

**3. INCOME FROM HOUSE PROPERTY****Sections Covered:** Sec 22 to 27**Charging Section:** Section 22**Method of accounting:** Accrual Basis except municipal taxes**Tax Rates:** Normal (Default / Optional)**CONDITIONS AS PER CHARGING SECTION (SEC 22)**

- 1) Asset must be a HP and
  - a) Land appurtenant to building means land attached to the building within the compound wall.  
**Eg:** Car garages, garden, cattle shed, swimming pool, cellar.
  - b) Buildings include not only residential buildings, but also factory buildings, offices, shops, godowns and other commercial premises.
  - c) The purpose of usage of building by tenant is not relevant.
  - d) Vacant land is not a HP Rental income from vacant land is taxable under PGBP or IFOS.
- 2) Assessee should be the owner of the HP and
  - a) The requirement of registration of the sale deed is not warranted.
  - b) Ownership includes legal ownership as well as deemed ownership (Sec 27)
  - c) The assessee need not be the owner of the land upon which building is constructed.
  - d) It is sufficient assessee is owner during P.Y (Need not be the owner in A.Y)
  - e) If the title of the ownership of the property is under dispute in a court of law, income tax department will decide as to who is the owner of the HP.
  - f) In case of recovery of unrealized rent and arrears of rent, ownership of that property is not relevant.
  - g) Income from sub-letting is not taxable under HP as assessee is not the owner of HP.
- 3) Assessee shall not use the HP for his own business or profession  
If all the above 3 conditions are satisfied, then annual value of HP is taxable under the head IFHP. Otherwise, rental income is taxable under the head PGBP or IFOS.

**DEEMED OWNERSHIP (SEC 27)**

SITUATION	DEEMED OWNER
1) Transfer of house property by an individual to his/her spouse <b>otherwise</b> than for adequate consideration. <b>Exceptions:</b> <ol style="list-style-type: none"> <li>a) If transfer is made for adequate consideration.</li> <li>b) Transferred to spouse through an agreement to live apart.</li> </ol>	Transferor (Husband / Wife) will be treated as deemed owner
2) Transfer of house property by an individual to his/ her minor children for without or inadequate consideration. (i.e., Gift to minor children)	Transferor (Mother or Father) will be treated as deemed owner

