



மனோன்மணியம் சுந்தரனார் பல்கலைக்கழகம்

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Tirunelveli - 627 012, Tamilnadu, India.

DIRECTORATE OF DISTANCE

&

CONTINUING EDUCATION

Income Tax Law & Practice



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INCOME TAX LAW & PRACTICE

Objectives:

1. To understand the basic concepts of income tax
2. To enable the students to know the provisions of the income tax law.

Unit I

Basic concepts - Definition - Previous year - Assessment year - Person - Assessee - Income - Total Income - Casual income - Capital and Revenue - Residential status and incidence of tax incomes exempt under Section - 10

Unit II

Salary - Basis of charge - Different forms of salary - allowances - gratuity - pension - perquisites and their valuation - deduction from salary - computation of taxable salary .

Unit III

House property - basis of charge - determination of GAV and NAV - income from let - out property - deductions - computation of House property income

Unit IV

Profits and gains of business and profession - basis of charge - methods of accounting - deductions - allowable expenses and disallowable expenses - computation of taxable income - Income from Capital Gains - Income from other sources

Unit V

Income of other persons included in assesses total income - Aggregation of income; Set - off or carry forward and set off of losses - Deductions from gross total income - Computation of total income and tax payable; Rebates and relief's - Provisions concerning advance tax and tax deducted at source - Provisions for filing of return of income.

Text Books:

1. Dr. Vinod K. Singhania, Taxmen's Direct Taxed Law & Practice, Taxman Publications, New Delhi.
2. Dr. A. Murthy, Income Tax Law and Practice - Vijay Nichole Publications, Chennai.
3. Dr. T.S. Reddy & Dr. Hari Prasad, Income tax law and practice, Margam publications, Chennai.

Outcomes:

1. To know the residential status and tax exemptions.
2. To compute the taxable salary.
3. To calculate house property income.
4. To identify the income from other sources
5. To understand the provisions for filing the return of income

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Unit – I

Basic Concept

Income Tax Definition

Income tax is a type of tax governments impose on income generated by businesses and individuals within their jurisdiction. Income tax is used to fund public services, pay government obligations, and provide goods for citizens.

The term “income tax” refers to a type of tax governments impose on income businesses and individuals within their jurisdiction generate. By law, taxpayers must file an income tax return annually to determine their tax obligations.

Income taxes are a source of revenue for governments. They are used to fund public services, pay government obligations, and provide goods for citizens. In addition to the federal government, many states and local jurisdictions also levy income taxes.

1. Income Tax Law

Income-tax is a tax levied on the total income of an assessee, being a person charged under the provisions of this Act, for the relevant previous year.

For understanding Income tax law in India, the following components need to be studied carefully:

- (1) Income-tax Act, 1961
- (2) Annual Finance Acts
- (3) Income-tax Rules, 1962
- (4) Notification and Circulars, issued from time to time
- (5) Judicial Decisions

1.1 Income-tax Act, 1961

The levy of income-tax in India is governed by the Income-tax Act, 1961 which extends to whole of India and came into force on 1st April, 1962. The Act contains 298 sections and XIV schedules. It contains provisions for determination of taxable income, tax liability, assessment procedures, appeals, penalties and prosecutions. These undergo



changes every year with additions and deletions brought by the Annual Finance Act passed by the Parliament.

1.2 Annual Finance Act

Every year, Finance Bill is introduced by the Finance Minister of the Government of India 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. Finance Bill also mentions the Rates of Income tax and other taxes given in various schedules which are attached to it. Therefore, though Income-tax Act is a settled law, the operative effect is given by the Annual Finance Act.

1.3 Income-tax Rules, 1962

Central Board of Direct Taxes (CBDT) looks after the administration of direct taxes and is empowered u/s 295 of the Income Tax Act, to make rules for carrying out the purposes of the Act and thereby it frames various rules from time to time for the proper administration of the Income-tax Act, 1961. These rules were first framed in 1962 and are thereby collectively called Income-tax Rules, 1962. It is important to read these rules along with the Income-tax Act, 1961. The power to make rules under this section shall also include the power to give retrospective effect, but not earlier than the date of commencement of this Act. However, such retrospective effect shall not be given so as to prejudicially affect the interests of the assessee.

1.4 Circulars and Notifications

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 the provisions. These circulars are issued for the guidance of the officers and/or assessee. These circulars are binding on the department and not on the assessee and therefore the assessee can take advantage of beneficial circulars.

Notifications are issued by the Central Government to give effect to the provisions of the Act. For example, u/s 10(15)(iv)(h), interest on bonds and debentures are exempt



by the Central Government subject to such conditions through Notifications. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications. For example, u/s 35CCD, the CBDT is empowered to prescribe guidelines for notification of skill development project.

1.5 Judicial Decisions

Judicial decisions are an important and unavoidable part of the study of income-tax law. For the Parliament, it is not possible to provide for all possible issues that may arise in the implementation of any Act and hence the judiciary will have to consider various cases between the assessee 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. In case, where the apparently contradictory decisions are given by benches having similar number of judges, the principle of the later decision would be applicable. The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.

2. Charge of Income-tax: [Sec. 4]

Tax cannot be levied or collected in India except under the authority of Law. Section 4 of the Income-tax Act, 1961 gives authority to the Central Government for charging income tax. This is the charging section in the Income-tax Act, 1961 which provides that:

- (i) Tax shall be charged at the rates prescribed for the year by the Annual Finance Act;
- (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 backbone of the law of income-tax insofar as it serves as the most operative provision of the Act. The tax liability of a person springs from this section.

3. Assessment year: [Sec. 2(9)]

Assessment year means a period of 12 months commencing on 1st April every year. The total income earned by the assessee during the previous year shall be chargeable to tax in the next year; which is termed as the assessment year. For example, for the previous year 2022-23, the relevant assessment year shall be 2023-24 (1.4.2023 to 31.3.2024).

4. Previous year: [Sec. 3]

The year in which income is earned, i.e. the financial year immediately preceding the assessment year, is called the previous year and the tax shall be paid on such income in the next year which is called the assessment year. This means that the tax is levied on the income in the year in which it is earned; referred as previous year and the tax on such income will be paid in the assessment year. All assesseees are required to follow a uniform previous year i.e. the financial year starting from 1st April and ending on 31st March.

5. Person: [Sec. 2(31)]

As the income tax is levied on the total income of the previous year of every 'person', it becomes important to understand the term 'Person'. The term 'person' includes the following seven categories:

- (i) an individual,
- (ii) a Hindu Undivided Family (HUF),
- (iii) a company,
- (iv) a firm,
- (v) an Association of Persons (AoP) or a Body of Individuals (BoI), whether incorporated or not,
- (vi) a local authority, and



(vii) every artificial juridical person not falling within any of the preceding sub-clauses e.g., a university or deity.

As per Explanation to Sec. 2(31), an AoP/BoI/Local authority or any artificial juridical person shall be deemed to be a person, irrespective of whether they were formed or established with the purpose of earning or deriving profits or not.

6. Assessee: [Sec. 2(7)]

Assessee means a person by whom any tax or any other sum of money is payable under this Act. It also includes the following:

- (i) Every person in respect of whom any proceeding under this Act has been taken for the assessment of his income;
- (ii) Every person who is deemed to be an assessee under any provisions of this Act. Sometimes, a person becomes assessable in respect of the income of some other persons. In such case also, he is considered as an assessee. For example, legal representative of a deceased person;
- (iii) Every person who is deemed to be an assessee in default under any provision of this Act. For example, where a person making any payment to other person is liable to deduct tax at source, and if he has not deducted tax at source or has deducted but not deposited the tax with the government; he shall be deemed to be an assessee in default.

7. Certain Principles relating to Income under Income-tax Act

The following are the important principles relating to income:

- Income generally refers to revenue receipts, but however under the Income-tax Act, 1961, certain capital receipts have also been specifically included within the definition of income for example capital gains i.e. gains on sale of a capital assets like land.
- The income to be considered for tax purpose shall be net receipts and not gross receipts. Net receipts are arrived at after deducting the expenditure incurred in connection with earning such receipts.



- Income is taxable either on due basis or receipt basis, as provided under the respective head of income. For the purpose of computing income under the heads 'Profits and gains of business or profession' and 'Income from other sources', the method of accounting which is regularly followed by the assessee should be considered, which can be either cash system or mercantile system.
- Income earned during the year i.e. the previous year shall be chargeable to tax in the next year i.e. the assessment year e.g. the income of the P.Y. 2022-23 shall be chargeable in the A.Y. 2023-24. But, there are certain exceptions to this principle (i.e. Accelerated assessment u/s 172, 174, 174A and 175) which are discussed in the Chapter 'Liability in Special Cases'.

8. Income: [Sec. 2(24)]

The definition of 'Income' given under section 2(24) is inclusive and not exhaustive and therefore it may be possible that certain items may be considered as income under this Act according to its general and natural meaning, even if it is not included under section 2(24). The term 'Income' includes the following:

- ⇒ Profits and gains;
- ⇒ Dividend;
- ⇒ Voluntary contributions received by a trust which is created wholly or partly for charitable or religious purposes; or by educational institutions, hospitals or electoral trust;
- ⇒ The value of any perquisite or profit in lieu of salary taxable u/s 17;
- ⇒ Any special allowance granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of office or employment duties;
- ⇒ The value of any benefit or perquisite, whether converted into money or not, obtained from a company either by a director or by a person who has 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, otherwise, would have been payable by the director or other person aforesaid;



- ⇒ The value of benefit or perquisite to a representative assessee like a trustee appointed under a trust;
- ⇒ Any sum chargeable to income-tax under clauses (ii) and (iii) of sec. 28 or sec. 41 or sec. 59;
- ⇒ Any sum chargeable to income-tax under clauses (iiia), (iiib), (iiic), (iv), (v), (va) and (via) of sec. 28;
- ⇒ Any capital gains chargeable u/s 45;
- ⇒ The profits and gains of any insurance business carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profit and gains by virtue of provisions contained in the First Schedule;
- ⇒ The profits and gains of any of banking business (including providing credit facilities) carried on by a co-operative society with its members;
- ⇒ Winnings from lottery, crossword puzzles, races (including horse races), card games or other games of any sort or from gambling or betting;
- ⇒ Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under Employees' State Insurance Act, 1948 or any fund for the welfare of such employee; [Sec. 2(24)(x)]
- ⇒ Any amount received under the Keyman insurance policy including the sum allocated by way of bonus; [Sec. 2(24)(xi)]
- ⇒ Any sum chargeable to income-tax u/s 56(2)(v), (vi);
- ⇒ Any sum of money or specified movable or immovable properties received without consideration or inadequate consideration as provided u/s 56(2)(vii), (via);
- ⇒ Any consideration received for issue of shares as exceeds the FMV of shares referred to in section 56(2)(viib);
- ⇒ Any sum of money received as advance in the course of negotiation for transfer of a capital asset, if such sum is forfeited as the negotiation do not resulted in transfer of the asset 56(2)(ix);
- ⇒ Any sum chargeable to income-tax u/s 56(2)(x);
- ⇒ Any compensation or other payment referred to in Sec. 56(2)(xi);



- ⇒ Income shall include assistance received in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) from the Central Government or a State Government or any other authority or body or agency in cash or kind to the assessee other than:
- a) The subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43,
 - b) The subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or the State Government, as the case may be.

