has not been furnished by the buyer or seller, as required?

SOLUTION

1. Since Mr. Gupta's turnover for F.Y.2022-23 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2023-24, he is liable to deduct tax@0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner-

   No tax is to be deducted u/s 194Q on the payments made on 1.6.2023 and 12.8.2023, since the aggregate payments till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

   Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2023 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit].

   Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2024.

   Note – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q.

2. If Mr. Gupta's turnover for the F.Y.2022-23 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2022-23 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.

   No tax is to be collected u/s 206C(1H) on 1.6.2023 and 12.8.2023, since the aggregate receipts till that date i.e. 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

   Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2023 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit).

   Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be collected u/s 206C(1H) on 25.3.2024.

3. In case (1), if PAN is not furnished by Mr. Agarwal to Mr. Gupta, then, Mr. Gupta has to deduct tax@5%, instead of 0.1%. Accordingly, tax of ₹ 85,000 (i.e., 5% of ₹ 17 lakhs) and ₹ 1,40,000 (5% of ₹ 28 lakhs) has to be deducted by Mr. Gupta u/s 194Q on 23.11.2023 and 25.3.2024, respectively.

   In case (2), if PAN is not furnished by Mr. Gupta to Mr. Agarwal, then, Mr. Agarwal has to collect tax@1% instead of 0.1%. Accordingly, tax of ₹ 17,000 (i.e., 1% of ₹ 17 lakhs) and ₹ 28,000 (1% of ₹ 28 lakhs) has to be collected by Mr. Agarwal u/s 206C(1H) on 23.11.2023 and 25.3.2024, respectively.

Overview - TCS u/s 206C(1)/(1F)/(1H) v. TDS u/s 194Q

	Particulars	206C(1)	206C(1F)	206C(1H)	194Q
		TCS	TCS	TCS	TDS
1.	Point of time	At the time of debit or at the time of receipt, whichever is earlier	At the time of receipt	At the time of receipt	At the time of payment or credit, whichever is earlier
2.	% of TDS/TCS, as the case may be	Different rates for different goods (See below)	1% of sale consideration	0.1% of the sale consideration exceeding ₹50 lakhs from a buyer	0.1% of the value of purchases exceeding ₹50 lakhs from a seller
3.	Seller [206C(1)/(1F)/(1H)] Buyer (194Q)	Central Govt., State Govt., Local Authority, Company, Co-op society, firm, corporation, Individual/HUF whose turnover in F.Y.2022-23 ₹1 crore (business)/ ₹50 lakh (profession)		Seller's turnover should exceed ₹10 crore in the F.Y.2022-23	Buyer's turnover should exceed ₹10 crore in the F.Y.2022-23
4.	Exclusions from the definition of buyer				
	Common Exclusions from 206C(1)/(1F)/(1H)	Central Govt, State Govt, embassy, High commission, legation, consulate, commission, trade rep. of a foreign state			
	Specific exclusions	Public sector Co., a club and Buyer in retail sale of goods purchased for personal consumption	Local authority, Public sector co. engaged in the business of carrying passengers	Local authority, Persons importing goods into India or other notified persons	

Goods	206C(1)	206C (1F)	194Q	206C(1H)

		TCS	TCS	TDS	TCS
1	Alcoholic liquor for human consumption	1%			
2	Tendu leaves	5%			
3	Timber obtained under forest lease	2.5%			
4	Timber obtained by any other mode	2.5%			
5	Any other forest produce not being timber or tendu leaves	2.5%			
6	Scrap	1%			
7	Minerals, being coal or lignite or iron ore	1%			
	If items (1) to (7) are used for manufacturing, processing or producing articles or things or generation of electricity and not for trading purposes	Nil, by virtue of section 206C(1A)	N.A.	Yes, if turnover of buyer exceeds ₹10 crore in the F.Y.2022-23 and value of purchases from seller in F.Y.2023-24 exceeds ₹50 lakhs	Nil
8	Sale of Motor Vehicle of value exceeding ₹10 lakhs	-	1% of sale consideration	-	-
9	Sale of Motor Vehicle of value exceeding ₹10 lakhs by manufacturer to dealers/ distributers	-	-	Yes, if turnover of dealer exceeds ₹10 crore in the F.Y.2022-23 and value of motor vehicles purchased from manufacturer in the F.Y.2023-	No, if dealer is required to deduct tax at source. Yes, if dealer is not required to deduct tax at source

				24 exceeds ₹50 lakhs.	and manufacturer's turnover exceeds ₹10 crore in the F.Y. 2022-23 and value of motor vehicles sold to dealer in F.Y.2023-24 exceeds ₹50 lakhs
10	Sale of Motor Vehicle of value not exceeding ₹10 lakhs and aggregate value of all motor vehicles sold by the seller to the buyer ≤ ₹50 lakhs in the F.Y.2023-24	-	-	-	-
11	Sale of Motor Vehicle of value not exceeding ₹10 lakhs but aggregate value of all motor vehicles sold by the seller to the buyer > ₹50 lakhs in the F.Y.2023-24	-	-	Yes, if turnover of buyer exceeds ₹10 crore in the F.Y.2022-23.	No, if buyer is required to deduct tax at source. Yes, if buyer is not required to deduct TDS and seller's turnover exceeds ₹10 crore in the F.Y.2022-23
12	Sale of goods other than mentioned in 1 to 11				

	If aggregate value of goods sold by seller to buyer is ₹50 lakhs or less	-	-	-	-
	If aggregate value of goods sold by the seller to buyer is more than ₹50 lakhs	-	-	Yes, if turnover of buyer exceeds ₹10 crore in the F.Y.2022-23.	No, if buyer is required to deduct tax at source. Yes, if buyer is not required to deduct TDS and seller's turnover exceeds ₹10 crore in the F.Y.2022-23

7. Furnishing of copy of declaration within specified time [Section 206C(1B)]

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before 7th of the month next following the month in which the declaration is furnished to him.

8. TCS to be paid within prescribed time [Section 206C(3)]

Any amount collected under this section shall be paid within the prescribed time to the credit of the Central Government or as the Board directs.

Time limit for paying tax collected to the credit of the Central Government [Rule 37CA]

	Person collecting sums in accordance with section 206C	Circumstance		Period within which such sum should be paid to the credit of the Central Government
(1)	An office of the Government	(i)	where the tax is paid without production of an income-tax challan	on the same day

		(ii)	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made
(2)	Collectors other than an office of the Government			within one week from the last day of the month in which the collection is made

9. Main differences between TDS and TCS

	TDS	TCS
(1)	TDS is tax deduction at source	TCS is tax collection at source.
(2)	Person responsible for paying is required to deduct tax at source at the prescribed rate.	- Seller of certain goods is responsible for collecting tax at source at the prescribed rate from the buyer. - 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. - Authorised dealer receiving amount for remittance 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.
(3)	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. 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.	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. 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 u/s 206C(1F) and 206C(1H), respectively, is required at the time of receipt of sale consideration.

Note – TCS will be dealt with in detail at the Final level.

10. Common number for TDS and TCS [Section 203A]

i. Persons responsible for deducting tax or collecting tax at source should apply to the Assessing Officer for the allotment of a "tax deduction and collection-account number".

ii. Section 203A(2) enlists the documents/certificates/returns/challans in which the "tax deduction account number" or "tax collection account number" or "tax deduction and collection account number" has to be compulsorily quoted.

iii. The requirement of obtaining and quoting of TAN under section 203A shall not apply to such person, as may be notified by the Central Government in this behalf.

Section	Nature of payment	Threshold Limit for deduction of tax at source	Payer	Payee	Rate of TDS	Time of deduction
192	Salary	Basic exemption limit This is taken care of in computation of the average rate of income-tax.	Any person responsible for paying any income chargeable under the head "Salaries	Individual (Employee)	Average rate of income-tax	At the time of payment
192A	Premature withdrawal from Employees' Provident Fund	Payment or aggregate payment ≥ ₹ 50,000	Trustees of the EPF Scheme or any authorised person under the Scheme	Individual (Employee)	10% on premature taxable withdrawal	At the time of payment
193	Interest on Securities	> ₹ 10,000 in a F.Y., in case of interest on 8% Savings	Any person responsible for paying any income by way of interest on	Any resident	10%	At the time of credit of such income to the

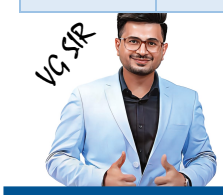
		(Taxable) Bonds, 2003/7.75% Savings (Taxable) Bonds, 2018. > ₹ 5,000 in a F.Y., in case of interest on debentures issued by a Co. in which the public are substantially interested, paid or credited to a resident individual or HUF by an A/c payee cheque > No threshold specified in any other case.	securities			account of the payee or at the time of payment, whichever is earlier.
194	Dividend (including dividends on preference shares)	Amount or aggregate amount > ₹ 5,000 in a F.Y., in case of	The Principal Officer of a domestic company	Resident shareholder	10%	Before making any payment by any mode

		dividend paid or credited to an individual shareholder by any mode other than cash > No threshold in other cases				in respect of any dividend or before making any distribution or payment of dividend.
194A	Interest other than interest on securities	Amount or aggregate amount > ₹ 40,000 in a F.Y., in case of interest credited or paid by – (i) a banking company; (ii) a co-operative society engaged in banking business; and (iii) a post office on any deposit under a notified Scheme.	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying interest other than interest on securities.	Any Resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

		In all the above cases, if payee is a Resident senior citizen, tax deduction limit is > 50,000. > ₹ 5,000 in a F.Y., in other cases.				
194B	Winnings from any lottery, crossword puzzle or card game or other game of any sort or from gambling or betting of any form or nature	Amount or the aggregate of amounts > ₹ 10,000 in a F.Y.	The person responsible for paying income by way of such winnings	Any Person	30%	At the time of payment
194BA	Winnings from online games	On the net winnings in a person's user account as computed in prescribed manner.	Any person responsible for paying income by way of such winnings from any online game.	Any person	30%	At the end of the F.Y. In case there is withdrawal from user account during the F.Y., tax would be deducted

						at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, tax would also be deducted the remaining amount of net winnings in the user account as computed in prescribed manner at the end of the F.Y. on
194BB	Winnings from horse race	Amount or the aggregate of amounts > ₹ 10,000 in a F.Y.	Book Maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course.	Any Person	30%	At the time of payment