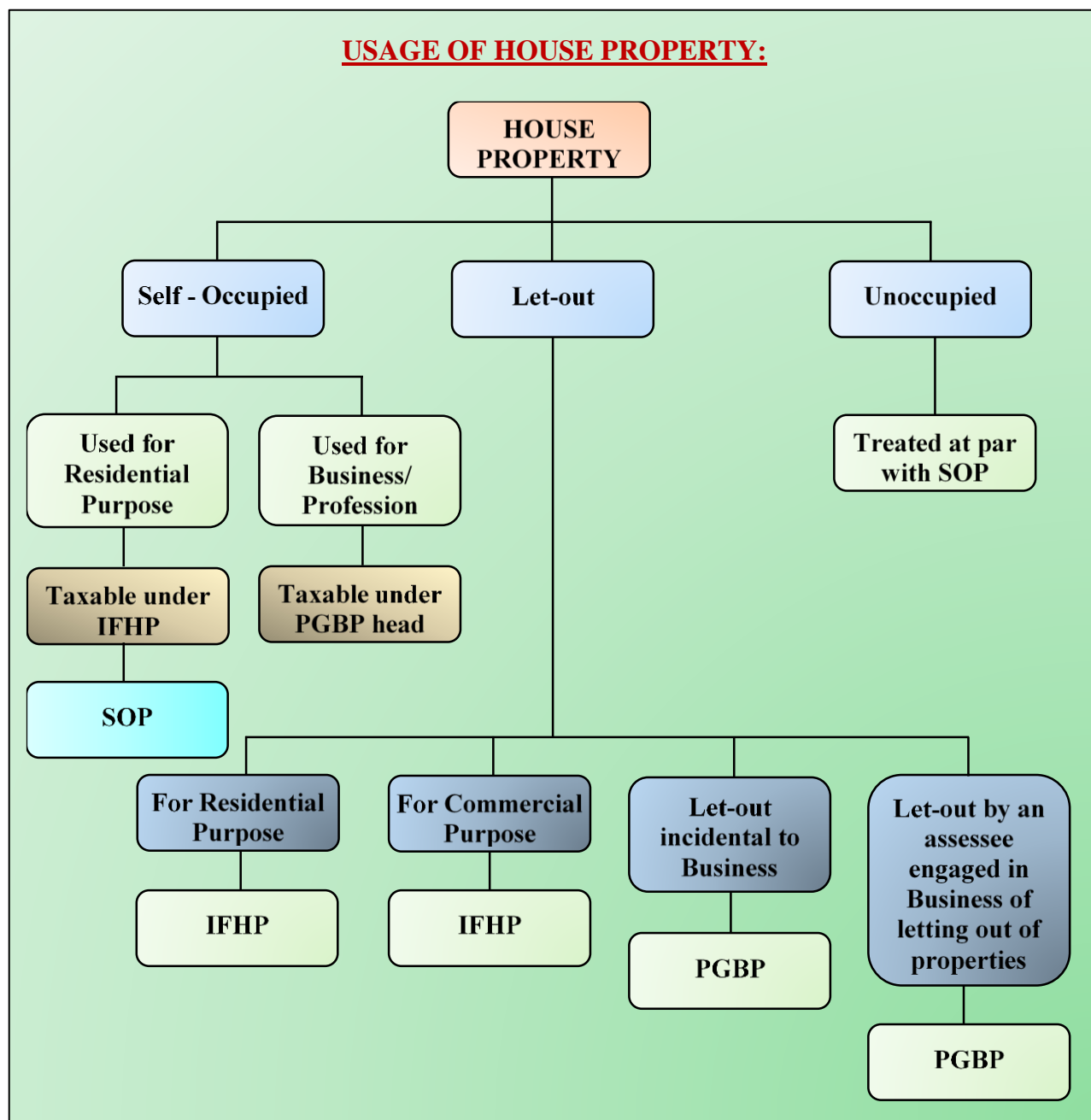
<p><b>Note:</b> Minor excludes minor married daughter.</p> <p><b>Exception:</b></p> <p>a) If transfer is made for adequate consideration.</p> <p><b>Note -</b> Where cash is transferred to spouse/minor child and the transferee acquires property out of such cash, then, the transferor shall not be treated as deemed owner of the property. However, clubbing provisions will be attracted.</p>	
<p>3) Allotment/Lease of house property by a co-operative society/Company/AOP to its members under house building scheme.</p>	<p>A member to whom building allotted is treated as deemed owner</p>
<p>4) Holder of an impartible estate.</p> <p><b>Note:</b> impartible estate: It means a property which is not legally divisible.</p>	<p>Holder /Trustee is treated as deemed owner</p>
<p>5) Transfer of immovable property under part-performance of a contract (Sec.53A of transfer of property act)</p>	<p>Transferee is deemed owner on satisfaction of conditions specified u/s 53A of Transfer of Property Act.</p>
<p>6) A person who acquires right in a building by way of lease for a period of 12 years or more (continuously)</p>	<p>Lessee is treated as deemed owner.</p> <p><b>Exception –</b> In case the person acquiring any rights by way of lease from month to month or for a period not exceeding one year, such person will not be deemed to be the owner.</p>

#### SECTION 53A OF THE TRANSFER OF PROPERTY ACT REQUIRES THE FOLLOWING CONDITIONS:

- a) There must be an agreement in writing between buyer and seller. and
- b) The buyer has paid the consideration or is ready to pay the consideration. and
- c) The buyer has taken possession of the property.