9. Heads of Income: [Sec. 14]

For the purpose of computation of total income under the Income-tax Act, 1961, all the incomes shall be classified under the following 5 heads of income:

- (i) Salaries [Secs. 15 to 17]
- (ii) Income from House Property [Secs. 22 to 27]
- (iii) Profits and Gains of Business or Profession [Secs. 28 to 44DB]
- (iv) Capital Gains [Secs. 45 to 55A]
- (v) Income from Other Sources [Secs. 56 to 59]

Gross Total Income means aggregate of income computed under the above five heads, after making clubbing provisions and adjustments of set off and carry forward of losses.

10. Total Income and Computation of Tax Liability

Total income of an assessee means the Gross Total Income (GTI) as reduced by the amount of deduction available under sections 80C to 80U.

1. Income from Salaries		
Income from salary	.....



Add: Taxable allowances	.....
Add: Taxable perquisites	.....
Gross Salary	.....
<i>Less:</i> Deductions u/s 16		
– Standard deduction		
– Entertainment allowance	.....
– Professional tax	.....
Taxable Income under the head ‘Salaries’		.....
<i>2. Income from House Property</i>		
Net Annual Value	.....
<i>Less:</i> Deductions u/s 24	.....
Taxable Income under the head ‘Income from House Property’		.....
<i>3. Profits and Gains of Business and Profession</i>		
Net profit as per Profit and Loss Account	.....
<i>Add:</i> Amounts debited to P & L A/c but are not allowable as deduction under the Act	.....
<i>Add:</i> Amounts not credited to P & L A/c but are taxable under the head PGBP	.....
<i>Less:</i> Amounts credited to P & L A/c but are exempt u/s 10 or are taxable under other heads of income	.....
<i>Less:</i> Amounts not debited to P & L A/c but are allowable as deduction under the Act	.....
Taxable Income under the head ‘Profits and Gains of Business and		.....



Profession'		
4. Capital Gains		
Amount of Capital gains u/s 48	.....
<i>Less:</i> Exemption u/ss 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB, 54H	.....
Taxable Income under the head 'Capital gains'		.....
5. Income from other sources		
Gross income	.....
<i>Less:</i> Deductions u/s 57	.....
Taxable Income under the head 'Income from other sources'		.....
Total [1 + 2 + 3 + 4 + 5]		.....
<i>Less:</i> Adjustment of set off and carry forward of losses		.....
Gross Total Income		.....
<i>Less:</i> Deductions under sections 80C to 80U [Chapter VI-A]		.....
Net Taxable Income		.....
Computation of Tax Liability:		
Tax on Net income		.....
<i>Less:</i> Rebate u/s 87A (Available if resident individual is having net taxable income of ` 5,00,000 or less)		.....
Income Tax after rebate		.....
<i>Add:</i> Surcharge, if applicable		.....
Tax and surcharge		.....
<i>Add:</i> Health and Education cess		.....



<i>Less:</i> Rebate u/ss 86, 89, 90, 90A and 91		.....
<i>Less:</i> Prepaid taxes, if paid		
Self assessment tax paid (SAT)		.....
Tax Deducted or Collected at Source (TDS and TCS)		.....
Advance tax		.....
Total Net Tax liability		.....

11. Exemption and Deduction in respect of income

- ❖ Exemption in respect of any income means that such income shall not form part of any head of income and therefore not to be included in computation of total income. Whereas, deduction in respect of any income means that such income shall be first included under the respective head of income for the computation of gross total income and thereafter deduction can be claimed on such income under the respective head or from the gross total income. Deduction may also be allowed for making certain specified payments or contributions.
- ❖ For e.g. Section 10 provides exemption in respect of certain incomes; sections 54, 54b, 54d, 54ec, 54f, 54g, 54ga, 54gb, 54H provides exemption in respect of capital gains of the assessee. Section 16 [i.e. standard deduction, entertainment allowance and professional tax] provides deduction from gross salary, section 24 provides standard deduction and deduction for interest of loan borrowed under the head 'Income from House Property'. Further, Chapter VI-A [i.e. sections 80C to 80U] provides deduction from gross total income of the assessee.
- ❖ Exemption cannot exceed the taxable income; but deduction can exceed taxable income.

12. Rounding off of Income: [Sec. 288A]

The total income computed in accordance with the provisions of this Act shall be rounded off to the nearest multiple of ` 10.



If the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is multiple of 10 and if the last figure is less than five, the amount shall be reduced to the next lower amount which is multiple of 10.

13. Rounding off of Tax: [Sec. 288B]

The total amount of income tax payable and the amount of refund due, computed in accordance with the provisions of this Act shall be rounded off to the nearest multiple of 10.

If the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is multiple of 10 and if the last figure is less than five, the amount shall be reduced to the next lower amount which is multiple of 10.

New Income Tax Slabs FY23-24

In India, income tax is calculated using income tax slabs and rates for the applicable financial year (FY) and assessment year (AY). The income tax slab for AY 2023-24 was published as part of the Union Budget 2022-23.

Income Tax Slab

Individual taxpayers must pay income tax based on the slab system into which they fall. Individuals may fall into a different tax bracket depending on their Income. As a result, persons with higher incomes will have to pay more taxes.

The slab system was implemented to keep the country's tax system equitable. The slabs change with each budget announcement.

Income Tax Slab for FY 2023-24 (AY 2024-25)

The following tables show the Revised Income Tax Slabs, not the old tax regime. These new tax slabs in India were presented in the Budget 2023. The table for the new tax regime slabs-

Tax Slab	Rates
Up to Rs. 3,00,000	NIL



Rs. 300,000 to Rs. 6,00,000	5% on income which exceeds Rs 3,00,000
Rs. 6,00,000 to Rs. 900,000	Rs 15,000 + 10% on income more than Rs 6,00,000
Rs. 9,00,000 to Rs. 12,00,000	Rs 45,000 + 15% on income more than Rs 9,00,000
Rs. 12,00,000 to Rs. 1500,000	Rs 90,000 + 20% on income more than Rs 12,00,000
Above Rs. 15,00,000	Rs 150,000 + 30% on income more than Rs 15,00,000

Income Tax Slab for People between 60 to 80 Years

Tax Slabs	Rates
Rs. 3 lakhs	NIL
Rs. 3 lakhs - Rs. 5 lakhs	5.00%
Rs. 5 lakhs - Rs. 10 lakhs	20.00%
Rs. 10 lakhs and more	30.00%

Income Tax Slab for People More than 80 Years

Below-mentioned is the Senior citizen tax slab in detail-

Tax Slabs	Rates
Rs. 0 - Rs. 5 lakhs	NIL
Rs. 5 lakhs - Rs. 10 lakhs	20.00%



Above Rs. 10 lakhs	30.00%
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Tax Slabs for Domestic Companies

Particulars	Existing or Old regime Tax Rates	New Regime Tax Rates
Company opts for section 115BAB (not covered in section 115BA and 115BAA) & is registered on/after October 1, 2019 and has started manufacturing on/before 31st March 2023	-	15%
Company opts for Section 115BAA , where the total income of a company has been calculated without claiming specified deductions, exemptions, incentives, and additional depreciation	-	22%
Company opts for section 115BA registered on/after March 1, 2016, and is in the manufacture of any article or thing and does not claim a deduction as specified in the section	-	25%
Turnover/gross receipt of the company is less than Rs. 400 crores in the previous year	25%	25%
Other Domestic Company	30%	30%

- **Surcharge applicable for companies-**
 - **7% of Income tax where total income is more than Rs 1 crore**
 - **12% of Income tax where total income is more than Rs.10 crores**



- **10% of income tax where domestic company opted section 115BAA and 115BAB**

- **Additional Health & Education Cess Rate - 4%**

Income Tax Rate for Partnership Firm or LLP as Per Old/New Regime

Partnership firm or an LLP is taxable at 30%

Note -

- **A Surcharge of 12% is levied on incomes above Rs 1 crore.**
- **Health and Education Cess Rate - 4 %**

Income Tax Slab Rate for New Tax Regime

The HUF and Individual tax slab applicable are-

Slab	New Tax Regime (Before Budget 2023 - until 31 March 2023)	New Tax Regime (After Budget 2023 - From 01 April 2023)
Rs. 0 to Rs. 2,50,000	NIL	NIL
Rs. 2,50,000 to Rs. 3,00,000	5%	NIL
Rs. 3,00,000 to Rs. 5,00,000	5%	5%
Rs. 5,00,000 to Rs. 6,00,000	10%	5%



Rs. 6,00,000 to Rs. 7,50,000	10%	10%
Rs. 7,50,000 to Rs. 9,00,000	15%	10%
Rs. 9,00,000 to Rs. 10,00,000	15%	15%
Rs. 10,00,000 to Rs. 12,00,000	20%	15%
Rs. 12,00,000 to Rs. 12,50,000	20%	20%
Rs. 12,50,000 to Rs. 15,00,000	25%	20%
More than Rs. 15,00,000	30%	30%

Tax Slab Rate for FY 2022-23 (AY 2023-24), New Tax Regime

Under the new regime of taxation, the taxpayers can avail of an option to opt for one of the following-

- To pay tax at lower rates according to the New regime of taxation on the condition that they refrain from specific exemptions (permissible) and deductions under income tax.
- To continue paying the taxes under the existing income tax rates. The taxpayer can avail of exemptions and rebates by opting into the old regime and paying tax at the existing higher rate.