194C	Payments to Contractors	Single sum credited or paid > ₹ 30,000 (or) The aggregate of sums credited or paid to a contractor during the F.Y. > ₹ 1,00,000 Individual/HUF need not deduct tax where sum is credited or paid exclusively for personal purposes	Central/State Govt., Local authority, Central/State/ Provincial Corpn., company, firm, trust, registered society, co-operative society, university established under Central/State/ Provincial Act, declared university under the UGC Act, Govt. of Foreign State or a foreign enterprise, individual/HUF whose total sales, gross receipts or turnover from business or profession exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately	Any Resident contractor for carrying out any work (including supply of labour)	1% of sum paid or credited, if the payee is an Individual or HUF 2% of sum paid or credited, if the payee is any other person.	At the time of credit of such sum to the account of the contractor or at the time of payment, whichever is earlier.



			preceding F.Y.			
194D	Insurance Commission	Amount or aggregate amount > ₹ 15,000 in a F.Y.	Any person responsible for paying any income by way of remuneration or reward for soliciting or procuring insurance business	Any Resident	5%, if the payee is a non-corporate resident 10%, if the payee is a domestic company	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194DA	Any sum under a Life Insurance Policy not fulfilling the conditions specified u/s 10(10D)	Amount or aggregate amount ≥ ₹ 1,00,000 in a financial year	Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus	Any resident	5% of the amount of income comprised	At the time of payment
194G	Commission on sale of lottery tickets	> ₹ 15,000 in a financial year	A person ny responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets	Any person stocking, distributing, purchasing or selling lottery tickets	5%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194H	Commission or brokerage	> ₹ 15,000 in a financial year	Any person	Any resident	5%	At the time of credit

			(other than an Individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed ₹ 1 crore, in case of business or ₹ 50 lakhs in case of profession during the immediately preceding responsible F.Y.) for paying commission or brokerage.			of such income to the account of the payee or at the time of payment, whichever is earlier.
194-I	Rent	> ₹ 2,40,000 in a financial year	Any (other person than an individual or HUF whose total sales, gross receipts or turnover from business or profession carried on by him do not exceed ₹ 1 crore in case	Any resident	For P & M equipment- 2% For land or building, land appurtenant to a building, furniture or fittings -10%	At the time of credit of such income to the account of the payee or at the time f payment, whichever is earlier.

			of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent.			
194-IA	Payment on transfer of certain immovable property other than agricultural land	≥ ₹ 50 lakh (Consideration for transfer or stamp duty value)	Any person, being a transferee (other than a person referred to in section 194LA responsible for paying compensation for compulsory acquisition of immovable property other than rural agricultural land)	Resident transferor	1% of consideration for transfer or stamp duty value, whichever is higher	At the time of credit of such sum to the account of the transferor or at the time of payment, whichever is earlier.
194-IB	Payment of rent by certain individuals or HUF	> ₹ 50,000 for a month or part of a month	Individual/ HUF (other than Individual/HUF whose total sales, gross receipts or turnover from business or profession carried on by him exceeds ₹ 1	Any Resident	5%	At the time of credit of rent, for the last month of the previous year or the last month of

			crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for paying rent.			tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment, whichever is earlier
194J	Fees for professional or technical services/ Royalty/ Non-compete fees/ Director's remuneration	> ₹ 30,000 in a financial year, for each category of income. (However, this limit does not apply in case of payment made to director of a company).	Any person, other than an individual or HUF; However, in case of fees for professional or technical services paid or credited, individual/HUF, whose total sales, gross receipts or turnover from business or profession exceeds ₹ 1 crore in case of business or ₹ 50 lakhs	Any Resident	2% - Payee engaged only in the business of operation of call centre 2% - In case of fees for technical services or royalty, where such royalty is in the nature of consider-ation for sale, distribution or exhibition of cinemato-	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.

			in case of profession during the immediately preceding F.Y., is liable to deduct tax u/s 194J, except where fees for professional services is credited or paid exclusively for his personal purposes.		graphic films 10% - Other payments	
194K	Income on units other than in the nature of capital gains	Amount or aggregate amount > ₹ 5,000 in a F.Y.	Any person responsible for paying any income in respect of units of a mutual fund/Administrator of the specified undertaking/ specified company	Any resident	10%	At the time of credit of such sum to the account of the payee or at the time of payment, whichever is earlier.
194LA	Compensation on acquisition of certain immovable property other than agricultural land situated in India	Amount or aggregate amount > ₹ 2,50,000 in a F.Y.	Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable property	Any Resident	10%	At the time of payment

194M	- Payments to Contractors - Commission or brokerage - Fees for professional services	> ₹ 50,00,000 in a financial year	Individual or HUF other than those who are required to deduct tax at source under section 194C or 194H or 194J	Any Resident	5%	At the time of credit of such sum or at the time of payment, whichever is earlier.
194N	Cash withdrawals	> ₹ 3 crore if the recipient is a co-operative society > ₹ 1 crore in case of others	- a banking company or any bank or banking institution - a co-operative society engaged in carrying on the business of banking or - a post office who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding ₹ 1 crore/ ₹ 3 crore in case the recipient is a cooperative society,	Any person	@2% of such sum In case the recipient has not filed ROI for all the 3 immediately preceding P.Y.s, for which time limit u/s 139(1) has expired, such sum shall be the amt or agg. of amts, in cash > ₹ 20 lakh during the P.Y. TDS - @2% of the sum, where cash withdrawal > ₹ 20 lakhs but ≤ ₹ 1 crore/	At the time of payment of such sum

			during the previous year, to any person from one or more accounts maintained by the recipient		₹ 3 crore in case the recipient is a co-operative society - @5% of the sum, where cash withdrawal > ₹ 1 crore/ ₹ 3 crore in case the recipient is a co-operative society	
194P	Pension (along with interest on bank account)	Basic exemption limit [₹ 3,00,000 (in case specified senior citizen pays tax under default tax regime u/s 115BAC), ₹ 3,00,000 / ₹ 5,00,000, as the case may be, if specified senior	Notified specified bank	Specified senior citizen i.e., An individual, being a resident in India, who - is of the age of 75 years or more at any time during the PY; - is having pension income and no other	Rates in force, where the individual has exercised the option of shifting out of the default tax regime. Rates specified in section 115BAC, where the individual pays tax under the default tax	

		citizen has exercised the option of shifting out of the default tax regime providing u/s 115BAC] [i.e., total income after giving effect to the deduction allowable under Chapter VI-A, if any allowable should exceed the basic exemption limit. Further, in case the individual is entitled to rebate u/s 87A from tax payable, then the same should be given effect to]		income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and - has furnished a declaration to the specified bank.	regime.	

194Q	Purchase of goods	> ₹ 50 lakhs in a previous year	Buyer, who is responsible for paying any sum to any resident for purchase of goods. Buyer means a person whose total sales, gross receipts or turnover from business exceeds ₹ 10 crores during the FY immediately preceding the FY in which the purchase of goods is carried out.	Any resident	0.1% of sum exceeding ₹ 50 lakhs	At the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier.
194R	Any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession The provisions would apply to any benefit or perquisite,	Value or aggregate of value of benefit or perquisite > ₹ 20,000 in a financial year	Any person (other than an individual or HUF whose total sales, gross receipts or turnover do not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession during the immediately preceding F.Y.) responsible for	Any resident	10% of value or aggre. of value of such benefit or perquisite	Before providing such benefit or perquisite

	whether in cash or in kind or partly in cash and partly in kind.		providing to a resident, any benefit or perquisite. In case of a company, "person responsible for paying" means the company itself including the Principal Officer thereof.			

Notes –

1. Section 206AA requires furnishing of PAN by the deductee to the deductor, failing which the deductor has to deduct tax at the higher of the following rates, namely,
   - at the rate specified in the relevant provision of the Income-tax Act, 1961; or
   - at the rate or rates in force; or
   - at the rate of 20% and in case of section 194-Q, 5%

2. Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person to a specified person, at higher of the following rates
   - at twice the rate prescribed in the relevant provision of the Act;
   - at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
   - at 5%

   However, section 206AB is not applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BA, 194BB, 194-IA, 194-IB, 194M11 or 194N.

Meaning of "specified person" –

A person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person would not include –

- a non-resident who does not have a permanent establishment in India; or
- a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and is notified by the Central Government in this behalf.

3. In case the provisions of section 206AA are also applicable to the specified person, in addition to the provisions of this section, then, tax is required to be deducted at higher of the two rates provided in section 206AA and section 206AB.

4. The threshold limit given in column (3) of the table is with respect to each payee.

TEST YOUR KNOWLEDGE

I. Ashwin doing manufacture and wholesale trade furnishes you the following information:

Total turnover for the financial year –

Particulars	Rs.
2022-23	1,05,00,000
2023-24	95,00,000

Examine whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2023-24:

Particulars	**Rs.**
Interest paid to UCO Bank on 15.8.2023	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each) on 12.12.2023	24,000
Shop rent paid (one payee) on 21.1.2024	2,50,000
Commission paid to Balu on 15.3.2024	7,000

II. Compute the amount of tax deduction at source on the following payments made by M/s S Ltd. during the financial year 2023-24 as per the provisions of the Income-tax Act, 1961.

S. No.	Date	Nature of Payment
(i)	1-10-2023	Payment of ₹ 2,00,000 to Mr. R, a transporter who owns 8 goods carriages throughout the previous year and furnishes a declaration to this effect along with his PAN.
(ii)	1-11-2023	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2023	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2024	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd or its associates.
(v)	01-01-2024	Payment of ₹ 2,30,000 made to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2024	Payment of commission of ₹ 14,000 to Mr. Y.

III. Examine the applicability of TDS provisions and TDS amount in the following cases:

a) Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,60,000 on 27.9.2023.

b) Fee paid on 1.12.2023 to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed on a member of the family.

c) ABC and Co. Ltd. paid ₹ 19,000 to one of its Directors as sitting fees on 01-01-2023.

IV. Examine the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the F.Y. 2023-24:

1) Payment made by a company to Mr. Ram, sub-contractor, ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31.3.2024.

2) Winning from horse race ₹ 1,50,000 paid to Mr. Shyam, an Indian resident.