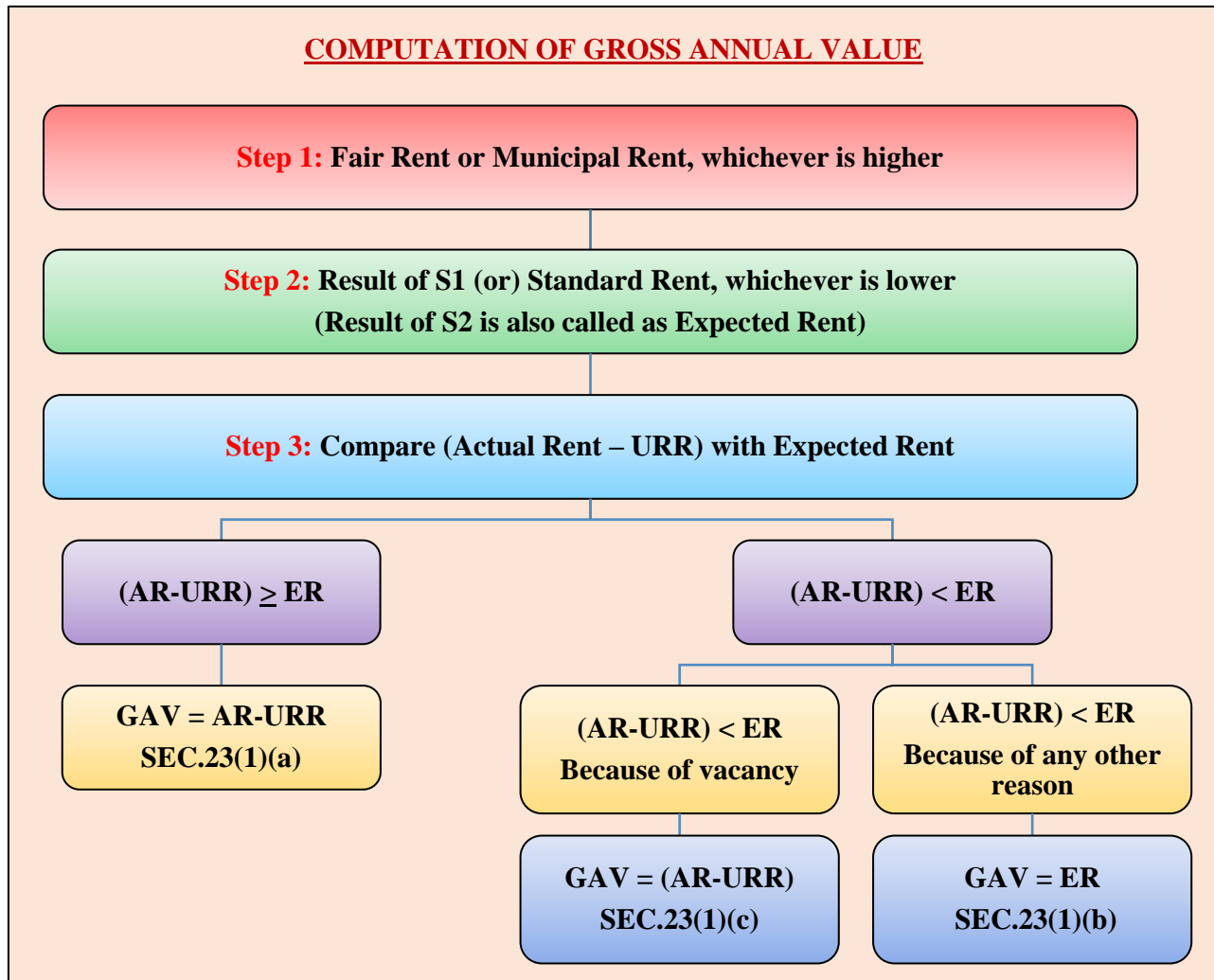
#### STUDENT NOTES:



**FORMAT FOR COMPUTING INCOME FROM HOUSE PROPERTY**

PARTICULARS	SOP/UOP	LOP/DLOP
Gross Annual Value (GAV)	-	xxx
<b>Less:</b> Municipal taxes paid	-	(xxx)
Net Annual value (NAV)	-	xxx
<b>Less:</b> Deduction u/s 24		
a) Standard deduction @ 30% of NAV	-	(xxx)
b) Interest on borrowed capital	(xxx)	(xxx)
Income From house property	(xxx)	xxx / (xxx)

- The expression “Un-occupied property (UOP)” refers to a property which cannot be occupied by the owner by reason of his employment, business or profession at a different place and he resides at such other place in a building not belonging to him.
- Self-occupied benefit can be claimed by an Individual and HUF, this benefit is not available to other assessee like company, firm, etc.