Conditions for Opting for the New Tax Regime

The taxpayers who have opted for the new regime will tend to forgo some deductions and exemptions that are available in the old regime of taxation.

Some of the common deductions & exemptions not allowed are under the new regime are-

- Leave Travel Allowance
- Conveyance allowance
- House Rent Allowance
- Relocation allowance
- Children education allowance
- Professional tax
- Daily expenses in the course of employment
- Helper allowance
- Deduction under Chapter VI-A deduction (80C,80D, 80E etc.) (Except Section 80CCD(2))
- Standard deduction on salary
- Interest on housing loan (Section 24)
- Other special allowances (Section 10(14))

Common Deductions that are Allowed under New Tax Rate Regime

- Investment in Notified Pension Scheme under section 80CCD(2)
- Conveyance allowance for expenditure incurred for travelling to work
- Depreciation under section 32, except additional depreciation



- Deduction for employment of new employees under section 80JJAA
- Any allowance for travelling for employment or on transfer
- Transport allowance for specially-abled people

Kinds of Taxable Income Sources in India

Individuals, trusts, businesses, and other entities are all subject to income tax. As a result, there are numerous forms of income that can be taxed in India.

Mentioned below are some of the different types of taxable income in India-

❖ Business Income

Profits earned by businesses are also counted as taxable income. The tax in this category is derived from the presumed or real income that the profession or business may generate. However, it is only done once the permitted deductions have been adjusted.

Different rates apply to individual and corporate business income in the fiscal year 2022-23. Individuals with business income will be taxed in accordance with tax slabs and rates for the fiscal year 2023-24.

❖ Salary or Pension

Taxes are frequently levied on the base salary, allowances, and salary profit in this category. The tax slab also applies to an individual's pension after retirement. The tax slabs rates for FY 2022-23 differ based on the age of the individual earning a salary or pension during the fiscal year.

❖ Property Income

Owning many houses and renting them out is an easy method to supplement your income. In such circumstances, however, revenue from house renting is recognized as



part of the taxpayer's income. As a result, this income is taxable at the income tax slab rates for the fiscal year 2022-23.

❖ Capital Gains Income

Capital Gains income can be generated by selling assets such as gold, real estate, mutual funds units, stocks, debentures, and so on. It can be characterized as a long-term or short-term capital gain depending on the type of asset and the earnings produced on it over time.

Despite the fact that these earnings are subject to income taxation, the capital gains tax regulations for 2022-23 are separate from the income tax slabs for 2023-24.

❖ Lottery, Races, and More Income

In India, winnings from lotteries, horse races, and other similar activities are taxable. However, under current tax legislation, these profits are taxed separately rather than as part of the income slab rates for the fiscal year 2022-23.

CHARACTERISTICS OF TAXES

1. Tax is compulsory – A tax is imposed by law. So tax is compulsory payment to the governments from its citizens. *Tax is duty from every citizen to bear his share for supporting the government. The tax is compulsory payment, refusal or objection for paying tax due leads to punishment or is an offence of the court of law.* Government imposes tax when somebody buys commodities, or when uses services or earns income or any other condition for compulsion is found. The government practices its sovereign when levying the tax from its citizens.

2. Tax is contribution – *Contribution means in order to help or provide something. Tax is contribution from members of community to the Government.* A tax is the duty of every citizen to bear their due share for support to government to help it to face its expenditures. Some wants are common to everybody in the society like defence and



security, so these wants cannot be satisfied by individuals. These social wants are satisfied by governments, hence the people support government for these social wants. Contribution involves loss or sacrifice from the side of contributor.

3. Tax is for public benefit – Tax is levied for the common good of society without regard to benefit to special individual. *Government proceeds are spent to extend common benefits to all the people such as natural disaster - like floods, famine - defence of the country, maintenance of law and establish infrastructure and order. Such benefits are given to all people.*

4. No direct benefit – Government is compulsorily collecting all types of taxes and does not give any direct benefits to the tax payer for taxes paid. The essence of tax as distinguished from other charges by governments is the absence of a direct quid-pro-quo between the taxpayer and the public authority. *Tax is different from another government charges which may give direct benefits to payers such as prices, fees, fines etc where the direct benefits are available. Taxes are for common benefits to all the members of the society.*

5. Tax is paid out of income of the tax payer – Income means money received, especially on regular basis, for work or through investment. *Tax is paid out of income as long as the income becomes realized, here the tax is imposed. Income owner has profit from any business, so he should pay his share for support to the government.*

6. Government has the power to levy tax – Governments are practicing sovereign authority upon its citizens through levying of taxes. Only Govt. can collect tax from the people. *Tax is transferring resources from the private sector to the public sector. Government is levying the tax to cover its expenditures. The government use these taxes for increasing social welfare & economy development.*

7. Tax is not the cost of the benefit – Tax is not the cost of benefit conferred by the government on the public. *Benefit and taxpayer are independent of each other, and payment of taxation is of course designed for conferring of benefits on general public.*

8. Tax is for the economic growth and public welfare – Major objective of the government is to maximize economic growth and social welfare. *Developmental activities of the nations generally involve two operations, the raising of revenue and the*



spending of revenue, so the government spent taxes for economic benefit, for entire community and for aggregate welfare of the society.

Income tax exemptions and deductions

Now, time for some good news. You already know that the government allows tax deductions and exemptions. These tax benefits lower your taxable income, which leads to reduced tax. However, these are available only if you choose to pay taxes as per the old income tax slabs in India.

1. Exemptions

Exemptions are available for salaried individuals. If you check the salary slip closely, it has some components like basic pay, travel allowance, House Rent Allowance (HRA), and others. Some of these incomes are exempted from taxation. For example, you receive HRA from the employer if you are currently living in a rented house. Even though it is a source of income, there is no need to pay any tax on it.

2. Deductions

Deductions are calculated on your total income during a financial year. It includes all your investments and salary. To begin with, salaried people get a standard deduction of ₹50,000 on their salary. Furthermore, the Income Tax Act, 1961 has various sections under which the government allows other deductions. Some examples are as follows:

Section 80D: It allows a yearly tax deduction of up to ₹25,000 on the premium paid towards health insurance policies. If you buy the Mediclaim for your parents, you will get an additional deduction of up to ₹25,000.

Section 80E: It allows a tax deduction on the interest paid for the repayment of an educational loan.

Section 80G: It allows a tax deduction on the amount paid as a donation to specific charitable organizations and relief funds.



Section 80EE: It allows a yearly tax deduction of up to ₹50,000 on the interest paid for the repayment of a home loan.

Section 80C: It allows a yearly tax deduction of up to ₹1.5 lakhs for investments made in National Saving Certificate (NSC), Public Provident Fund (PPF), Sukanya Samridhi Yojana (SSY), Unit-Linked Insurance Plans (ULIPs), life insurance, Employee Provident Fund (EPF), principal payment towards home loan, Equity-Linked Savings Scheme (ELSS), Senior Citizen Savings Scheme (SCSS), and much more.

Difference between Financial Year and Assessment Year

Now that the question, “what is income tax?” is answered, it is time to know when to pay it. One of the important aspects of income tax filing is that you need to pay the tax for your income during the previous year, known as the Financial Year (FY). The year after FY is known as the Assessment Year (AY). The government assesses and taxes your income during the AY. Both FY and AY are between 1st April and 31st March.

During the AY, you need to file your taxes using the Income Tax Return (ITR) form.

What is an ITR form?

It is a form that you need to fill to submit the taxes. Here, you are required to provide information related to your income and applicable taxes to file income tax.

Things to know while filing the ITR form

There are seven types of ITR forms for different types of taxes in India that you need to choose from depending on your source of income, amount of income, and other factors.

- ✓ **ITR-1:** Resident individuals with income up to ₹50 lakhs from salary, pension, one house property, and other sources.



- ✓ **ITR-2:** Individuals or HUFs with income over ₹50 lakhs from sources under ITR-1 + capital gains, more than one house property, and foreign income.
- ✓ **ITR-3:** ITR-2 + income from a business, partnership, and presumptive income over ₹50 lakhs.
- ✓ **ITR-4:** Resident individuals, HUFs, and partnership firms (except Limited Liability Partnership) with presumptive income from sources under ITR-1 if income is up to ₹50 lakhs.
- ✓ **ITR-5:** Applicable for firms, AOP, LLP, and BOI, artificial juridical person (AJP), insolvent's estate, investment funds, business trust, and estate of deceased.
- ✓ **ITR-6:** Companies not claiming Section 11 deductions.
- ✓ **ITR-7:** Persons and companies required to submit returns under Section 139(4A), 139(4B), 139(4C), 139(4D), 139(4E), or 139(4F).

E-filing of Income Tax Returns

You can opt for income tax e-filing to complete the process online. You may visit the Income Tax Portal and register with your Permanent Account Number (PAN). Next, you must choose the ITR form applicable for you and fill up the required sections. You can then submit it and file the tax online.

Taxation for freelancers vs. salaried employees

- ❖ **Salaried individuals:** If you are a salaried person, the salary you get in your bank account is after tax deductions. Your employer pays the salary only after deducting the taxes as per your investment and rent declarations.
- ❖ **Freelancer:** If you are a freelancer, your clients deduct the Tax Deducted at Source (TDS) from your income before making the payment. They submit the TDS to the government on your behalf. You still need to submit ITR by declaring your total income, the tax you are supposed to pay, and the amount of tax already paid. If you have already paid more than the due amount, you can apply for a refund. On the other



hand, if you have paid less than the tax payable, you need to pay the remaining amount.