3) Rs. 2,00,000 paid to Mr. A, a resident individual, on 22-02-2024 by the State of Uttar Pradesh on compulsory acquisition of his urban land.

V. Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains and casual income.

ANSWERS

I. As the turnover of business carried on by Ashwin for F.Y. 2022-23, has exceeded ₹ 1 crore, he has to comply with the tax deduction provisions during the financial year 2023-24, subject to, the exemptions provided for under the relevant sections for applicability of TDS provisions.

Interest paid to UCO Bank

TDS under section 194A is not attracted in respect of interest paid to a banking company.

Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each

TDS provisions under section 194C would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during the financial year. Therefore, TDS provisions under section 194C are not attracted in this case.

Shop Rent paid to one payee – Tax has to be deducted@10% under section 194-I as the annual rental payment exceeds ₹ 2,40,000.

Commission paid to Balu – No, tax has to be deducted under section 194H in this case as the commission does not exceed ₹ 15,000.

II.

i. No tax is required to be deducted at source under section 194C by M/s S Ltd. on payment to transporter Mr. R, since he satisfies the following conditions:
   - He owns ten or less goods carriages at any time during the previous year.
   - He is engaged in the business of plying, hiring or leasing goods carriages;
   - He has furnished a declaration to this effect along with his PAN.

ii. As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the individual payments for fee of technical services i.e., ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.

iii. Provisions of section 194C are not attracted in this case, since the payment for repair of building on 30.06.2023 to M/s X Ltd. is less than the threshold limit of ₹ 30,000.

iv. According to section 194C, the definition of "work" does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person

other than the customer or associate of such customer. Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for 'sale'.

v. As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000. In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,50,000.

vi. As per section 194H, tax is deductible at source if the amount of commission or brokerage or the aggregate of the amounts of commission or brokerage credited or paid during the financial year exceeds ₹ 15,000.

Since the commission payment made to Mr. Y does not exceed ₹ 15,000, the provisions of section 194H are not attracted.

III.

a) Since the rent paid for hire of machinery by B. Ltd. to Mr. Raman exceeds ₹ 2,40,000, the provisions of section 194-I for deduction of tax at source are attracted.

The rate applicable for deduction of tax at source under section 194-I on rent paid for hire of plant and machinery is 2%, assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source: = ₹ 2,60,000 x 2% = ₹ 5,200.

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 2,60,000, by virtue of provisions of section 206AA.

b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if the total sales, gross receipts or turnover form the business or profession exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, as the case may be, in the financial year preceding the current financial year and such payment made for professional services is not exclusively for the personal purpose of any member of Hindu Undivided Family.

Section 194M, provides for deduction of tax at source by a HUF (which is not required to deduct tax at source under section 194J) in respect of fees for professional service if such sum or aggregate of such sum exceeds ₹ 50 lakhs during the financial year.

In the given case, the fees for professional service to Dr. Srivatsan is paid on 1.12.2023 for a personal purpose, therefore, section 194J is not attracted. Section 194M would have been attracted, if the payment or aggregate of payments exceeded ₹ 50 lakhs in the P.Y.2023-24. However, since the payment does not exceed ₹ 50 lakh in this case, there is no liability to deduct tax at source under section 194M also.

c] Section 194J provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, which is not in the nature of salary on which tax is deductible under section 192. The threshold limit of ₹ 30,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 194J is, however, not applicable in respect of sum paid to a director.

Therefore, tax@10% has to be deducted at source under section 194J in respect of the sum of ₹ 19,000 paid by ABC Ltd. to its director.

Therefore, the amount of tax to be deducted at source: = ₹ 19,000 x 10% = ₹ 1,900

IV.

1. Provisions of tax deduction at source under section 194C are attracted in respect of payment by a company to a sub-contractor. Under section 194C, tax is deductible at the time of credit or payment, whichever is earlier @ 1% in case the payment is made to an individual.

   Since the aggregate amount credited or paid during the year is ₹ 4,20,000, tax is deductible @ 1% on ₹ 4,20,000.

   Tax to be deducted = ₹ 4,20,000 x 1% = ₹ 4,200

2. Under section 194BB, tax is to be deducted at source, if the winnings from horse races exceed ₹ 10,000. The rate of deduction of tax at source is 30%.

   Hence, tax to be deducted = ₹ 1,50,000 x 30% = ₹ 45,000.

3. As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is required to deduct tax at source, if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000.

   In the given case, there is no liability to deduct tax at source as the payment made to Mr. A does not exceed ₹ 2,50,000.

V. The proviso to section 234C contains the provisions for payment of advance tax in case of capital gains and casual income.
Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles, etc.

Since it is not possible for the assessee to estimate his capital gains, or income from lotteries etc., it has been provided that if any such income arises after the due date for any instalment, then, the entire amount of the tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining instalments of advance tax, which are due.

Where no such instalment is due, the entire tax should be paid by 31st March of the relevant financial year.

No interest liability on late payment would arise if the entire tax liability is so paid.

Note: In case of casual income, the entire tax liability is fully deductible at source @30% under section 194B, 194BA and 194BB. Therefore, advance tax liability would arise only if the surcharge, if any, and health and education cess@4% in respect thereof, along with tax liability in respect of other income, if any, is 10,000 or more.

CHAPTER - 7

PROVISIONS FOR FILING RETURN OF INCOME AND SELF ASSESSMENT

RETURN OF INCOME

The Income-tax Act, 1961 contains provisions for filing of return of income. Return of income is the format in which the assessee furnishes information, as self-declaration, regarding his total income and tax payable. The format for filing of returns by different assessees is notified by the CBDT. The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income. In short, a return of income is the declaration of income and the resultant tax by the assessee in the prescribed format.

COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]

1. As per section 139(1), it is compulsory for companies and firms to file a return of income or loss for every previous year on or before the due date in the prescribed form.
2. In case of a person other than a company or a firm, filing of return of income on or before the due date is mandatory, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeds the basic exemption limit.
3. Every person, being a resident other than not ordinarily resident in India within the meaning of section 6(6), who is not required to furnish a return under section 139(1), would be required to file a return of income or loss for the previous year in the prescribed form and verified in the prescribed manner on or before the due date, if such person, at any time during the previous year, -

   (a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has a signing authority in any account located outside India; or

   (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India. However, an individual being a beneficiary of any asset (including any financial interest in any entity)

(c) located outside India would not be required to file return of income under this clause, where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above in accordance with the provisions of the Income tax Act, 1961.

Meaning of "beneficial owner" and "beneficiary" in respect of an asset for the purpose of section 139:

Beneficial Owner	An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person
Beneficiary	An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.

Requirement of filing of return of income as per the fourth and fifth proviso to section 139(1)

A resident other than not ordinarily resident within the meaning of section 6(6)

↓

who is not required to furnish a return of income u/s 139(1)

↓

AND

↓

who at any time during the P.Y.

- **A**
  - holds, as beneficial owner or otherwise, any asset (including financial interest in any entity) located outside India.
  - OR
  - has a signing authority in any account located outside India
- OR
- **B**
  - is a beneficiary of any asset (including financial interest in any entity) located outside India
    - However, where any income arising from such asset is includible in the hands of the person specified in (A) in accordance with the provisions of the Act, an individual, being a beneficiary of such asset, is not required to file return of income under the fourth proviso.

4. Further, every person, being an individual or a HUF or an AOP/BOI, whether incorporated or not, or an artificial juridical person
   - whose total income or the total income of any other person in respect of which he is assessable under this Act during the previous year
   - without giving effect to the provisions of Chapter VI-A or section 54/54B/54D/54EC/54F1
   - exceeded the basic exemption limit

   is required to file a return of his income or income of such other person on or before the due date in the prescribed form and manner and setting forth the prescribed particulars.

   The basic exemption limit is ₹3,00,000 for individuals/HUF/AOPs/BOIs and artificial juridical persons under default tax regime under section 115BAC. This amount denotes the level of total income, which is arrived at after claiming the admissible deductions under Chapter VI-A i.e., 80CCD(2), 80CCH(2) and 80JJAA under default tax regime and exemption under section 54/54B/54D/ 54EC or 54F in respect of capital gain. However, the level of total income to be considered for the purpose of filing return of income is the income before claiming the admissible deductions under Chapter VI-A and exemption under section 54/54B/54D/54EC or 54F.

   However, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A), the basic exemption limit would be ₹2,50,000 for individuals/HUF/AOPs/ BOIs and artificial juridical persons, ` 3,00,000 for resident individuals of the age of 60 years but less than 80 years and ₹5,00,000 for resident individuals of the age of 80 years or more at any time during the previous year. Also, the assessee would be eligible for other deductions under Chapter VI-A subject to fulfilling the stipulated conditions.

5. Any person other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person –

   (a) has deposited an amount or aggregate of the amounts exceeding 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or

   (b) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or

   (c) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or

   (d) fulfils such other prescribed conditions.

   Accordingly, the CBDT has, vide Notification No. 37/2022 dated 21.4.2022, inserted Rule 12AB to provide

that a person, other than a company or a firm, who is not required to furnish a return under section 139(1), and who fulfils any of the following conditions during the previous year has to file their return of income on or before the due date in the prescribed form and manner –

i. if his total sales, turnover or gross receipts, as the case may be, in the business > ₹ 60 lakhs during the previous year; or

ii. if his total gross receipts in profession > ₹ 10 lakhs during the previous year; or

iii. if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more; or

However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more.

iv. the deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakhs or more during the previous year.

6. All such persons mentioned in (1) to (5) above should, on or before the due date, furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

Meaning of due date:

'Due date' means -

i. 31st October of the assessment year, where the assessee, other than an assessee referred to in (ii) below, is-
   (a) a company,
   (b) a person (other than a company) whose accounts are required to be audited under the Income-tax Act,
   (c) 1961 or any other law for the time being in force; or
   (d) a partner of a firm whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force .

ii. 30th November of the assessment year, in the case of an assessee including the partners of the firm being such assessee who is required to furnish a report referred to in section 92E.

iii. 31st July of the assessment year, in the case of any other assessee.

Note – Section 92E is not covered within the scope of syllabus of Intermediate Paper 4A: Income-tax Law. Section 139(1) provides an extended due date, i.e., 30th November of the assessment year, for assessees who have to file a transfer pricing report i.e., accountant's report u/s 92E (i.e. assessees who have undertaken international transactions with associated enterprises). Therefore, reference has been made to this section, i.e. section 92E, for explaining this provision in section 139(1).