**Notes:**

- 1) **Un-realized rent, if any shall be deductible from Actual rent subject to following conditions (i.e., Rule 4 conditions)**
  - a) The tenancy is bonafide. and
  - b) The defaulting tenant has vacated or steps for the same are taken. and
  - c) He is not in occupation of assessee's any other property; and
  - d) The assessee has taken steps for the recovery of the unpaid rent.
- 2) **CONDITIONS FOR APPLICABILITY OF SEC.23(1)(C):**
  - a) The property must be fully let-out property (and)
  - b) HP is vacant during the previous year (and)
  - c) If there is no vacancy, then  $AR \geq ER$

### 3. INCOME FROM HOUSE PROPERTY

- 3) If the HP was purchased / construction was completed during the current previous year, then GAV shall be calculated only for the period for which HP is in existence. (from date of completion certificate to 31<sup>st</sup> March of P.Y)
- 4) If SR is not given, Result of S1 is considered as ER.

5) **DETERMINE GROSS ANNUAL VALUE IN FOLLOWING CASES:**

Particulars	House 1	House 2	House 3	House 4	House 5	House 6
Fair Rent (FR)	1,00,000	1,50,000	4,00,000	6,00,000	4,00,000	2,70,000
Municipal Value (MV)	2,00,000	3,00,000	5,04,000	3,00,000	6,00,000	3,00,000
Standard Rent (SR)	1,50,000	4,00,000	-	2,00,000	-	-
House Rentals (p.m.)	20,000	30,000	50,000	15,000	60,000	25000
Let out period (in months)	12	5	6	7	10	9
Un-realized Rent (Rule 4)	NIL	NIL	54,000	NIL	90,000	-
Vacancy period	-	7	6	5	2	3

**ANSWER:** Will be discussed in Booster Lecture

### **ALLOWABILITY OF MUNICIPAL TAXES**

- 1) Municipal taxes are allowed as deduction from GAV.
- 2) **Conditions for allowability of Municipal Taxes:**
  - a) Should be borne by the assessee (Owner) &
  - b) Should be actually paid during the P.Y. (i.e. allowed on cash basis).
- 3) Arrears of rent and advance rent is also allowed as deduction in CPY only if there are paid in CPY.
- 4) Municipal taxes not deductible for SOP/UOP, because in these cases NAV shall be taken as Nil
- 5) For a foreign HP, municipal taxes paid outside India are deductible

### **DEDUCTIONS U/S 24:**

**24(a): Standard deduction**

- a) 30% of NAV is allowed as deduction
- b) This is a flat deduction and is allowed irrespective of the actual expenditure incurred.
- c) Allowed in place of actual repairs and maintenance, collection charges, fire insurance and painting expenses etc.
- d) Standard deduction is allowed even if expenses are paid by tenant.