Tax Planning, Tax Evasion and Tax Avoidance

(a).Tax planning is a way to reduce tax liability by taking full advantages provided by the Act through various exemptions, deductions, rebates & relief. In other words, it is a way to reduce tax liability by applying script & moral of law. It is the scientific planning so as to attract minimum tax liability or postponement of tax liability for the subsequent period by availing various incentives, concessions, allowance, rebates and relief provided in the Act.

(b).Tax evasion is the illegal way to reduce tax liability by deliberately suppressing income or sale or by increasing expenses, etc., which results in reduction of total income of the assessee. Tax evasion is illegal, both in script & moral. It is the cancer of modern society and work as a clog in the development of the nation.

(c).Tax avoidance is an exercise by which the assessee legally takes advantages of loopholes in the Act. Tax avoidance is a practice of bending the law without breaking it. It is a way to reduce tax liability by applying script of law only. Most of the amendments are aimed to curb such loopholes. There are two thoughts about tax avoidance.

CANONS OF TAXATION

Dictionary meaning of ‘Canon’ is “general law, rule, principle or criterion”. A ‘Canon’ in the context of taxation can be taken as a general rule or principle. While devising a tax system, canons of taxation *act as guidelines. They can make a tax system effective.*

1. Canon of Equality

The first canon of Adam Smith is the canon of equality. This is also the starting point for “*Ability to pay*” principle in taxation. Adam Smith says “*The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion of their respective abilities, that is in proportion to the revenue which they*



respectively enjoy under the protection of the state. In the observation or neglect of the maxim consists what is called the equality or inequality of taxation”.

2. Canon of Certainty

The second canon of Adam Smith is the Canon of certainty”. Adam Smith says *“The tax which each individual is bound to pay, ought to be ‘certain’ and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person.”* This canon aims at elimination of uncertainty and arbitrariness in taxation. The tax payer should know exactly when to pay the tax, to whom to pay the tax and also the exact amount to be paid by him. Nothing is left to the discretion of the tax officials which can lead to corruption and harassment of the assesses. Usually this canon is ensured through the publicity of the annual Budget of the Government, the discussions in Parliament or assembly on every detail of taxation. Everyone comes to know certainly about the new taxes imposed, the rates of tax etc.

3. Canon of Convenience

The third canon of Adam Smith is that of “convenience”. Smith says *“Every tax ought to be so levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.”* The object of this canon is to reduce the *“psychic burden”* and inconvenience of paying tax. The canon urges that the timing and the manner of collection should both be convenient to the tax payer to ensure maximum compliance.

This canon is widely practiced in every country due to its practical utility. For example, Import duty is collected at the time of handing over the goods to the importer; Income Tax is usually deducted from salaries of employees; Land revenue in rural areas is collected after the harvesting of crops. Sales tax and excise duty are paid by consumers whenever they buy goods to consume in small quantities.

4. Canon of Economy

The fourth canon of Adam Smith is that of economy. According to Adam Smith *“Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the*



state.” This canon signifies that the administrative cost of tax collection should be minimized. It means that the difference between the money which comes out of the pockets of people and that which is deposited in the public treasury should be as small as possible.

5. Canon of Productivity

The canon of productivity was proposed by Bastable who said “In the first place taxation should have productivity”.

Productivity of a Tax may be observed in two ways. In the first place, a tax should yield a satisfactory amount for the requirements of a government. *As bastable expressed it, “the very object, for which the revenue system exists is to provide for the maintenance of the state and therefore, the minister in charge of finance naturally estimate the merits of a tax by the amount of its yield”*

6. Canon of Elasticity

The structure of taxation should be elastic in character and capable of expansion and contraction in times of change. The State should be able to increase its revenue by way taxation when the situation demands. During periods of war, national calamities like floods, earthquakes and famine, the State needs more funds immediately. Govt. can raise funds quickly only when the tax system is flexible and elastic. There should be scope for contraction of taxes also when the citizens are over burdened with tax.

For example, taxes on property and commodities are not so, elastic as Income Tax.

7. Canon of Diversity

Tax system should not rely upon a single tax or a chosen few for raising entire resources needed to run the State. The tax burden should be widely distributed on the entire economy without causing much harm to anyone. *Modern economists emphasize upon a Multiple Taxation policy with diverse character. There should be a combination of Direct and Indirect taxes so that all the citizens of the country are involved and contribute for the development of the country. Of course, diversity does not mean that there should be too many taxes. The emphasis is on judicious mix of different taxes which can produce required amount of revenue without sacrificing the character of productivity*



and economy.

8. Canon of Simplicity

This canon means that taxes and tax system should be such that they are easily understood by the tax payer. The nature, aim, time of payment, method and basis of estimation of each tax should be followed by each tax payer. The taxation rules and regulations should be simple, intelligible, and easily understandable. The process of tax administration should also be simple. Complex tax system and confusing tax laws may make people avoid paying taxes. Simplicity invariably improves the efficiency of tax systems.

9. Canon of Expediency

“Expediency” means convenience. A tax may be desirable and it may have most of the characteristics of a good tax but the Govt. may not find it expedient or convenient to impose it, may be for political reasons or “Vote Bank Politics”. For example, Tax on Agricultural Income in India. While considering the possibility of imposing a tax, it should be examined from

different angles, including the reaction of the tax payers. Imposition of every tax is required to be justified from the point of view of social, political and economic ground realities.

10. Canon of Co-ordination

In democratic countries taxes are imposed by Central, State and local Governments. It is very much desirable that there must be coordination between different taxes imposed by the tax authorities. *The coordination is needed in the interests of tax payer and the government. Otherwise, overlapping of taxes, double taxation etc., can lead to hardship to tax payers and encourage them to avoid, or evade taxes.*

CLASSIFICATION OF TAXES

Modern Tax systems comprise of many types of taxes. Proper classification of the sundry taxes is essential to understand the nature and significance of different taxes.



1. Direct Tax
2. Indirect Tax.

(1). Direct Tax

Based on 'Shifting of Tax', Dalton says "A *direct tax is one which is really paid by a person on whom it is legally imposed or 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.

TYPES OF DIRECT TAXES.

Several kinds of Direct Taxes are levied in India by Central Government, State Governments and Local Governments. The following are the most important of them.

(i). Direct taxes levied by Central Government:

(1). Income Tax.

Income tax in India is levied and collected on the basis of Finance Act passed every year under Central budget and the Income Tax Act 1961, aided by the Income Tax rules, 1962. Income Tax is payable by individuals, HUF, AOP, BOI, AJP, Cooperative societies, partnership firms, companies etc. Income tax is a major source of income to the Central government.

(2). Corporation Tax or Corporate Tax or Company Tax.

Income Tax paid by Limited companies is called Corporation Tax or Corporate Tax or Company Tax. It is levied on the profits made by companies as per the rates given in the Finance Act passed by Parliament annually. All profitable companies are required to make advance payment of Income Tax every year. Corporation Tax forms the major chunk of Income Tax in India.

(3). Dividend tax.



Limited companies in India are required to pay dividend tax at 10% on the dividend paid by them to their shareholders. This tax is in addition to the Corporation Income Tax.

(4). Capital gains tax.

For the first time in India, Capital gains tax was introduced in 1947 by the then finance minister Liqueate Ali Khan. It was abolished in 1950 and reintroduced again in 1956. This tax is applicable to individuals as well as companies. It is payable on gain realized from capital assets. Income Tax Act 1961 contains all the provisions relating to the capital gains. In the year 2004, Finance minister Chidambaram has made major concessions relating to capital gains tax.

(5). Wealth tax.

Wealth tax is imposed on the wealth or assets held by individuals. It is levied every year on the total value of a person's property or wealth or capital. It was introduced in 1957 in India on the recommendation of Prof.Kaldor. Since wealth increases an individual's tax paying ability, wealth tax is progressive in nature. It is payable at 1% on the net wealth exceeding rupees 15 lakhs. Wealth tax no longer leviable from AY. 2016 – 2017.

(6). Gift Tax

It was introduced to complement estate duty and also to prevent large scale avoidance of estate duty through gifts of property before death and also the wealth tax by gifting away wealth. It was originally introduced in 1956. However with effect from 1st November 1998 gift tax was abolished due to its low yield to the union government

(7). Estate duty or Inheritance tax or death duty

Death taxes assume two major forms. One is called Estate Duty which is levied upon the entire estate left by a deceased person. The other form is Inheritance tax which is levied on the separate shares of the estate transferred to the beneficiaries. It was imposed and collected by the Central government but the proceeds were transferred to



the state governments Estate duty was introduced in India from Oct. 1953. It was abolished from 16th March 1985 because of its low yield and higher cost of collection.

(II). Direct Taxes at State level.(1). Land Revenue

Before independence, Land revenue was the most important source of revenue to the government. In fact even in the historical times, land revenue was the most important tax in most of the countries in the world.

Land Revenue is purported to be the state's share in the output from land. In India, land revenue is abolished in some states and in others the rate varies from state to state. However, Land revenue has lost its prominence as a revenue raising tax because of its lack of elasticity and strong bias against taxing the agricultural sector in India

(2). Agricultural Income Tax

Agricultural income tax is defined as a tax on income earned from agriculture or other related activities. Indian constitution specifically provides for levy of agricultural income tax by the State governments. However, no State government has actually passed legislation to tax agricultural incomes.

(3). Professional tax

This is a tax on professionals, payable annually. State government fixes a specified amount to be paid by each category of professionals. Irrespective of actual income, each professional pays the professional tax as a lumpsum, one time payment per year. It may be paid in two installments. In case of professionals working as salaried employees, the employer deducts the amount of tax in two installments from the salary of the employees.

(III). Direct Taxes at local government level.

Local governments like Municipalities, Corporations, Panchayats levy some direct taxes like House property tax.

(2). Indirect Taxes

Indirect tax is imposed on one person, but paid partly or wholly by another. Thus, an indirect tax is one which can be shifted or passed on. So, the tax-payer and the tax-bearer are different persons. 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.

Various indirect taxes are levied by Central government, the State governments and local governments. The following are the most important of them. Indirect taxes levied by Central Government:

(1). Central Excise Duty

An “excise duty” is a tax on goods produced or manufactured within the country either in the process of their manufacture or before their sale to customers. It is levied on commodities like Beverages, Sugar, Petrol, Tobacco, Cloth etc.