ILLUSTRATION 1

Paras aged 55 years is a resident of India. During the F.Y. 2023-24, interest of` ₹2,88,000 was credited to his Non-resident (External) Account with SBI. ₹ 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 3,000 as interest on this saving account. Is Paras required to file return of income?

What will be your answer, if he has incurred ₹ 3 lakhs as travel expenditure of self and spouse to US to stay with his married daughter for some time?

SOLUTION

An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A or exemption under section or section 54/54B/54D/54EC or 54F, exceeds the maximum amount not chargeable to tax i.e. ₹ 3,00,000 under default tax regime u/s 115BAC and ₹ 2,50,000 if exercises the option of shifting out of the default tax regime provided under section 115BAC(1A) (for A.Y. 2024-25).

Computation of total income of Mr. Paras for A.Y. 2024-25

Particulars	
Income from other sources	
Interest earned from Non-resident (External) Account ₹2,88,000 [Exempt under section 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	NIL
Interest on fixed deposit with SBI	30000
Interest on savings bank account	3000
Gross Total Income	**33000**
Less: Deduction under Chapter VI-A (not available under the default tax regime under section 115BAC)	-
Total Income	**33000**

In case he exercises the option of shifting out of the default tax regime provided under section 115BAC(1A), he would be eligible for deduction of ₹ 3,000 under section 80TTA. Accordingly, his total income would be ₹ 30,000.

However, in both regimes, total income of ₹ 33,000, before giving effect to deductions under Chapter VI-A, would be considered.

Since the total income of Mr. Paras for A.Y.2024-25, before giving effect to the deductions under Chapter VI-A, is less than the basic exemption limit in both regimes, he is not required to file return of income for A.Y.2024-25.

Note: In the above solution, interest of ₹ 2,88,000 earned from Non-resident (External) account has been taken as exempt on the assumption that Mr. Paras, a resident, has been permitted by RBI to maintain the aforesaid account. However, in case he has not been so permitted, the said interest would be taxable. In such a case, his total income, before giving effect to, inter alia, the deductions under Chapter VI-A, would be ₹3,21,000 (₹ 30,000 + ₹ 2,88,000 + ₹ 3,000), which is higher than the basic exemption limit of ₹ 3,00,000 or ₹ 2,50,000, as the case may be. Consequently, he would be required to file return of income for A.Y.2024-25.

If he has incurred expenditure of ₹ 3 lakhs on foreign travel of self and spouse, he has to mandatorily file his return of income on or before the due date under section 139(1), even if his income is less than the basic exemption limit.

SPECIFIED CLASS OR CLASSES OF PERSONS TO BE EXEMPTED FROM FILING RETURN OF INCOME [SECTION 139(1C)]

- Every person who falls within the ambit of the conditions mentioned under section 139 has to furnish a return of his income on or before the due date specified under section 139(1).
- For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions.

RETURN OF LOSS [SECTION 139(3)]

1. This section requires the assessee to file a return of loss in the same manner as in the case of return of income within the time allowed u/s 139(1).
2. Section 80 requires mandatory filing of return of loss u/s 139(3) on or before the due date specified u/s 139(1) for carry forward of the following losses –

(a) Business loss u/s 72(1)

(b) Speculation business loss u/s 73(2)

(c) Loss from specified business u/s 73A(2) [In case assesse has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)]

(d) Loss under the head "Capital Gains" u/s 74(1)

(e) Loss from the activity of owning and maintaining race horses u/s 74A(3)

3. Consequently, section 139(3) requires filing of return of loss mandatorily within the time allowed u/s 139(1) for claiming carry forward of losses mentioned in (2) above.

4. However, loss under the head "Income from house property" u/s 71B and unabsorbed depreciation u/s 32 can be carried forward for set-off even though return of loss has not been filed before the due date.

5. A return of loss has to be filed by the assessee in his own interest and the nonreceipt of a notice from the Assessing Officer requiring him to file the return cannot be a valid excuse under any circumstances for the non- filing of such return.

BELATED RETURN [SECTION 139(4)]

Any person who has not furnished a return within the time allowed to him under section 139(1) may furnish the return for any previous year at any time –

i. before three months prior to the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023-24); or

ii. before the completion of the assessment,

whichever is earlier.

Hence, belated return cannot be filed after 31st December of the relevant assessment year

REVISED RETURN [SECTION 139(5)]

If any person having furnished a return under section 139(1) or a belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time –

(i) before three months prior to the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023-24); or

(ii) before completion of assessment, whichever is earlier.

Hence, belated return cannot be filed after 31st December of the relevant assessment year.

ILLUSTRATION 2

Explain with brief reasons whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:

i. Belated return filed under section 139(4).
ii. Return already revised once under section 139(5).
iii. Return of loss filed under section 139(3).

SOLUTION

Any person who has furnished a return under section 139(1) or 139(4) can file a revised return at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier, if he discovers any omission or any wrong statement in the return filed earlier.

Accordingly,

i. A belated return filed under section 139(4) can be revised.

ii. A return revised earlier can be revised again as the first revised return replaces the original return.

Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. at any time before three months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier. It implies that a return of income can be revised more than once within the prescribed time.

iii. A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234A]

1. Interest under section 234A is attracted for failure to file a return of income on or before the due date under section 139(1) i.e., interest is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.

2. Simple interest @1% per month or part of the month is payable for the period commencing from the date immediately following the due date and ending on the following dates –

Circumstances	Ending on the following dates

Where the return is furnished after due date	the date of furnishing of the return
Where no return is furnished	the date of completion of assessment

3. The interest has to be calculated on the amount of tax on total income as determined under section 143(1) and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the advance tax paid and any tax deducted or collected at source, any relief of tax allowed under section 89 and any tax credit allowed to be set-off in accordance with section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).
4. No interest under section 234A shall be charged on self-assessment tax paid by the assessee on or before the due date of filing of return.
5. The interest payable under section 234A shall be reduced by the interest, if any, paid on self-assessment under section 140A towards interest chargeable under section 234A.
6. Tax on total income as determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143.
7. Tax on total income determined under regular assessment would not include the additional income-tax payable under section 140B.

Note – Section 143(1) provides that if any sum is found due on the basis of a return of income after adjustment of advance tax, relief of tax allowed under section 89, tax deducted at source, tax collection at source and self-assessment tax, an intimation would be sent to the assessee and such intimation is deemed to be a notice of demand issued under section 156. If any refund is due on the basis of the return, it shall be granted to the assessee and intimation to this effect would be sent to the assessee. Where no tax or refund is due, the acknowledgement of the return is deemed to be intimation under section 156.

SELF-ASSESSMENT [SECTION 140A]

I. Payment of tax, interest and fee before furnishing return of income [Section 140A(1)]

Where any tax is payable on the basis of any return required to be furnished under, inter alia, section 139, after taking into account -

a) the amount of tax, already paid, under any provision of the Income-tax Act, 1961

b) the tax deducted or collected at source

c) any relief of tax claimed under section 89

d) any tax credit claimed to set-off in accordance with the provisions of section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A); and

e) any tax or interest payable as per the provisions of section 191(2),

the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. The return has to be accompanied by the proof of payment of such tax, interest and fee.

II. Order of adjustment of amount paid by the assessee

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.

III. Interest under section 234A [Section 140A(1A)]

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-

(a) advance tax paid, if any;

(b) any tax deducted or collected at source;

(c) any relief of tax claimed under section 89

(d) any tax credit claimed to be set-off in accordance with the provisions of section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

IV. Interest under section 234B [Section 140A(1B)]

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose "assessed tax" means the tax on total income declared in the return as reduced by the amount of

- tax deducted or collected at source on any income which forms part of the total income;
- any relief of tax claimed under section 89

- any tax credit claimed to be set-off in accordance with the provisions of section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

V. Consequence of failure to pay tax, interest or fee [Section 140A(3)]

If any assessee fails to pay the whole or any part of such of tax or interest or fee, he shall be deemed to be an assessee in default in respect of such tax or interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

UPDATED RETURN OF INCOME [SECTION 139(8A)]

1. **Option to furnish updated return -** Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year. This is irrespective of whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year.

   For example, an updated return for A.Y. 2023-24 can be filed till 31.3.2026.

2. **Non applicability of the provisions of updated return –** The provisions of updated return would not apply, if the updated return of such person for that assessment year –

   (a) is a loss return; or

   (b) has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or

   (c) results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5).

3. **Updated return can be filed if original return is a loss return and updated return is a return of income –** If any person has a loss in any previous year and has furnished a return of loss on or before the due date of filing return of income under section 139(1), he shall be allowed to furnish an updated return if such updated return is a return of income.

   For example if Mr. X has furnished his return of loss for A.Y. 2023-24 on 31.5.2023 consisting of ₹ 5,00,000 as business loss, he can furnish an updated return for A.Y. 2023-24 upto 31.3.2026 if such updated return is a return of income.

4. **Updated return to be furnished for subsequent previous year in case (3) above -** If the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under section 32(2) or tax credit carried forward under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year [In case assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)].

5. **Circumstances in which updated return cannot be furnished:** No updated return shall be furnished in the following scenarios –

S.No.	Scenarios	Updated return cannot be furnished
(i)	Where a person has furnished an updated return under this sub-section for the relevant assessment year.	for such relevant Assessment Year.
(ii)	Where any proceeding for assessment, reassessment, recomputation, or revision of income is pending or has been completed for the relevant assessment year in his case.	

VI. Updated return for the relevant assessment year cannot be furnished by such person or belongs to such class of persons, as may be notified by the Board in this regard.

Note - There are other circumstances also in which updated return cannot be furnished for the relevant assessment year. For example, where prosecution proceedings are initiated under the relevant provisions of the Income-tax Act, 1961. Those circumstances will be dealt with at Final level.

TAX ON UPDATED RETURN [SECTION 140B]

1. Payment of tax, additional tax, interest and fee before furnishing updated return of income

(a) In a case where no return is furnished earlier [Section 140B(1)]

i. Tax to be paid along with interest and fee before furnishing of updating return:

Where no return of income under section 139(1) or 139(4) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in

payment of advance tax, along with the payment of additional tax computed under section 140B(3), before furnishing the return.