#### 24(b): Interest on borrowed capital

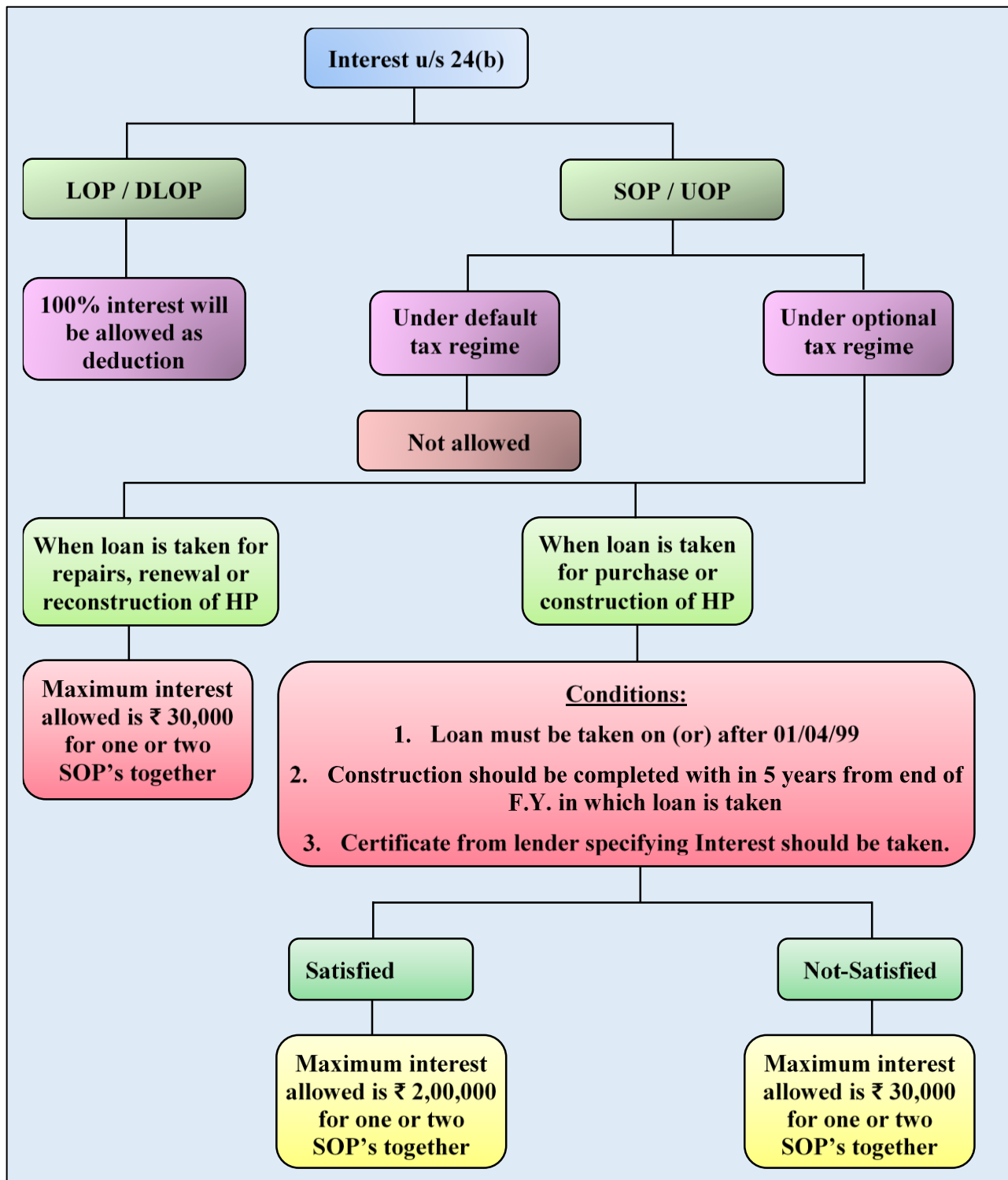
- a) Allowed as deduction on “accrual” basis.
- b) **Purpose of Borrowing:** Purchase, Construction, Renovation, Repairing and Reconstruction.
- c) Interest u/s 24(b) = Pre- construction period interest + Current year interest
- d) Significant points relating to interest u/s 24(b)
  - If a fresh loan has been raised to repay the original loan, the interest payable in respect of the second loan would also be admissible.
  - Interest on interest will not be allowed as deduction (Generally Penal Interest)
  - This deduction is subject to Sec.25 in some cases (TDS)
  - No deduction is allowed for any brokerage or commission for arranging the loan.
  - Interest includes commitment charges.
  - No restriction on lenders (i.e. loan can be taken from any person)
  - Un paid purchase price would be considered as capital borrowed.
  - Principal repayment of loan is eligible for deduction u/s 80C.
  - Additional interest is allowed as deduction under Chapter – VIA deductions
    - Up to 50,000 – u/s 80EE
    - Up to 1,50,000 – u/s 80EEA

#### **PRE-CONSTRUCTION PERIOD INTEREST (PCPI):**

- a) **Pre-Construction Period:** PCPI will be calculated from the date of borrowing up to 31<sup>st</sup> March immediately prior to the date of completion of construction.
- b) If the loan is repaid before the year in which construction is completed, then PCPI will be calculated from the Date of Borrowing till the date of repayment.
- c) PCPI will be allowed as deduction in 5 equal installments from the year of completion of construction / Purchase.
- d) The year in which construction is completed (even though construction is completed on 31<sup>st</sup> March), that year interest will be considered as current year interest and not PCPI.

#### **STUDENT NOTES:**





**NOTE:** Loss from House property cannot be set off against other heads of income under default tax regime u/s 115BAC etc. (Inter-head setoff is not available). However, under optional tax rates, inter-head set off is allowed up to Rs. 2 lakhs.

- Where the assessee owns more than two SOP's, the annual value of any two of those properties, at the option of the assessee, will be nil and the other properties will be considered as deemed to be let-out properties.
- In case of DLOP, income has to be computed on a notional basis by taking the Expected Rent (ER) as the GAV.

- This option can be changed year after year in a manner beneficial to the assessee.