An excise duty should be considered as a tax on a commodity than a tax on transaction. The burden of excise duty lies on the consumers in proportion to the consumption of the commodities.

(2). Customs Duty.

Customs duties are taxes imposed on goods as they cross a national boundary. They are levied on goods imported into India from other countries (Import duties) and also on goods exported from India to other countries (Export duties). Import duties perform the dual functions of protecting domestic industries from foreign competition and also earn foreign exchange. Export duties are levied to earn large amount of revenues.

(3). Goods and Service Tax

The Goods and Service Tax (GST) is a tax levied on most goods and services sold for consumption. The GST is paid by consumers but it is remitted to the Government by the business selling goods and services. In effect, GST provides revenue for the government, borne by the consumers.

Distinguish between Tax Planning, Tax Evasion, Tax Avoidance and Tax Management

Points of distinction	Tax planning	Tax Avoidance	Tax Evasion	Tax Management
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Definition	It is a way to reduce tax liability by taking full advantages provided by the Act through various exemptions, deductions, rebates & relief.	It is an exercise by which the assessee legally takes advantage of the loopholes in the Act.	It is the illegal way to reduce tax liability by deliberately suppressing income or sale or by increasing expenses, etc., which results in reduction of total income of the assessee.	It is a procedure to comply with the provisions of the law.
Feature	Tax planning is a practice to follow the provisions of law within the moral framework.	Tax avoidance is a practice of bending the law without breaking it	Tax evasion is illegal, both in script & moral.	It is implementation or execution part of taxation department of an organization.
Object	To reduce tax liability by applying script & moral of law.	To reduce the tax liability to the minimum by applying script of law only	To reduce tax liability by applying unfair means.	To comply with the provisions of laws.
Benefit	Generally, arises in long run.	Generally, arises in short run.	Generally, benefits do not arise but it causes penalty and prosecution.	Penalty, interest & prosecution can be avoided.
Treatment of Law	It uses benefits of the law.	It uses loopholes in the law.	It over rules the law.	It implements the law.
Practice	It is tax saving.	. It is tax hedging.	. It is tax concealment.	It is tax administration.



Residential Status for Income Tax – Individuals & Residents

It is important for the Income Tax Department to determine the residential status of a tax paying individual or company. It becomes particularly relevant during the tax filing season. In fact, this is one of the factors based on which a person's taxability is decided.

Meaning and importance of residential status

The taxability of an individual in India depends upon his residential status in India for any particular financial year. The term residential status has been coined under the income tax laws of India and must not be confused with an individual's citizenship in India. An individual may be a citizen of India but may end up being a non-resident for a particular year. Similarly, a foreign citizen may end up being a resident of India for income tax purposes for a particular year. Also to note that the residential status of different types of persons viz an individual, a firm, a company etc is determined differently. In this article, we have discussed about how the residential status of an individual taxpayer can be determined for any particular financial year.

How to determine residential status?

For the purpose of income tax in India, the income tax laws in India classifies taxable persons as:

- ❖ A resident
- ❖ A resident not ordinarily resident (RNOR)
- ❖ A non-resident (NR)

The taxability differs for each of the above categories of taxpayers. Before we get into taxability, let us first understand how a taxpayer becomes a resident, an RNOR or an NR.

Resident

A taxpayer would qualify as a resident of India if he satisfies one of the following 2 conditions :

1. Stay in India for a year is 182 days or more or

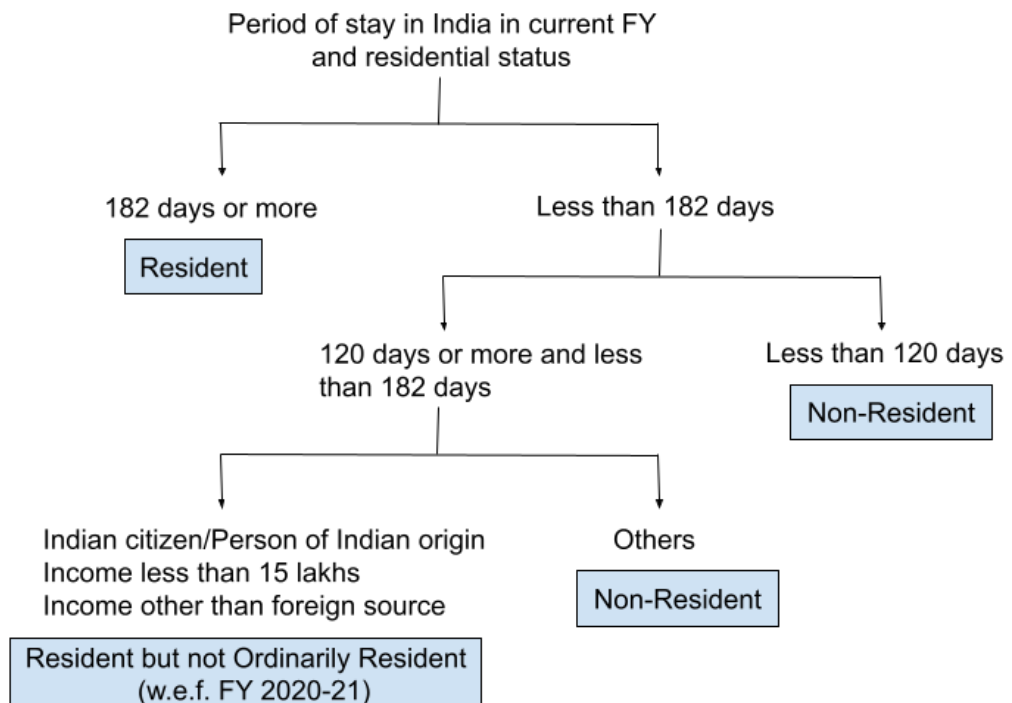


- 2. Stay in India for the immediately 4 preceding years is 365 days or more and 60 days or more in the relevant financial year

In the event an individual who is a citizen of India or person of Indian origin leaves India for employment during an FY, he will qualify as a resident of India only if he stays in India for 182 days or more. Such individuals are allowed a longer time greater than 60 days and less than 182 days to stay in India. However, from the financial year 2020-21, the period is reduced to 120 days or more for such an individual whose total income (other than foreign sources) exceeds Rs 15 lakh.

In another significant amendment from FY 2020-21, an individual who is a citizen of India who is not liable to tax in any other country will be deemed to be a resident in India. The condition for deemed residential status applies only if the total income (other than foreign sources) exceeds Rs 15 lakh and nil tax liability in other countries or territories by reason of his domicile or residence or any other criteria of similar nature.

The amendment can be further simplified as below-



Resident Not Ordinarily Resident



If an individual qualifies as a resident, the next step is to determine if he/she is a Resident ordinarily resident (ROR) or an RNOR. He will be a ROR if he meets both of the following conditions:

1. Has been a resident of India in at least 2 out of 10 years immediately previous years and
2. Has stayed in India for at least 730 days in 7 immediately preceding years

Therefore, if any individual fails to satisfy even one of the above conditions, he would be an RNOR.

From FY 2020-21, a citizen of India or a person of Indian origin who leaves India for employment outside India during the year will be a resident and ordinarily resident if he stays in India for an aggregate period of 182 days or more. However, this condition will apply only if his total income (other than foreign sources) exceeds Rs 15 lakh. Also, a citizen of India who is deemed to be a resident in India (w.e.f FY 2020-21) will be a resident and ordinarily resident in India.

NOTE: Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in India or profession set up in India).

Non-resident

An individual satisfying neither of the conditions stated in (a) or (b) above would be an NR for the year.

Taxability

Resident: A resident will be charged to tax in India on his global income i.e. income earned in India as well as income earned outside India.

NR and RNOR: Their tax liability in India is restricted to the income they earn in India. They need not pay any tax in India on their foreign income. Also note that in a case of double taxation of income where the same income is getting taxed in India as well as abroad, one may resort to the Double Taxation Avoidance Agreement (DTAA) that India would have entered into with the other country in order to eliminate the possibility of paying taxes twice.

Illustration 1



Mr. Rajen left for U.S.A. along with his family, for the first time, on 14- 10- 2021. He returned to India on 31-5-2022. Determine his residential status for the assessment year 2022-2023.

Solution : Determination of Residential Status:

1. Calculation of Assessment Year (AY) and Previous Year (PY).

Assessment year: 2022-23;

Previous year: 2021-22.

2. Write down to Relating Rules or Conditions of Resident

(i). He is in India in the previous year for a period or periods amounting in all to of **182 days or more;** **Or**

(ii) He is in India for a period of **60 days or more during the previous** year and for **365 or more days during 4 previous years immediately preceding the relevant previous year** [Sec. 6(1)(c)]

3. Check the satisfying the conditions or not.

Number of Days of Stay in India during the P.Y. From 1-4-2021 to 14-10-2022:

Month	Stay in Days or No of Days
April 2021 (01.04.2022 to 30.04.2022)	30
May 2021 (01.05.2022 to 31.05.2022)	31
June 2021 (01.06.2022 to 30.06.2022)	30
July 2021 (01.07.2022 to 31.07.2022)	31
Augusts 2021 (01.08.2022 to 31.08.2022)	31
September 2021 (01.09.2022 to 30.09.2022)	30
October 2021 (01.10.2022 to 14.10.2022)	14
Total Days stay in Previous Year	197 Days

Conclusion for Residential Status or not.

First Basic condition under sec. 6(1) of 182 days or more stay is satisfied. (Previous



Year stay in 197 Days). Mr. Rajen is 'Resident'.

Illustration 2

Mr. Amaldass, an Indian citizen left India for the first time on 29.09.2021. He did not return until 31.03.2022. Determine his residential status for the P.Y. 2021 - 2022.

Solution : Determination of Residential Status.

1. Calculation of Assessment Year (AY) and Previous Year (PY).

Assessment year: 2022-23; Previous year: 2021-22.