The updated return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

ii. Manner of computation of tax payable on the basis of updated return

The tax payable is to be computed after taking into account the following -

- the amount of tax, if any, already paid, as advance tax;
- the tax deducted or collected at source;
- any relief of tax claimed under section 89; and
- any tax credit claimed to set-off in accordance with the provisions of section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

iii. Interest under section 234A if no earlier return has been furnished

In a case, where no earlier return has been furnished, the interest payable under section 234A has to be computed on the amount of the tax on the total income as declared in the updated return under section 139(8A), in accordance with the provisions of section 140A(1A).

(b) In a case where return is furnished earlier [Section 140B(2)]

i. Tax to be paid along with interest before furnishing updated return:

Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3) (as reduced by the amount of interest paid under the provisions of this Act in the earlier return) before furnishing the return. The updated return shall be accompanied by proof of payment of such tax, additional income-tax and interest.

ii. Manner of computation of tax payable on the basis of updated return:

The tax payable has to be computed after taking into account the following -

- the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return;

- the tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;
- any tax credit claimed, to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A); and

the aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

iii. Interest under section 234B where earlier return has been furnished [Section 140B(4)]

In a case where an earlier return has been furnished, interest payable under section 234B has to be computed on the assessed tax.

"Assessed tax" means the tax on the total income as declared in the updated return to be furnished under section 139(8A), after taking into account the following:

- the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return, if any;
- the tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;
- any tax credit claimed, to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A); and

the aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return.

iv. Interest under section 234C if earlier return has been furnished

Interest payable under section 234C, where an earlier return has been furnished, has to be computed after taking into account the total income furnished in the updated return as returned income.

2. Additional income-tax payable at the time of updated return [Section 140B(3)]

The additional income-tax payable at the time of furnishing the updated return under section 139(8A) would be-

S.No.	Time of furnishing updated return	Additional Income tax Payable
(i)	If such return is furnished after expiry of the time available under section 139(4) or 139(5) of the assessment year and before completion of the period of 12 months from the end of the relevant assessment year;	25% of aggregate of tax and interest payable, as determined in (1) above
(ii)	If such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.	**50% of aggregate** of tax and interest payable, as determined in (1) above

Computation of Additional income-tax

For the purpose of computation of Additional income-tax"

- tax would include surcharge and cess, by whatever name called, on such tax.
- the interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished under section 139(8A), as reduced by interest paid in the earlier return, if any.

  However, the interest paid in the earlier return would be considered to be nil, if no earlier return has been furnished.

Note - An updated return furnished under section 139(8A) would be regarded as defective return as referred u/s 139(9) unless such return of income is accompanied by the proof of payment of tax as required under

3. Power to CBDT to issue guidelines

In case of any difficulty arises in giving effect to the provisions of this section, the CBDT may issue guidelines for the purpose of removing the difficulty, with the approval of the Central Government. Every guideline issued shall be laid before each House of Parliament.

DEFECTIVE RETURN [SECTION 139(9)]

1. Under this section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.
2. Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within 15 days from the date of intimation. The Assessing Officer has the discretion to extend the time period

beyond 15 days, on an application made by the assessee in this behalf. The period of 15 days will have to be reckoned from the date on which the communication is served upon the assessee.

3. If the defect is not rectified within the period of 15 days or such further extended period, the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
4. Where, however, the assessee rectifies the defect after the expiry of 15 days or the further extended period, but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.
5. A return of income would be regarded as defective unless the annexures, statements and columns therein relating to computation of income chargeable under each head of income, gross total income and total income have been duly filled in.
6. A return of income u/s 139 would also be regarded as defective if it is not accompanied by proof of payment of taxes, whether by way of advance tax or self-assessment tax.

FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234F]

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of ₹ 5,000.

However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000.

PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

1. Sub-section (1) requires the following persons mentioned in column (2), who have not been allotted a permanent account number (PAN), to apply to the Assessing Officer within the time specified in column (3) for the allotment of a PAN –

(1)	(2)	(3)
	Persons required to apply for PAN	Time limit for making such application (Rule 114)
(i)	Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year exceeds the maximum amount which is not chargeable to income-tax	On or before 31st May of the assessment year for which such income is assessable

(ii)	Every person carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5 lakhs in any previous year	Before the end of that financial year.
(iii)	Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year	On or before 31st May of the immediately following financial year
(iv)	Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (iii) above or any person competent to act on behalf of such person referred in (iii) above	On or before 31st May of the immediately following financial year in which the person referred in (iii) enters into financial transaction specified therein.

Further, every person who has not been allotted a PAN and intends to enter into such transaction as prescribed by the CBDT is also required to apply for PAN to the Assessing Officer. Accordingly, Rule 114BA has been inserted to prescribe the following transactions:

	Person required to apply for PAN [Rule 114BA]	**Time limit for making application for PAN [Rule 114]**
(i)	Every person, who intends to deposit cash in his one or more accounts with a banking company, cooperative bank or post office, if the cash deposit or the aggregate amount of cash deposit in such accounts during a financial year is ₹ 20 lakh or more	At least 7 days before the date on which he intends to deposit cash over the specified limit, i.e., ` 20 lakh or more.
(ii)	Every person, who intends to withdraw cash from his one or more accounts with a banking company, co-operative bank or post office, if the cash withdrawal or the aggregate amount of cash withdrawal from such accounts during a financial year is ₹ 20 lakh or more	At least 7 days before the date on which he intends to withdraw cash over the specified limit, i.e., ₹ 20 lakh or more.
(iii)	Any person, who intends to open a current account or cash credit account with a banking company or a co-operative bank, or a post Office	At least 7 days before the date on which he intends to open such account.

2. The Central Government is empowered to specify, by notification in the Official Gazette, any class or classes of persons by whom tax is payable under the Act or any tax or duty is payable under any other

law for the time being is force. Such persons are required to apply within such time as may be mentioned in that notification to the Assessing Officer for the allotment of a PAN [Sub-section (1A)].

3. For the purpose of collecting any information which may be useful for or relevant to the purposes of the Act, the Central Government may notify any class or classes of persons, and such persons shall within the prescribed time, apply to the Assessing Officer for allotment of a PAN [Sub-section (1B)].

4. The Assessing Officer, having regard to the nature of transactions as may be prescribed, may also allot a PAN to any other person (whether any tax is payable by him or not) in the manner and in accordance with the procedure as may be prescribed [Sub-section (2)].

5. Any person, other than the persons mentioned in (1) or (4) above, may apply to the Assessing Officer for the allotment of a PAN and the Assessing Officer shall allot a PAN to such person immediately.

6. Such PAN comprises of 10 alphanumeric characters.

7. Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions [Section 139A(5)]:

   - in all returns to, or correspondence with, any income-tax authority;
   - in all challans for the payment of any sum due under the Act;
   - in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. In this connection, CBDT has notified the following transactions vide Rule 114B namely:

S. No.	Nature of transaction	Value of transaction
1.	Sale or purchase of a motor vehicle or vehicle, as defined in the Motor Vehicles Act, 1988 which requires registration by a registering authority under that Act, other than two wheeled vehicles.	All such transactions
2.	Opening an account [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act)	All such transactions
3.	Making an application to any banking company or a co- operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution, for issue of a credit or debit card.	All such transactions

4.	Opening of a demat account with a depository, participant, custodian of securities or any other person registered under section 12(1A) of the SEBI Act, 1992.	All such transactions
5.	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding ₹ 50,000.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time.	Payment in cash of an amount exceeding ₹ 50,000.
7.	Payment to a Mutual Fund for purchase of its units	Amount exceeding ₹ 50,000
8.	Payment to a company or an institution for acquiring debentures or bonds issued by it.	Amount exceeding ₹ 50,000
9.	Payment to the Reserve Bank of India for acquiring bonds issued by it.	Amount exceeding ₹ 50,000
10.	Deposit with a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act); or post office	Cash deposits exceeding ₹ 50,000 during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act).	Payment in cash of an amount exceeding ₹ 50,000 during any one day.
12.	A time deposit with, - • a banking company or a cooperative bank to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act); • a Post Office; • a Nidhi referred to in section 406 of the Companies Act, 2013; or • a non-banking financial company which holds a • certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934, to hold or accept deposit from public.	Amount exceeding ₹ 50,000 or aggregating to more than ` 5 lakh during a financial year.

13.	Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution.	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year.
14.	Payment as life insurance premium to an insurer as defined in the Insurance Act, 1938.	Amount aggregating to more than ₹ 50,000 in a financial year.
15.	A contract for sale or purchase of securities (other than shares) as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956.	Amount exceeding ₹ 1 lakh per transaction.
16.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount exceeding ₹ 1 lakh per transaction.
17.	Sale or purchase of any immovable property.	Amount exceeding ₹ 10 lakh or valued by stamp valuation authority referred to in section 50Cmat an amount exceeding ₹ 10 lakh
18.	Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. No. 1 to 17 of this Table, if any.	Amount exceeding ₹ 1 lakh per transaction.

Minor to quote PAN of parent or guardian

Where a person, entering into any transaction referred to in this rule, is a minor and who does not have any income chargeable to income-tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction.

Declaration by a person not having PAN

Further, any person who does not have a PAN and who enters into any transaction specified in this rule, shall make a declaration in Form No.60 giving therein the particulars of such transaction either in paper

form or electronically under the electronic verification code in accordance with the procedures, data structures, and standards specified by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

Non-applicability of Rule 114B

The provisions of this rule shall not apply to the following class or classes of persons, namely:-

- the Central Government, the State Governments and the Consular Offices;
- the non-residents referred to in section 2(30) in respect of the transactions other than a transaction referred to at Sl. No. 1 or 2 or 4 or 7 or 8 or 10 or 12 or 14 or 15 or 16 or 17 of the Table.

Meaning of certain phrases

	Phrase	Inclusion
(1)	Payment in connection with travel	Payment towards fare, or to a travel agent or a tour operator, or to an authorized person as defined in section 2(c) of the FEMA, 1999
(2)	Travel agent or tour operator	A person who makes arrangements for air, surface or maritime travel or provides services relating to accommodation, tours, entertainment, passport, visa, foreign exchange, travel related insurance or other travel related services either severally or in package
(3)	Time deposit	Any deposit which is repayable on the expiry of a fixed period.