**WHERE A HOUSE PROPERTY IS LET-OUT FOR PART OF THE YEAR AND SELF-OCCUPIED FOR PART OF THE YEAR [SECTION 23(3)]**

- If a HP is self-occupied for part of the year and let-out for remaining part of the year, then it'll be considered as DLOP for the whole year.
- In this case, in GAV calculation, In S3: GAV = Actual Rent (or) Expected Rent, whichever is higher
- If fair rent is not given in the question, then AR for whole year will be taken as fair rent

**QUESTION:** Mr. Jay, who Works with ITC Ltd., owns a house in Jaipur which was constructed on 1.3.2024 and has been occupied by him for his own residence since then. He took a loan of ₹9,00,000 on 1.8.2022 @ 8% per annum interest for the purpose of construction of this house. The entire loan is still outstanding. The municipal tax and land revenue of the Jaipur house are unpaid.

Mr. Jay was transferred to Mumbai on 1.12.2024 where he resides in a house at a monthly rent of ₹40,000 and his house at Jaipur was let out on the same day on a rent of ₹20,000 per month.

Other relevant particulars in respect of these houses are given below:

Particulars	Jaipur House (₹)
Municipal valuation	1,80,000
Municipal tax	8% of Municipal Value
Expenses on repairs	60,000
Fire insurance premium	-
Ground rent	1,300
Land revenue	6,500
Interest on loan	72,000

Compute the "Income from house property" in respect of Mr. Jay for the assessment year 2025-26 under default tax regime and also calculate the income from house property if he opt out from default tax regime.

**IN CASE OF A HOUSE PROPERTY, A PORTION LET OUT AND A PORTION SELF-OCCUPIED:**

- If a part of the HP is self-occupied and remaining part of the HP is let-out, then even though physically it is a single HP, for computation of IFHP, it will be considered as 2 different HP's income will be computed separately for let out and self-occupied portion.
- Municipal valuation/fair rent/standard rent, if not given separately, shall be apportioned between the let-out portion and self-occupied portion either on plinth area or built-up floor space or on such other reasonable basis.
- Property taxes, if given on a consolidated basis, can be bifurcated as attributable to each portion or floor or on a reasonable basis.

**IN CASE OF A HOUSE PROPERTY HELD AS STOCK-IN-TRADE [SECTION 23(5)]**

- a) In some cases, HP may be held as stock-in-trade, and the whole or any part of the property may not be let out during the whole or any part of the previous year.



- b) In such cases, the annual value of such property or part of the property shall be Nil.
- c) This benefit would be available for the period up to two years from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority.