2. Write down to Relating Rules or Conditions of Resident

(i). He is in India in the previous year for a period or periods amounting in all to of **182 days or more;** **Or**

(ii) He is in India for a period of **60 days or more during the previous year** and for **365 or more days during 4 previous years immediately preceding the relevant previous year** [Sec. 6(1)(c)]

3. Check the satisfying the conditions or not.

Number of Days of Stay in India during the P.Y. From **01.04.2021 to 29.09.2021**

PY	Apr21	May21	Jun21	July 21	Aug21	Seb21	Oct21	Nov21	Dec21	Jan22	Feb22	Mar22	Total Days
21-22	30	31	30	31	31	20	-	-	-	-	-	-	182

4. Conclusion for Residential Status or not.

First Basic condition under sec. 6(1) of 182 days stay is satisfied. (Previous Year stay in 182 Days in India). Mr. Amaldass is '**Resident**'.

**Illustration 3**

Mr.Aravind, an Indian citizen doing textile business at Tirupur, went to U.K for employment purpose on 10.08.2021 and came back to India on 01.07.2022. He had never gone abroad in the past. Determine the Residential Status of Mr.Aravind for the P.Y.2021.2022.

Solution : Determination of Residential Status.**1. Calculation of Assessment Year (AY) and Previous Year (PY).**

Assessment year: 2022-23; Previous year: 2021-22.

2. Write down to Relating Rules or Conditions of Resident

(i). He is in India in the previous year for a period or periods amounting in all to of **182 days or more;** **Or**

(ii) He is in India for a period of **60 days or more during the previous year** and for **365 or more days during 4 previous years immediately preceding the relevant previous year** [Sec. 6(1)(c)]

3. Check the satisfying the conditions or not.

Number of Days of Stay in India during the P.Y. From **01.04.2021 to 29.09.2021**

P Y	Apr 21	May21	Jun21	July 21	Aug21	Seb21	Oct21	Nov21	Dec21	Jan22	Feb22	Mar22	Total Days
21-22	30	31	30	31	10	-	-	-	-	-	-	-	132

4. Conclusion for Residential Status or not.

First Basic condition under sec. 6(1) of 182 days stay is not satisfied. (Previous Year stay in 132 Days in India). Therefore Mr.Aravind is ‘ **Non - Resident**’, due not satisfy basic conditions of 182 days stay in India



Additional conditions to test whether resident individual is ‘Ordinarily resident or not’ [Sec. 6(6)]

A resident individual in India can further be categorized as –

- i) Resident and ordinarily resident in India
- ii) Resident but not ordinarily resident in India

(c). Ordinary Resident or Resident and Ordinarily Resident

Resident and ordinarily resident If a resident individual satisfies the following two additional conditions, he will be treated as resident & ordinarily resident in India

–
(a). He has been resident in India [as per sec. 6(1)] in at least 2 out of 10 previous years immediately preceding the relevant previous year. (i.e. 2011 -2012 to 2020 - 2021);

AND

(b). He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year. (i.e. 2014 -2015 to 2020 -2021);

Taxpoint: To be a Resident & Ordinarily resident in India, one has to satisfy at least *one condition of sec. 6(1) & both the additional conditions of sec. 6(6)*.

(d). Not Ordinary Resident or Resident but not Ordinarily Resident

If a resident individual does *not satisfy both additional conditions* as given u/s 6(6), he is “Resident but not ordinarily resident in India”.

Illustration 4

Shri. Vignesh, who was born and brought up in India, went to U.K. for further studies on 1st February 2020 and came back to India on 1st October 2021. Ascertain his residential status for the previous year 2021-22.



**Solution: Determination of Residential Status of
shri.Vignesh. 1. Calculation of Assessment Year (AY) and
Previous Year (PY).**

Assessment year: 2022-23; Previous year: 2021-22. (01.04.21 to 31.03.22)

2. Write down to Relating Rules or Conditions of Resident

(i). He is in India in the previous year for a period or periods amounting in all to of
182 days or more; **Or**

(ii) He is in India for a period of **60 days or more during the previous** year
and for **365 or more days during 4 previous years immediately preceding the**
relevant previous year [Sec. 6(1)(c)]

3. Check the satisfying the conditions or not.

Number of Days of Stay in India during the P.Y. From **01-04-2021 to 31-3-22**

PY	Apr21	May21	Jun21	July21	Aug21	Seb21	Oct21	Nov21	Dec21	Jan22	Feb22	Mar22	Total Days
21-22	-	-	-	-	-	-	31	30	31	31	28	31	182

First basic condition under sec. 6(1) of 182 days or more stay is satisfied. Shri.
Vigneshis 'Resident'.

**Shri. Vignesh is 'Resident' and then go to Additional conditions to test
whether resident individual is 'Ordinarily resident or not'**

3. Write down to Relating Rules or Conditions of 'Ordinarily resident or not'

(1). He has been resident (182 Days) in India [as per sec. 6(1)] in at least 2 out of 10



previous years immediately preceding the relevant previous year. (i.e. 2011 -2012 to 2020 -2021);

AND

(2). He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year. (i.e. 2014 -2015 to 2020 -2021);

(a). To test a first Conditions :

(a). He has been **resident** (182 Days) in India [as per sec. 6(1)] in at least 2 out of 10 previous years immediately preceding the relevant previous year. (i.e. 2011 -2012 to 2020 -2021);

Details of Stay in India during 10 years preceding the Previous Years. (i.e. 2011 -2012 to 2020 -2021);

Year	No of Days Stay in Month Wise (1 April to 31 March)	Conditions: 182 Days) in India [as per sec. 6(1)] in at least 2 out of 10 previous years	Result
2020 -2021	<u>He left India on 1-2-2020 and returned only on 1-10-2021, thus not staying even for a day in India.</u> = 0 Days	182	Non Resident
2019 -2020	<u>He stayed from 1-4-2019 to 1-2-2020</u> 30+31+30+31+31+30+30+31+30+31+01 = 296 Days	182	Resident
2018 -2019	<u>He stayed from 1-4-2018 to 31-03-2019</u> 365 Days	182	Resident
2017 -2018	<u>He stayed from 1-4-2017 to 31-03-2018</u> 365 Days	182	Resident



2016 -2017	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2015 -2016	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2014 -2015	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident

2013 -2014	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2012 -2013	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2011 -2012	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident

Shri. Vignesh was **resident (182 days) for 9 out of 10 years preceding the previous year more than the 2 out of 10 years preceding the previous year. Hence additional condition**

(1) of being resident for 2 out of 10 years proceeding the previous year is satisfied.

(b). **To test a Second Conditions :**

(b).He has resided in India for a period of 730 days or more during 7 previous years immediately proceeding the relevant previous year. (i.e. 2014 -2015 to 2020 -2021);

Year	No of Days Stay in Month Wise (1 April to 31 March)	Conditions: period of 730 days or more during 7 previous years immediately preceding the	Cumulative Days in stay
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		relevant previous year	
2020 -2021	<u>He left India on 1-2-2020 and returned only on 1-10-2021, thus not staying even for a day in India.</u> = 0 Days	0	0
2019 -2020	<u>He stayed from 1-4-2019 to 1-2-2020</u> 30+31+30+31+31+30+30+31+30+31+01 = 296 Days	296 Days	296 Days
2018 -2019	<u>He stayed from 1-4-2018 to 31-03-2019</u> 365 Days	365 Days	981 Days
2017 -2018	<u>He stayed from 1-4-2017 to 31-03-2018</u> 365 Days	365 Days	1346 Days
2016 -2017	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	365 Days	1711 Days
2015 -2016	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	365 Days	2076 Days
2014 -2015	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	365 Days	2441 Days

Shri. Vignesh was Stay in 2441 days during 7 previous years immediately preceding the relevant previous year more then the 730 days specified condition (2).. Hence, Additionalcondition (2) of stay for 730 days is also satisfied.

4. Conclusion for Residential Status or not.

Shri. Vignesh is ‘**Resident**’ and ‘**Ordinarily Resident**’ under Sec. 6(1) for the previous year 2021-22. Because Satisfied the Basic conditions as well as additional conditions of (1) and (2).

**Illustration 5**

On 1-6-2019 Mr.Arumugam, a Malaysian citizen left India after a continuous stay of 10 years. During the financial year 2020-21, he came back to India and stayed for a period of 46 days and left. In the previous year 2021-22, he came back to India on 10-10-2021 and stayed here thereafter for one year. Determine Mr.Arumugam residential status for the assessment year 2022-23.

Solution: Determination of Residential Status of shri.Vignesh. 1. Calculation of Assessment Year (AY) and Previous Year (PY).

Assessment year: 2022-23; Previous year: 2021-22. (01.04.21 to 31.03.22)

2. Write down to Relating Rules or Conditions of Resident

(i). He is in India in the previous year for a period or periods amounting in all to of **182 days or more;** **Or**

(ii) He is in India for a period of **60 days or more during the previous year** and for **365 or more days during 4 previous years immediately preceding the relevant previous year** [Sec. 6(1)(c)]

3. Check the satisfying the conditions (1) or (2).

(1). Number of Days of Stay in India during the P.Y.From

01-04-2021 to 31-03- 2022 Return in India and Stay From 10.10.2021 to

PY	Apr 21	May 21	Jun 21	July 21	Aug 21	Sep 21	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	Mar 22	Total Days Stay
21-22	-	-	-	-	-	-	22	30	31	31	28	31	173

31.03.2022



First basic condition under sec. 6(1) of 182 days or more stay is not satisfied due to Mr. Arumugam, Stay in India only 173 days in previous years. *Therefore check to Second one conditions.*

Stay in 60 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year [Sec. 6(1)(c)]

Year	No of Days Stay in Month Wise (1 April to 31 March)	Conditions: Stay in 60 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year	Cumulative Days in stay 4 yrs preceding the PY
2021 - 2022	He return in India on 10.10.2022 (10.10.2021 To 31.03.2022) 22+30+31+31+28+31 = 173 Days)	173 Days (Required 60 Days)	-
2020 -2021	46 Days (Given in this Question)	46 Days	46 Days
2019 -2020	<u>He stayed from 1-4-2019 to 1-2-2020</u> 30+31+30+31+31+30+30+31+30+31+01 = 296 Days	296 Days	296 Days
2018 -2019	<u>He stayed from 1-4-2018 to 31-03-2019</u> 365 Days	365 Days	981 Days



2017 -2018	<u>He stayed from 1-4-2017 to 31-03-2018</u> 365 Days	365 Days	1346 Days
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Mr.Arumugam, Stay in 60 days or more (Stay in 173 Days in PY) and for 365 or more days (1346 Days stay in 4 previous years) during 4 previous years immediately preceding the relevant previous year. Hence, Second basic condition under Sec. 6(1) of 60 days stay in the previous year 365 days or more in the preceding 4 years is satisfied. Therefore Mr.Arumugam is *resident in previous year 2021 -2022*.