8. If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer [Section 139A (5)(d)].

9. Every person who receives any document relating to any transaction cited above shall ensure that the PAN or the Aadhaar number is duly quoted in the document.

10. Intimation of PAN to person deducting or collecting tax at source

Every person who receives any amount from which tax has been deducted at source shall intimate his PAN to the person responsible for deducting such tax [Section 139A(5A)].

Similarly, every buyer or licensee or lessee referred to in section 206C shall intimate his PAN to the person responsible for collecting such tax [Section 139A(5C)]

11. Quoting of PAN in certain documents

Where any amount has been paid after deducting tax at source, the person deducting tax shall quote the PAN of the person to whom the amount was paid in the following documents:

- in the statement furnished under section 192(2C) giving particulars of perquisites or profits in lieu of salary provided to any employee;
- in all certificates for tax deducted issued to the person to whom payment is made;
- in all returns prepared and delivered or caused to be delivered to any income-tax authority in accordance with the provisions of section 206;
- in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3) [Section 139A(5B)].

Also, every person collecting tax in accordance with the provisions of section 206C shall quote PAN of every buyer or licensee or lessee in the following documents:

- in all certificates issued for tax collected in accordance with the provisions of section 206C(5);
- in all returns prepared and delivered or caused to be delivered to any income-tax authority in accordance with the provisions of section 206C(5A)/(5B);
- in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 206C(3) [Sub-section (5D)].

12. Requirement to intimate PAN and quote PAN not to apply to certain persons

Section 139A(5A)/(5B) shall not apply to a person who –

- does not have taxable income or
- who is not required to obtain PAN

if such person furnishes a declaration under section 197A in the prescribed form and manner that the tax on his estimated total income for that previous year will be Nil.

13. Inter-changeability of PAN with the Aadhaar number

Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN, if he

- has not been allotted a PAN but possesses the Aadhaar number
- has been allotted a PAN and has intimated his Aadhaar number to prescribed authority in accordance with the requirement contained in section 139AA(2).

PAN would be allotted in prescribed manner to a person who has not been allotted a PAN but possesses Aadhaar number.

Accordingly, the CBDT has, vide Notification No. 59/2019, dated 30.8.2019, provide that any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN, shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents.

Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents.

14. Quoting and authentication of PAN or Aadhaar number

- Every person entering into such prescribed transactions is required to quote his PAN or Aadhaar number, as the case may be, in the documents pertaining to such transactions and also authenticate such PAN or Aadhaar number in the prescribed manner [Section 139A(6A)].
- Every person receiving such document relating to transactions referred to in (a) has to ensure that PAN or Aadhaar number has been duly quoted in such document and also ensure that such PAN or Aadhaar number is so authenticated [Section 139A(6B)].

Accordingly, Rule 114BB has been inserted to prescribe that every person has to, at the time of entering into a transaction specified in column (2) of the Table below, quote his permanent account number or Aadhaar number, as the case may be, in documents pertaining to such transaction, and every person specified in column (3) of the said Table, who receives such document, has to ensure that the said number has been duly quoted and authenticated:

(1)	(2)	(3)
S. No.	Nature of transaction	Person
1	Cash deposit or deposits aggregating to ₹ 20 lakhs or more in a financial year, in one or more account of a person with a bank or a co-operative bank or Post Office.	A bank or a co-operative bank or Post Master General of a Post Office.
2	Cash withdrawal or withdrawals aggregating to ₹ 20 lakhs or more in a financial year, in one or more account of a person with a bank or a co-operative bank or Post Office	A bank or a co-operative bank or Post Master General of a Post Office.
3	Opening of a current account or cash credit account by a person with a bank or a co-operative bank or Post Office	A bank or a co-operative bank or Post Master General of a Post Office

Note – Quoting of PAN or Aadhaar number is, however, not required in case where the person depositing money as per Sl. No.1 or withdrawing money as per Sl. No.2 or opening a current account or cash credit account as per Sl. No.3 is the Central Government, the State Government or the Consular Office.

15. Power to make rules

The CBDT is empowered to make rules with regard to the following:

- the form and manner in which an application for PAN may be made and the particulars to be given therein;
- the categories of transactions in relation to which PAN or the Aadhaar number, as the case may be, is required to be quoted on the related documents;
- the categories of documents pertaining to business or profession in which PAN or the Aadhaar number, as the case may be, shall be quoted by every person;
- the class or classes of persons to whom the provisions of this section shall not apply;
- the form and manner in which a person who has not been allotted a PAN shall make a declaration;
- the manner in which PAN or the Aadhaar number, as the case may be, shall be quoted for transactions cited in (b) above;
- the time and manner in which such transactions cited in (b) above shall be intimated to the prescribed authority.

16. Meaning of certain terms

	Term	Meaning
(i)	Aadhaar number	An identification number issued to an individual by the Authority on receipt of the demographic information and biometric information after verifying the information by the authority. It includes any alternative virtual identity generated by the Authority in the prescribed manner.
(ii)	Authentication	The process by which the PAN or Aadhaar number along with demographic information or biometric information of an individual is submitted to the income-tax authority or such other prescribed authority or agency for its verification and such authority or agency verifies the correctness, or the lack thereof, on the basis of information available with it.

17. Penalty for failure to comply with the provisions of section 139A [Section 272B]

Section	Default	Penalty
272B(1)	Failure to comply with the provisions of section 139A	₹ 10,000
272B(2)	Failure to quote PAN/Aadhaar number in any document referred to in section 139A(5)(c)	₹ 10,000 for each such default
	Failure to intimate PAN/Aadhaar number as required by section 139A(5A)/(5C)	
	Knowingly quoting or intimating a number which is false	
272B(2A)	Failure to quote PAN/Aadhaar Number in documents referred to in section 139A(6A) or authenticate such number in accordance with the provisions contained therein	₹ 10,000 for each such default
272B(2A)	(i) Failure to ensure that PAN/Aadhaar Number is duly quoted in the documents relating to transactions referred to in section 139A(5)(c) or section 139A(6A)	₹ 10,000 for each such default
	(ii) Failure to ensure that PAN/Aadhaar Number has been duly authenticated in respect of transactions referred to under section 139A(6A)	
Note – It is necessary to give an opportunity to be heard to the person on whom the penalty under section 272B is proposed to be imposed.		

QUOTING OF AADHAAR NUMBER [SECTION 139AA]

1. Mandatory quoting of Aadhaar Number

Every person who is eligible to obtain Aadhaar Number is required to mandatorily quote Aadhaar Number:

(a) in the application form for allotment of Permanent Account Number (PAN)

(b) in the return of income

Quoting of Aadhaar Number mandatory in returns filed on or after 1.4.2019 [Circular No. 6/2019 dated 31.03.2019]

As per section 139AA(1)(ii), with effect from 01.07.2017, every person who is eligible to obtain Aadhaar number has to quote Aadhaar number in the return of income.

The Apex Court in a series of judgments has upheld the validity of section 139AA. Consequently, with effect
from 01.04.2019, the CBDT has clarified that it is mandatory to quote Aadhaar number while filing the return of income unless specifically exempted as per any notification issued under section 139AA(3) [detailed in point no. (5) in the next page]. Thus, returns being filed either electronically or manually on or after 1.4.2019 cannot be filed without quoting the Aadhaar number.

2. Mandatory quoting of Enrolment Id, where person does not have Aadhaar Number

If a person does not have Aadhaar Number, he is required to quote Enrolment ID of Aadhaar application form issued to him at the time of enrolment in the application form for allotment of Permanent Account Number (PAN) or in the return of income furnished by him.

Enrolment ID means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment

3. Intimation of Aadhaar Number to prescribed Authority

Every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhaar Number, shall intimate his Aadhaar Number to prescribed authority on or before 31st March, 2022.

Notwithstanding the last date of intimating/linking of Aadhaar Number with PAN being 31.03.2022, it is clarified that w.e.f. 01.04.2019, it is mandatory to quote and link Aadhaar number while filing the return of income, either manually or electronically, unless specifically exempted in cases detailed in point (5) below.

4. Consequences of failure to intimate Aadhaar Number

If a person fails to intimate the Aadhaar Number, the permanent account Number (PAN) allotted to such person shall be made inoperative after the date so notified in the prescribed manner.

Accordingly, Rule 114AAA specifies the manner of making permanent account number inoperative.

Sub-Rule	Provision
(1)	If a person, who has been allotted PAN as on 1st July, 2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same on or before 31st March, 2022, the PAN of such person would become inoperative and he would be liable for payment of fee in accordance with section 234H read with Rule 114(5A) i.e., ₹ 1,000.

(2)	Where such person who has not intimated his Aadhaar number on or before 31st March, 2022, has intimated his Aadhaar number under section 139AA(2) after 31st March, 2022, after payment of fee specified in section 234H read with Rule 114(5A), his PAN would become operative within 30 days from the date of intimation of Aadhaar number.
(3)	A person, whose PAN has become inoperative, would be liable for following further consequences for the period commencing from the date as specified under (4) below till the date it becomes operative – • no refund of any amount of tax or part thereof, due under the provisions of the Act; • interest would not be payable on such refund for the period, beginning with the date specified under (4) below and ending with the date on which it becomes operative; • where tax is deductible at source in case of such person, such tax shall be deducted at higher rate, in accordance with provisions of section 206AA; • where tax is collectible at source in case of such person, such tax shall be collected at higher rate, in accordance with provisions of section 206CC:
(4)	The consequences in (3) above would be effective from the date specified by the Board i.e., 1.7.2023 [Circular No. 3/2023 dated 28th March, 2023]

5. Clarification on consequences of PAN becoming inoperative

These consequences would be with effect from 1.7.2023 and continue till the PAN becomes operative. A fee of ` 1,000 has to be paid to make the PAN operative by intimating the Aadhaar number.

The consequences of PAN becoming inoperative would not be applicable to those persons who have been provided exemption from intimating Aadhaar number detailed in point (6) below.

6. Provision not to apply to certain persons or class of persons

The provisions of section 139AA relating to quoting of Aadhaar Number would, however, not apply to such person or class or classes of persons or any State or part of any State as may be notified by the Central Government.