#### **SEC 25A: TAXABILITY OF RECOVERY OF UNREALISED RENT & ARREARS OF RENT RECEIVED**

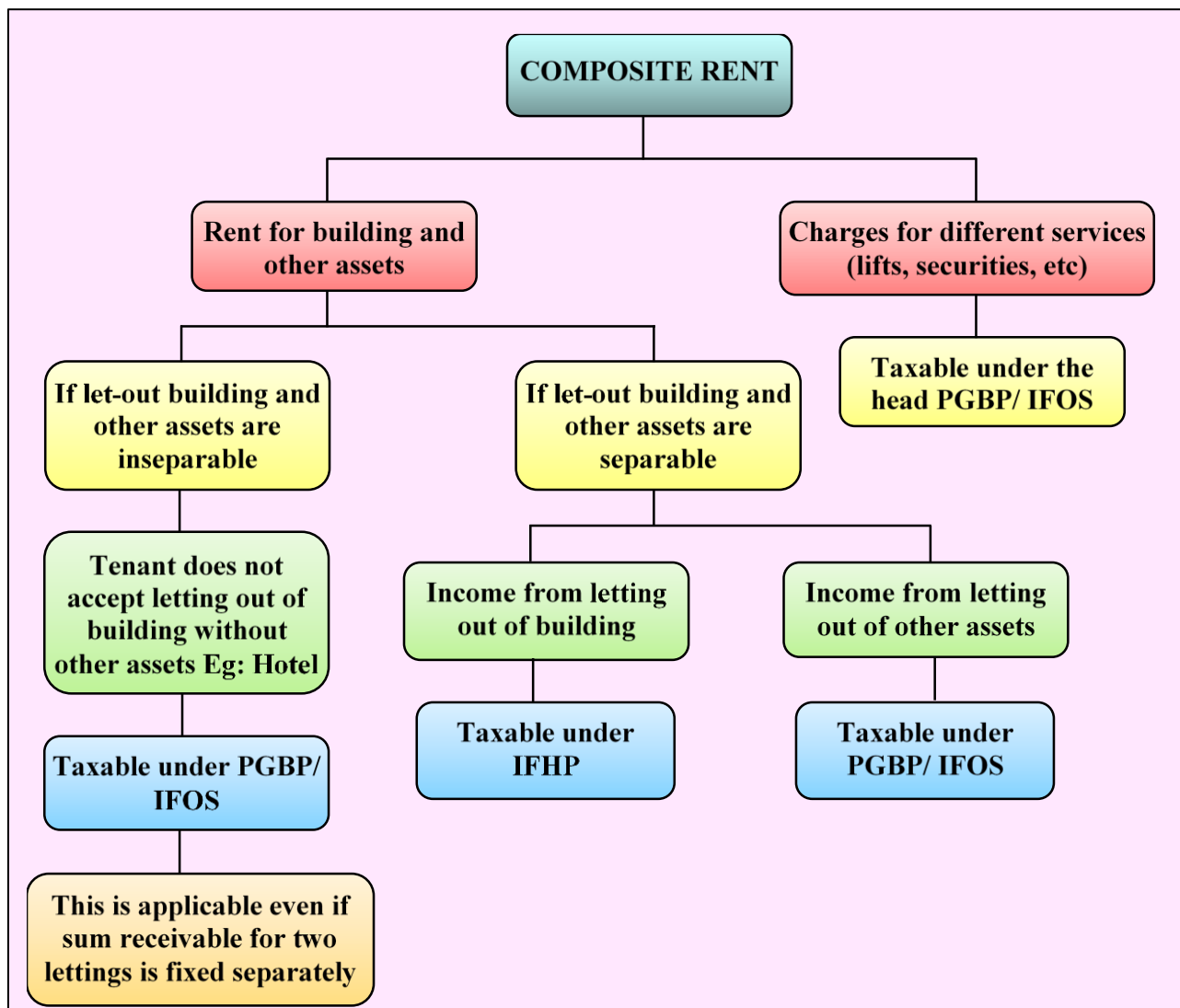
- a) Taxable in the year of receipt/ realisation
- b) Deduction @ 30% of rent received/ realised
- c) Taxable even if assessee is not the owner of the property in the financial year of receipt/ realization