Mr.Arumugam is 'Resident' and then go to Additional conditions to test whether resident individual is 'Ordinarily resident or not'

3. Write down to Relating Rules or Conditions of 'Ordinarily resident or not'

(1). He has been resident (182 Days) in India [as per sec. 6(1)] in at least 2 out of 10 previous years immediately preceding the relevant previous year.(i.e. 2011 -2012 to 2020 -2021);

AND

(2).He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year. (i.e. 2014 -2015 to 2020 -2021);

(a). To test a first Conditions :

(1). He has been **resident** (182 Days) in India [as per sec. 6(1)] in at least 2 out of 10 previous years immediately preceding the relevant previous year.(i.e. 2011 -2012 to 2020 -2021);

Details of Stay in India during 10 years preceding the Previous Years.(i.e 2011 -2012to 2020 -2021);



Year	No of Days Stay in Month Wise (1 April to 31 March)	Conditions: 182 Days) in India [as per sec. 6(1)] in at least 2 out of 10 previous years	Result
2020 -2021	46 Days (Given in this Question)	46 Days (182 Days)	Non Resident
2019 -2020	62 Days (Given in this Question)	62 Days (182 Days)	Non Resident
2018 -2019	<u>He stayed from 1-4-2018 to 31-03-2019</u> 365 Days	182	Resident
2017 -2018	<u>He stayed from 1-4-2017 to 31-03-2018</u> 365 Days	182	Resident
2016 -2017	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2015 -2016	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2014 -2015	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2013 -2014	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2012 -2013	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident
2011 -2012	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	182	Resident

Mr.Arumugam was **resident (182 days)** for 8 out of 10 years preceding the previous year more than the 2 out of 10 years preceding the previous year. Hence additional condition

(1) of being resident for 2 out of 10 years proceeding the previous year is satisfied.

**(b). To test a Second Conditions :**

(b).He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year. (i.e. 2014 -2015 to 2020 -2021);

Year	No of Days Stay in Month Wise (1 April to 31 March)	Conditions: Stay in period of 730 days or more during 7 previous years immediately preceding the relevant previous	Cumulative Days in stay
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		year	
2020 -2021	46 Days (Given in this Question)	46 Days	42 Days
2019 -2020	62 Days (Given in this Question)	62 Days	108 Days
2018 -2019	<u>He stayed from 1-4-2018 to 31-03-2019</u> 365 Days	365 Days	493 Days
2017 -2018	<u>He stayed from 1-4-2017 to 31-03-2018</u> 365 Days	365 Days	858 Days
2016 -2017	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	365 Days	1223 Days
2015 -2016	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	365 Days	1588 Days
2014 -2015	<u>He stayed from 1-4-2016 to 31-03-2017</u> 365 Days	365 Days	2441 Days

Mr.Arumugam was Stay in 2441 days during 7 previous years immediately preceding the relevant previous year more than the 730 days specified condition (2). Hence,



Additional condition (2) of stay for 730 days is also satisfied.

4. Conclusion for Residential Status or not.

Mr.Arumugam is '**Resident**' and '**Ordinarily Resident**' under Sec. 6(1) for the previous year 2021-22. Because Satisfied the Basic conditions as well as additional conditions of (1) and (2).



Unit – II Salary

2.1 INTRODUCTION

“Salary is a consideration received by a person for services rendered to another. the recompense or consideration given to a person for the pains he has bestowed upon another’s business” – Stroud’s Judicial Dictionary.

BASIC ELEMENTS OF SALARY

- Payer and payee must have employer and employee (or Master & Servant) relationship; and
- Payment must have been made by the employer in such capacity.

1. Employer-Employee relationship: A payment can be construed as salary only if the payer is the employer and payee is the employee of the payer.

2. Criteria for Employer-employee relationship: The key criterion to hold this relationship is that, employee is always bound to work as per direction and supervision of the employer.

3. Payment in Employer’s capacity: To treat any payment as salary it is necessary that payer, being the employer, must have made the payment in such (employer’s) capacity.

4. Contract of service vs. contract for service: In “contract of service”, the employer can direct and control the duties and the manner of performance of employee hence employer-employee relationship exists in such contract. However, in case of “contract for service” the contractee can simply decide and quote the object or target to be achieved but cannot decide or direct the manner of performance.

5. Agent and Principal: If a person is acting as an agent for his principal, any commission or remuneration earned by the agent is not taxable under the head “Salaries”. This is because, an agent is not the employee of his principal.

6. Salary received by a partner from its firm shall not be taxable as salary, because there is no employer-employee relationship between the firm and the partner. Such salary shall be taxable under the head “Profits & gains of business or profession”.

7. Salary received by proprietor from his proprietorship firm is not an income. As proprietor and proprietorship firm are the same person and no one can earn from himself.

8. Remuneration to Director from his company can be treated as salary only if the director is employee of the company, otherwise the same shall be taxable under the head “Income



from other sources”.

Note: Directors’ sitting fee is taxable under the head “Income from other sources”.

9. Pension received by the widow or legal heir of deceased employee is not taxable as salary as no employer-employee relationship exists between the payer and the payee. However such amount shall be taxable under the head “Income from other sources”.

10. Remuneration received by Judges is taxable under the head “Salaries” even though they are not having any employer. Concluding the above discussions, a payment received for services rendered, from a person other than employer, is not taxable under the head “Salaries” but may be taxed under the head “Profits & gains of business or profession” or “Income from other sources”.

Example :

1. State whether the following receipts should be treated as salary or not?

- *A teacher receives emoluments in kind from school in which he teaches.*

Yes, it is immaterial whether salary has been received in cash or in kind.

- *A teacher of a college receives fees from a University for checking answer sheets.*

No, as employer – employee relationship does not exist between payer and payee. (College-teacher is not the employee of the University). Such receipt shall be taxable under the head ‘Income from other sources’.

- *A payment made to the Member of the Parliament or the State legislature.*

No, as employer-employee relationship does not exist. A member of the Parliament or the State legislature is not treated as employee of the Government. Payment received by them shall be taxable under the head “Income from other sources”.

BASIS OF CHARGE [SEC. 15]

Salary is chargeable to tax either on ‘due’ basis or on ‘receipt’ basis, whichever is earlier. Hence, taxable salary includes:

(a) Advance salary (on ‘receipt’ basis): Salary paid in advance is taxable under the head ‘Salaries’ in the year of receipt. Note: Such advance salary shall not be included again in the total income when the salary becomes due.



(b) Outstanding salary (on 'due' basis): Salary falling due is taxable under the head 'Salaries' in the year in which it falls due. Note: Such due salary shall not be included again in the total income when it is received.

(c) Arrear salary: Any increment in salary with retrospective effect which have not been taxed in the past, such arrears will be taxed in the year in which it is allowed. Arrear salary are taxable on receipt basis.

DEFINITION OF SALARY [SEC. 17(1)]

As per sec. 17(1) of the Income-tax Act, 1961, salary includes the following:

- (a) Wages;
- (b) Any annuity or pension;
- (c) Any gratuity;
- (d) Any fees, commission, perquisite or profits in lieu of or in addition to any salary or wages;
- (e) Any advance of salary;
- (f) Any payment received in respect of any period of leave not availed of by the assessee;
- (g) The portion of the annual accretion in any previous year to the balance at the credit of an employee, participating in recognized provident fund, to the extent it is taxable;
- (h) Transferred balance in a Recognized Provident Fund to the extent it is taxable.
- (i) Contribution made by the employer in the previous year, to the account of an employee under a pension scheme referred to in sec. 80CCD [National Pension Scheme and Atal Pension Yojana]

**COMPUTATION OF SALARY, AT A GALANCE****Computation of income under the head “Salaries” of for the A.Y.**

Particular		Amount
<u>I. SALARY AND OTHER ITEMS</u>	XXXX	
1. Basic Salary	XXXX	
2. Dearness Allowances (DA)/ Dearness Pay (DP) / Fees	XXXX	
3. Commission	XXXX	
4. Bonus	XXXX	
5. Gratuity	XXXX	
6. Leave Encashment or Earning Leave Salary	XXXX	
7. Pension	XXXX	
8. Retrenchment Compensation	XXXX	
9. Compensation received under Voluntary Retirement Scheme,	XXXX	XXXXXX
<u>II. ALLOWANCES</u>		
1. House Rent Allowances (HRA)	XXXX	
2. Entertainment Allowances (EA)	XXXX	
3. Education Allowance.	XXXX	
4. Hostel Allowance.	XXXX	
5. Tribal Allowance.	XXXX	
6. Running Allowance.	XXXX	
7. Transport Allowance	XXXX	
8. Conveyance Allowance.	XXXX	
9. Daily Allowance.	XXXX	
10. Helper Allowance. / 11. Transfer Allowance.	XXXX	
12. Travelling Allowance. / 13. Uniform Allowance.	XXXX	XXXXXX
<u>III. PERQUISITES u/s 17(2)</u>		
1. Any Obligation of Employee paid by Employer	XXXX	
2. Shares and securities issued under ESOP	XXXX	
3. Employer’s Contribution to Superannuation Fund	XXXX	
4. Contribution of Employer to Provident Fund	XXXX	
5. Gas, Electricity & Water Medical Facility / Other fringe benefits	XXXX	
6. Leave Travel Concession	XXXX	
7. Interest on Recognized Provident Fund / Any other item	XXXX	XXXXXX
Gross Salary (I + II + III)		XXXXXX
<u>Less : Deduction u/s 16</u>		
(a). Standard Deduction. (Rs.50,000)	Xxxx	
(b). Entertainment Allowance	Xxxx	
(c). Professional Tax	xxxx	XXXXXX
Taxable Salary		



I. SALARY AND OTHER ITEMS

(1). Basic Salary.