Accordingly, the Central Government has, vide Notification No. 37/2017 dated 11.05.2017 effective from 01.07.2017, notified that the provisions of section 139AA relating to quoting of Aadhaar Number would not apply to an individual who does not possess the Aadhaar number or Enrolment ID and is:

- residing in Assam, Jammu & Kashmir and Meghalaya;
- a non-resident as per Income-tax Act, 1961;
- of the age of 80 years or more at any time during the previous year;
- not a citizen of India.

SCHEME FOR SUBMISSION OF RETURNS THROUGH TAX RETURN PREPARERS [SECTION 139B]

i. This section provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the Scheme.

ii. The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the Scheme and shall also affix his signature on such return.

iii. A Tax Return Preparer means any individual, other than

- any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.
- any legal practitioner who is entitled to practice in any civil court in India.
- an accountant
- an employee of the 'specified class or classes of persons'.

who has been authorized to act as a Tax Return Preparer under the Scheme.

iv. The "specified class or classes of persons" for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.

v. The Scheme notified under the said section may provide for the following -

- the manner in which and the period for which the Tax Return Preparers shall be authorised,
- the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer,
- the code of conduct for the Tax Return Preparers,
- the duties and obligations of the Tax Return Preparers,
- the circumstances under which the authorisation given to a Tax Return Preparer may be withdrawn, and
- any other relevant matter as may be specified by the Scheme.

vi. Accordingly, the CBDT has, in exercise of the powers conferred by this section, framed the Tax Return Preparer Scheme, 2006, which came into force from 1.12.2006.

Particulars	Contents
Applicability of the scheme	The scheme is applicable to all eligible persons.
Eligible person	Any person being an individual or a Hindu undivided family.
Tax Return Preparer	Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme. However, the following person are not entitled to act as Tax Return Preparer: • any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings. • any legal practitioner who is entitled to practice in any civil court in India. • an accountant.
Educational Qualification for Tax Return Preparers	An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as Tax Return Preparer.
Preparation of and furnishing the Return of Income by the Tax Return Preparer	An eligible person may, at his option, furnish his return of income under section 139 for any assessment year after getting it prepared through a Tax Return Preparer: However, the following eligible person (an individual or a HUF) cannot furnish a return of income for an assessment year through a Tax Return Preparer: • who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or • who is not a resident in India during the previous year. An eligible person cannot furnish a revised return of income for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer.

Note - It may be noted that as per section 139B(3), an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. Therefore, it follows that employees of

companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force (since they are not falling in the category of specified class or classes of persons), are eligible to act as Tax Return Preparers.

ILLUSTRATION 3

Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the financial year ended on 31st March, 2024 audited under section 44AB. Her total income for the A.Y. 2024-25 is ₹ 6,35,000. She wants to furnish her return of income for A.Y. 2024-25 through a tax return preparer. Can she do so?

SOLUTION

Section 139B provides a scheme for submission of return of income for any assessment year through a Tax Return Preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y.2024-25 through a Tax Return Preparer.

PERSONS AUTHORISED TO VERIFY RETURN OF INCOME [SECTION 140]

This section specifies the persons who are authorized to verify the return of income under section 139.

	Assessee	Circumstance	Authorised Persons
1.		I. In circumstances not covered under (ii), (iii) & (iv) below	▪ the individual himself
		II. where he is absent from India	▪ the individual himself; or ▪ any person duly authorised by him if this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)
		(iii) where he is mentally incapacitated from attending to his affairs	▪ his guardian; or ▪ any other person competent to act on his behalf
		(iv) where, for any other reason, it is not possible	▪ any person duly authorised by him in this behalf holding a valid power of attorney from the

		for the individual to verify the return	individual, which should be attached to the return of income.
2.	Hindu Undivided Family	(i) in circumstances not covered under (ii) and (iii) below	▪ the karta
		(ii) where the karta is absent from India	▪ any other adult member of the HUF
		(iii) where the karta is mentally incapacitated from attending to his affairs	▪ any other adult member of the HUF
3.	Company	(i) in circumstances not covered under (i) to (vi) below	▪ the managing director of the company
		(ii) a) where for any unavoidable reason such managing director is not able to verify the return; or b) where there is no managing director	any director of the company or any other person as may be prescribed for this purpose
		(iii) where the company is not resident in India	▪ the managing director of the company (or) ▪ a person who holds a valid power of attorney from such company to do so (such power of attorney should be attached to the return).
		(iv) Where the company is being wound up (whether under the orders of a court or otherwise); or where any person has been appointed as the receiver of any assets of the company	▪ Liquidator ▪ Liquidator
		(v) Where the management of the company has been taken over by the Central	- the principal officer of the company

		Government or any State Government under any law	
		(vi) Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.	▪ insolvency professional appointed by such Adjudicating Authority
4.	Firm	(i) in circumstances not covered under (ii) below	▪ the managing partner of the firm
		(ii) a) where for any unavoidable reason such managing partner is not able to verify the return; or b) where there is no managing partner.	▪ any partner of the firm, not being a minor ▪ any partner of the firm, not being a minor
5.	LLP	(i) in circumstances not covered under (ii) below	▪ Designated partner
		(ii) a) where for any unavoidable reason such designated partner is not able to verify the return; or b) where there is no designated partner.	any partner of the LLP or any other person as may be prescribed for this purpose.
6.	Local authority	-	▪ the principal officer
7.	Political party	-	▪ the chief executive officer of such party (whether he is known as secretary or by any other designation)
8.	Any other association	-	▪ any member of the association or the principal officer of such association

9.	Any other person	-	▪ that person or some other person competent to act on his behalf.

Any other person in case of company and LLP - The CBDT has, vide Notification No. 93/2021 dated 18.8.2021, specified that "any other person" referred to in section 140(c) and 140(cd) for company and LLP, respectively, shall be the person, appointed by the Adjudicating Authority (i.e., National Company Law Tribunal constituted under section 408 of the Companies Act, 2013) for discharging the duties and functions of an interim resolution professional, a resolution professional, or a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.

LET US RECAPITULATE

Section	Particulars
139(1)	**Assessees required to file return of income compulsorily** 1. Companies and firms (whether having profit or loss or nil income); 2. a person, being a resident other than not ordinarily resident, having any asset (including any financial interest in any entity) located outside India held as a beneficial owner or beneficiary 3. or who has a signing authority in any account located outside India, whether or not having income chargeable to tax; 4. Individuals, HUF, AOPs or BOIs and artificial juridical persons whose total income before giving effect to the provisions of Chapter VI-A and sections 54, 54B, 54D, 54EC or 54F exceeds the basic exemption limit. 5. Any person other than a company or a firm, who is not required to furnish a return under section 139(1), who duringthe previous year – • has deposited more than ` 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or • has incurred expenditure of more than ` 2 lakh for himself or any other person for travel to a foreign country; or • has incurred expenditure of more than ` 1 lakh towards consumption of electricity; or • fulfils such other conditions as may be prescribed Accordingly, the CBDT has notified that any person other than a company or a firm, who is not required to furnish a return under section 139(1) has to file their return of income on or before due date -

	• if his total sales, turnover or gross receipts, as the case may be, in the business > ` 60 lakhs during the previous year; or(ii) if his total gross receipts in profession > ` 10 lakhs during the previous year; or (iii) if the aggregate of TDS and TCS during the previous year, • in the case of the person, is ` 25,000 or more; or • However, a resident individual who is of the age of 60 years or more, at any time during the • relevant previous year, if the aggregate of TDS and TCS during the previous year, in his case, is ` 50,000 or more (iv) the deposit in one or more savings bank account of the person, in • aggregate, is ` 50 lakhs or more during the previous year. **Due date of filing return of income** 1. 31st October of the assessment year, in case the assessee (other than an assessee referred to in (ii) below) is: a) a company; b) a person (other than company) whose accounts are required to be audited; or c) a partner of a firm whose accounts are required to be audited. 2. 30th November of the assessment year, in the case of an assessee including the partners of the firm being such assessee who is required to furnish a report referred to in section 92E. 3. 31st July of the assessment year, in case of any other assessee.
139(3)	**Return of loss** An assessee can carry forward or set off his/its losses provided he/it has filed his/its return under section 139(3), within the due date specified under section 139(1). **Exceptions** Loss from house property and unabsorbed depreciation can be carried forward for set-off even though return has not been filed before the due date.
139(4)	**Belated Return** A return of income for any previous year, which has not been furnished within the time allowed u/s 139(1), may be furnished at any time before the: 1. three months prior to the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023- 24); or 2. completion of the assessment,

<table>
<tr><td></td><td>whichever is earlier.</td></tr>
<tr><td>139(5)</td><td>Revised Return

If any omission or any wrong statement is discovered in a return furnished u/s 139(1) or belated return u/s 139(4), a revised return may be furnished by the assessee at any time before the:
▪ three months prior to the end of the relevant assessment year (i.e., 31.12.2024 for P.Y. 2023- 24); or
▪ completion of assessment,
whichever is earlier.
Thus, belated return can also be revised.</td></tr>
<tr><td>234A</td><td><u>Interest for default in furnishing return of income</u>
Interest under section 234A is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.

Assessee shall be liable to pay simple interest @1% per month or part of the month for the period commencing from the date immediately following the due date and ending on the following dates –
<table><tr><td>Circumstances</td><td>Ending on the following dates</td></tr><tr><td>Where the return is furnished after due date</td><td>the date of furnishing of the return</td></tr><tr><td>Where no return is furnished</td><td>the date of completion of assessment</td></tr></table>
However, where the assessee has paid taxes in full on or before the due date, interest under section 234A is not leviable.</td></tr>
<tr><td>140A</td><td><u>Self-Assessment tax</u>

Where any tax is payable on the basis of any return required to be furnished under section 139, after taking into account –
▪ the amount of tax, already paid,
▪ the tax deducted or collected at source
▪ any relief of tax claimed under section 89
▪ any tax credit claimed to be set-off in accordance with the provisions of section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A); and
▪ any tax and interest payable as per the provisions of section 191(2)</td></tr>
</table>

	the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter, towards interest and the balance shall be adjusted towards the tax payable.
139(8)A	**<u>Updated Return</u>** Any person may, whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year, furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year. The provisions of updated return would not apply, if the updated return of such person for that assessment year – i. is a loss return; or ii. has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or iii. results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5). No updated return can be furnished by any person for the relevant assessment year, where – a) an updated return has been furnished by him under this subsection for the relevant assessment year; or b) any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case; or(c) he is such person or belongs to such class of persons, as may be notified by the CBDT.
140B	**<u>Tax on Updated Return</u>** **Payment of tax, additional tax, interest and fee before furnishing updated return of income if no return is furnished earlier -** Where no return of income has been furnished

by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional tax computed under section 140B(3), before furnishing the return.