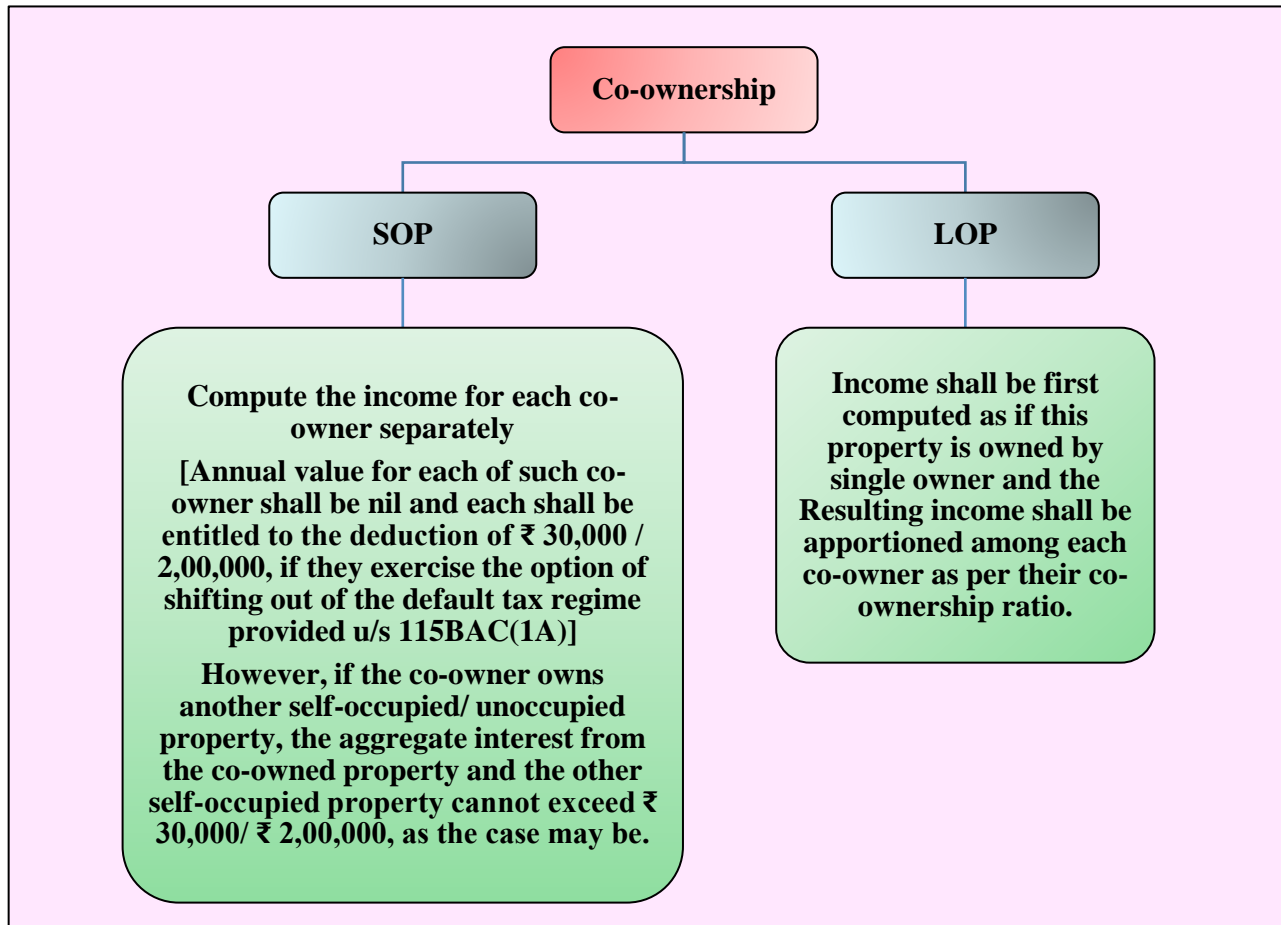
#### **Composite Rent:**

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

- 1) other assets like say, furniture, plant and machinery.
- 2) for different services provided in the building, for e.g., – (a) Lifts; (b) Security; (c) Power backup;

The amount so received is known as “composite rent”



**TREATMENT OF INCOME FROM CO-OWNED PROPERTY**

**QUESTION:** Ms. Aparna co-owns a residential house property in Calcutta along with her sister Ms. Dimple, where her sister's family resides. Both of them have equal share in the property and the same is used by them for self-occupation. Interest is payable in respect of loan of ₹ 50,00,000 @ 10% taken on 1.4.2023 for acquisition of such property. In addition, Ms. Aparna owns a flat in Pune in which she and her parents reside. She has taken a loan of ₹ 3,00,000 @ 12% on 1.10.2023 for repairs of this flat. Compute the deduction which would be available to Ms. Aparna and Ms. Dimple under section 24(b) for A.Y.2025-26, if both exercise the option of shifting out of the default tax regime provided under section 115BAC(1A).

**SOLUTION:**

Computation of deduction u/s 24(b) available to Ms. Aparna for A.Y.2025-26

Particulars	Amount (₹)
Interest on loan taken for acquisition of residential house property at Calcutta ₹ 50,00,000 x 10% = ₹ 5,00,000 Ms. Aparna's share = 50% of ₹ 5,00,000 = ₹ 2,50,000 Restricted to ₹ 2,00,000	2,00,000
Interest on loan taken for repair of flat at Pune ₹ 3,00,000 x 12% = ₹ 36,000 Restricted to ₹ 30,000	30,000
<b>Total Interest</b>	<b>2,30,000</b>
<b>Deduction under section 24(b) in respect of (I) and (II) above to be restricted to</b>	<b>2,00,000</b>

**Computation of deduction u/s 24(b) available to Ms. Dimple for A.Y.2025-26**

Particulars	Amount (₹)
Interest on loan taken for acquisition of residential house property at Calcutta $\text{₹ } 50,00,000 \times 10\% = \text{₹ } 5,00,000$ Ms. Dimple's share = 50% of ₹ 5,00,000 = ₹ 2,50,000 Restricted to ₹ 2,00,000	2,00,000
Deduction under section 24(b)	2,00,000