The updated return shall be accompanied by proof of payment of such tax, additional income- tax, interest and fee.

The tax payable is to be computed after taking into account the following -

- the amount of tax, if any, already paid, as advance tax
- the tax deducted or collected at source
- any relief of tax claimed under section 89; and
- any tax credit claimed to set-off in accordance with the provisions of section 115JD, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).

In a case, where no earlier return has been furnished, the interest payable under section 234A has to be computed on the amount of the tax on the total income as declared in the updated return under section 139(8A), in accordance with the provisions of section 140A(1A).

Payment of tax, additional tax, interest and fee before furnishing updated return of income if return is furnished earlier

Where, return of income under section 139(1) or 139(4) or 139(5) has been furnished by an assessee and tax is payable, on the basis of updated return to be furnished by such assessee under section 139(8A), the assessee would be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional tax computed u/s 140B(3), as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return.

The updated return shall be accompanied by proof of payment of such tax, additional income- tax and interest. The tax payable has to be computed after taking into account the following -

a) the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return

b) the tax deducted or collected at source, in accordance with the provisions of

	c) Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return d) any tax credit claimed, to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return, in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A). The aforesaid tax would be increased by the amount of refund, if any, issued in respect of such earlier return. **Additional income-tax payable at the time of updated return** The additional tax payable at the time of furnishing the updated return under section 139(8A) would be – ▪ 25% of aggregate of tax and interest payable, as determined above, if such return is furnished after expiry of the time available under section 139(4) or 139(5) and before completion of the period of 12 months from the end of the relevant assessment year; or ▪ 50% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 12 months from the end of the relevant A.Y. but before completion of the period of 24 months from the end of the relevant A.Y.
139(9)	**Defective Return** Where the Assessing Officer considers that the return of income is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within 15 days from the date of intimation or within such further period, which, the Assessing Officer may allow in his discretion on an application made by the assessee in this behalf. If the defect is not rectified within such period, the return would be treated as an invalid return. Consequently, the provisions of the Income-tax Act, 1961 would apply as if the assessee had failed to furnish the return. However, where the assessee rectifies the defect after the expiry of 15 days or further period allowed by the Assessing Officer but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.
234F	**Fee for default in furnishing return of income** Where a person who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of ₹ 5,000.

	However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000
139A	**Permanent Account Number (PAN)** Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions : ▪ in all returns to, or correspondence with, any income-tax authority; ▪ in all challans for the payment of any sum due under the Act; ▪ in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue. For example, sale or purchase of a motor vehicle, payment in cash of an amount exceeding ₹ 50,000 to a hotel against a bill or bills at any one time, etc. **Inter-changeability of PAN with the Aadhaar number** Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN if he ▪ has not been allotted a PAN but possesses the Aadhaar number ▪ has been allotted a PAN and has intimated his Aadhaar number to prescribed authority in accordance with the requirement contained in section 139AA(2).
139AA	**Quoting of Aadhaar Number** To be quoted by every person on or after 1.7.2017 in the application for allotment of PAN and in return of income. If a person does not have Aadhaar Number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted. Every person who has been allotted PAN as on 1.7.2017 and who is eligible to obtain Aadhaar Number, has to intimate his Aadhaar Number to the prescribed authority on or before 31.3.2022. If such person has failed to intimate the same on or before 31st March, 2022, the PAN of such person would become inoperative and he would be liable for payment of fee in accordance with section 234H read with Rule 114(5A) i.e., ₹ 1,000. Where such person who has not intimated his Aadhaar number on or before 31st March, 2022, has intimated his Aadhaar number under section 139AA(2) after 31st March, 2022, after payment of fee specified in section 234H read with Rule 114(5A), his PAN would become

	operative within 30 days from the date of intimation of Aadhaar number. The consequences of inoperative PAN would be effective from the date specified by the Board i.e., 1.7.2023 [Circular No. 3/2023 dated 28th March, 2023]

TEST YOUR KNOWLEDGE

1. State with reasons whether you agree or disagree with the following statements:

   (a) Return of income of Limited Liability Partnership (LLP) could be verified by any partner.

   (b) Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹ 160 lakhs (₹ 100 lakhs received in cash) for the year ended 31.03.2024 whether or not declaring presumptive income under section 44AD, is 31st October, 2024.

2. Mr. Vineet exercised the option of shifting out of the default tax regime provided under section 115BAC(1A) and submits his return of income under the optional tax regime (i.e., the normal provisions of the Act) on 12- 09-2024 for A.Y 2024- 25 consisting of income under the head "Salaries", "Income from house property" and bank interest. On 21-12-2024, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income. Can he do so? Examine. Would your answer be different if he discovered this omission on 21- 03-2025?

3. Examine with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

   (a) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.

   (b) Where the Karta of a HUF is absent from India, the return of income can be verified by any male member of the family.

4. Explain the term "return of loss" under the Income-tax Act, 1961. Can any loss be carried forward even if return of loss has not been filed as required?

5. Mr. Aakash has undertaken certain transactions during the F.Y.2023-24, which are listed below. You are required to identify the transactions in respect of which quoting of PAN is mandatory in the related documents-

S. No.	Transaction
1.	Payment of life insurance premium of ₹ 45,000 in the F.Y.2023-24 by account payee cheque to LIC for insuring life of self and spouse
2.	Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ₹ 60,000 was paid in cash
3.	Payment of ₹ 80,000 by ECS through bank account for acquiring the debentures of A Ltd., an Indian company
4.	Payment of ₹ 95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives
5.	Applied to SBI for issue of credit card.

ANSWERS

1.

(a) Disagree

The return of income of LLP should be verified by a designated partner.

Any other partner can verify the Return of Income of LLP only in the following cases:-

- where for any unavoidable reason such designated partner is not able to verify the return, or,
- where there is no designated partner.

(b) Disagree

In case Mr. A offers his business income as per the presumptive taxation provisions of section 44AD (` 11.60 lakhs or more), then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2024, shall be 31st July, 2024.

In case, Mr. A wants to declare business income lower than ₹ 11.60 lakhs, he has to get his accounts audited under section 44AB, since his turnover exceeds ₹ 1 crore, in which case, the due date for filing return would be 31st October, 2024.

2. Since Mr. Vineet has income only under the heads “Salaries”, “Income from house property” and “Income from other sources”, he does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y.2024- 25 under section 139(1), in his case, is 31st July, 2024. Since Mr. Vineet had submitted his

return only on 12.9.2024, the said return is a belated return under section 139(4).

As per section 139(5), a return furnished under section 139(1) or a belated return u/s 139(4) can be revised. Thus, a belated return under section 139(4)can also be revised. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4) in December 2024, to claim deduction under section 80TTA, since the time limit for filing a revised return is three months prior to the end of the relevant assessment year, which is 31.12.2024.
However, he cannot revise return had he discovered this omission only on 21-03-2025, since it is beyond 31.12.2024.

3.

i. **True:** Section 139A(2) provides that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.

ii. **False:** Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be verified by any other adult member of the family; such member can be a male or female member.

4. A return of loss is a return which shows certain losses. Section 80 provides that the losses specified therein cannot be carried forward, unless such losses are determined in pursuance of return filed under the provisions of section 139(3).

Section 139(3) states that to carry forward the losses specified therein, the return should be filed within the time specified in section 139(1).

Following losses are covered by section 139(3):

- business loss to be carried forward under section 72(1),
- speculation business loss to be carried forward under section 73(2),
- loss from specified business to be carried forward under section 73A(2), in case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A).
- loss under the head “Capital Gains” to be carried forward under section 74(1); and
- loss incurred in the activity of owning and maintaining race horses to be carried forward under section 74A(3)

However, loss from house property to be carried forward under section 71B and unabsorbed depreciation under section 32 can be carried forward even if return of loss has not been filed as required under section 139(3).

5.

	Transaction	Is quoting of PAN mandatory in related documents?
1.	Payment of life insurance premium Of ₹ 45,000 in the F.Y.2023- 24 by account payee cheque to LIC for insuring life of self and spouse	No, since the amount paid does not exceed ₹ 50,000 in the F.Y.2023-24.
2.	Payment of ₹ 1,00,000 to a five-star hotel for stay for 5 days with family, out of which ` 60,000 was paid in cash	Yes, since the amount paid in cash exceeds ₹ 50,000
3.	Payment of ₹ 80,000, by ECS through bank account, for the debentures of A Ltd., an Indian company	Yes, since the amount paid for acquiring debentures exceeds ₹ 50,000. Mode of payment is not relevant in this case.
4.	Payment of ₹ 95,000 by account payee cheque to Thomas Cook for travel to Dubai for 3 days to visit relatives	No, since the amount was paid by account payee cheque, quoting of PAN is not mandatory even though the payment exceeds ₹ 50,000
5.	Applied to SBI for issue of credit card.	Yes, quoting of PAN is mandatory on making an application to a banking company for issue of credit card.

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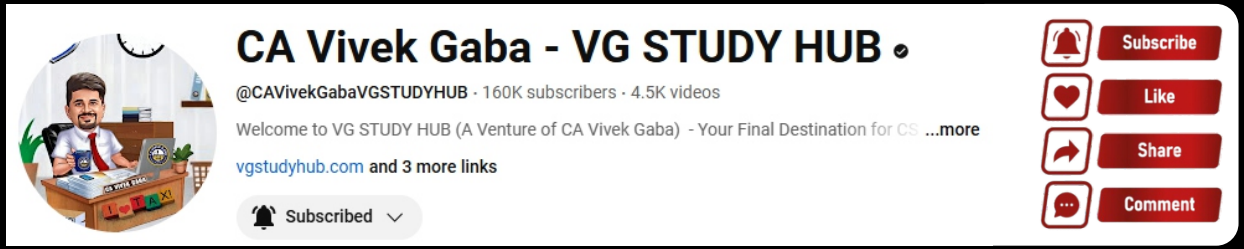

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