It is the sum paid by employer to employee as salary and shall be **FULLY TAXABLE**.

Illustration 01

Mr.Raman joined in an institution on 01.01.2022 at the scale of Rs.15,000 p.m. Salary falls due at the end of every month. Calculate his basic salary for the Previous Year 2021-22.

Solution:

Mr.Raman		
Calculation of Taxable Salary for P.Y. 2021 -2022		
<u>(1). Calculation of Due Date of salary in Month wise :</u>		
Month	<u>Due Date</u> <i>(Salary Falls due at the end of the every month)</i>	Amount
Jan 2022	31.01.2022	15,000
Feb 2022	28.02.2022	15,000
March 2022	31.03.2022	15,000
<u>(2). Therefore basic salary for the P.Y.2021 -2022. Rs.45,000.</u>		
(15,000 X 3 Months = Rs.45,000) Basic Salary Rs.45,000/-		

Illustration 02

Mr.Lakshmanan joined in an institution on 01.01.2022 at the scale of Rs.20,000 p.m. Salary falls due on 1st day of the next month. Calculate his basic salary for the Previous Year 2021-22.

Solution:

Mr.Lakshmanan		
Calculation of Taxable Salary for P.Y. 2021 -2022		
<u>(1). Calculation of Due Date of Salary in Month wise :</u>		
Month	<u>Due Date</u> <i>(Salary Falls due on 1st day of the next month)</i>	Amount
Jan 2022	01.02.2022	20,000
Feb 2022	01.03.2022	20,000
March 2022	01.04.2022	-
Total Basic Salary		40,000
<u>(2). Therefore basic salary for the P.Y.2021 -2022. Rs.40,000.</u>		
(20,000 X 2 Months = Rs.40,000)		
Basic Salary Rs.40,000/-		

**Illustration 03**

Mr. Vishnu joined in AVC Ltd, on 1st September 2022 on a monthly salary of Rs.25,000. His salary becomes due on the first day of the next month and it is paid on the fifth day of the next month. Calculate his basic salary for the Previous Year 2021-22.

Solution:

Mr. Vishnu		
Calculation of Taxable Salary for P.Y. 2021 -2022		
<u>(1). Calculation of Due Date of Salary in Month wise :</u>		
Month	<u>Due Date</u> (Salary becomes due on the first day of the next month and it is paid on the fifth day of the next month).	Amount
September 2022	05.10.2021	25,000
October 2022	05.11.2021	25,000
November 2022	05.12.2021	25,000
December 2022	05.01.2022	25,000
January 2022	05.02.2022	25,000
February 2022	05.03.2022	25,000
March 2022	05.04.2022	-
Total		1,50,000
<u>(2). Therefore basic salary for the P.Y.2021 -2022. Rs.25,000.</u>		
(March 2022 salary is not taxable during the P.Y.2021 -2022 as the due date and receipt date fall after 31.03.2022. (25,000 X 6 Months = Rs1,50,000/)		
Basic Salary Rs.1,50,000/-		

Pay-Scale (Grade system):

It is a system of payment where increment scale is pre-known to employee.

E.g. Basic salary is given as 5,000 – 1,000 – 8,000 – 2,000 – 12,000. The above data indicates the increment schedule. As per this schedule initial payment is 5,000 p.m. which will increased by 1,000 every year until salary reaches to 8,000 p.m. Once salary reaches to 8,000 then increment will be 2,000 every year till salary reaches the scale of 12,000. Accordingly, basic salary is calculated.

**Illustration 04**

Mr.Mani was appointed on 01.01.2018 in the pay scale of 14,000 – 2,000 – 20,000 – 3000-35,000. Calculate his basic salary for the Previous Year 2021-22.

Solution:

Mr.Mani	
Calculation of Taxable Salary for P.Y. 2021 -2022	
<u>(1). Calculation of Increment or Grade Salary in Month wise :</u>	
Period	Basic Salary (Increment Salary based on Joining date : 01.01.. every year)
01.01.2018 to 31.12.2018	14,000
01.01.2019 to 31.12.2019	16,000 (14000 + 2000)
01.01.2020 to 31.12.2020	18,000 (16000 + 2000)
01.01.2021 to 31.12.2021	20,000 (18000 + 2000)
01.01.2022 to 31.12.2022	23,000 (20000 + 3000)
<u>(2). Therefore basic salary for the P.Y.2021 -2022.</u>	
Period	Basic Salary p.m
01.04.2021 to 31.12.2021 = (9 Months x Rs.20,000)	1, 80,000
01.01.2022 to 31.03.2022 = (3 Months x Rs.23,000)	69,000
Total	2,49,000
Basic Salary Rs.2,49,000/-	

(2). Dearness Allowance (DA) or Dearness Pay (DP).

It is an extra amount given to an employee to meet the burden of inflation or increased cost of living. This is FULLY TAXABLE.

(3). Fees.

An employee may be given apart from basic salary, extra remuneration for doing specific job under the terms of employment. Such extra remuneration is termed as fee and shall be FULLY TAXABLE.

(4). Commission.

It may be as a percentage of turnover or as a percentage of profit. In either case, it is FULLY TAXABLE.

(5). Bonus.

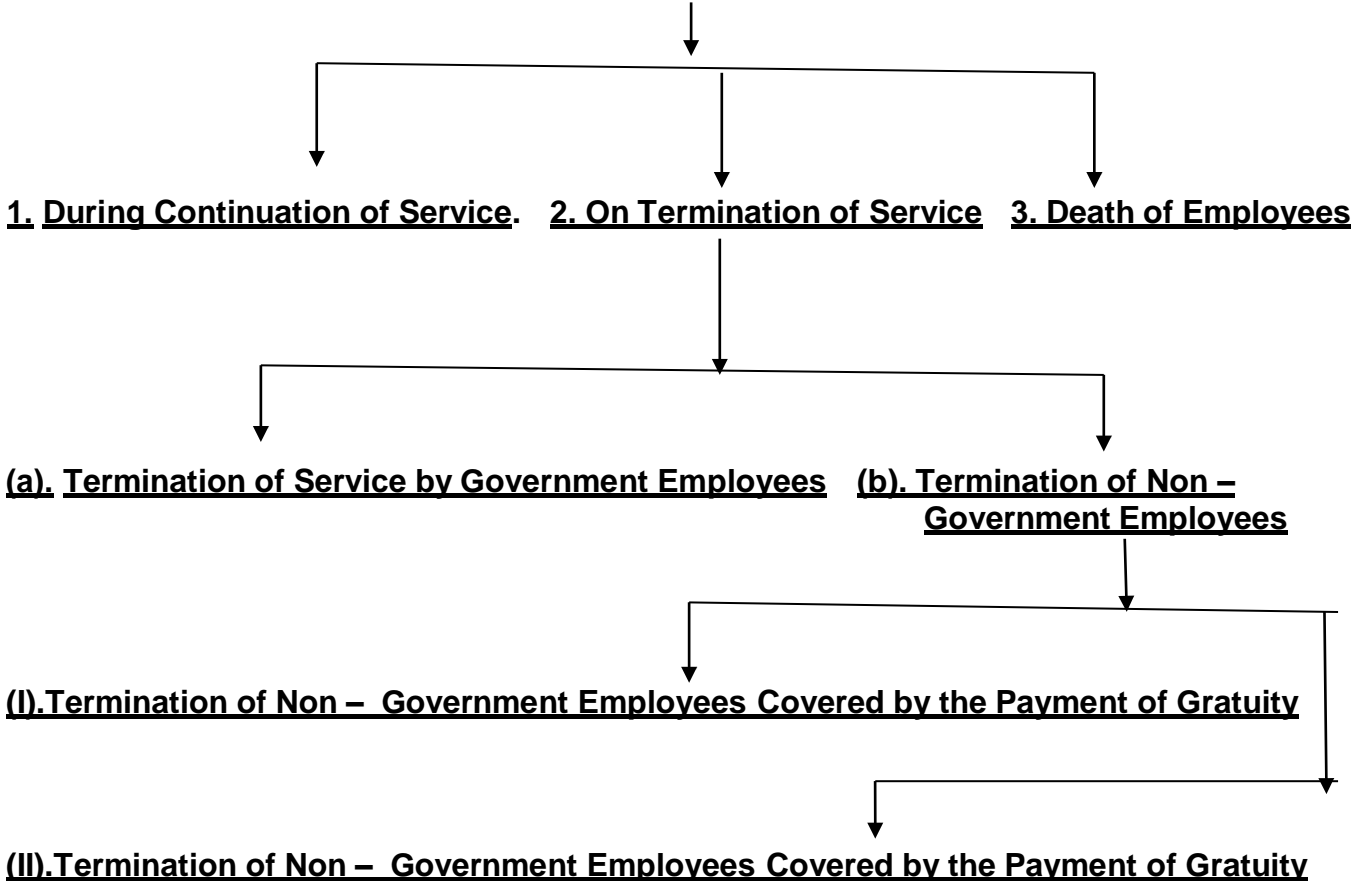
Bonus may be contractual or voluntary. In either case, it is FULLY TAXABLE.



(6). Gratuity Sec. 10(10)

Gratuity is a retirement benefit given by the employer to the employee in consideration of past services. It is PARTLY EXEMPTED depends upon the Treatment of Gratuity Received.

Treatment of Gratuity Received



(1) Gratuity received during continuation of service – Government and Non Government Employees.

Gratuity received during continuation of service is **FULLY TAXABLE** in the hands of all employees (whether Government or non-Government employee).

(a). Gratuity received at the time of termination of service by Government Employee

Gratuity received at the time of termination of service by Government



employee is **FULLY EXCEMPT** from TAX u/s 10(10)
(Government employee, includes employee of the Central or the State Government or local authority but does not include employee of statutory corporation)

(b). Termination of Non – Government Employees (Private Employees)

Termination of service by Non – Government Employees is classified in to the following two ways of on the basis of covered by Payment of Gratuity Act.

(I).Termination of Non – Government Employees Covered by the Payment of Gratuity

Gratuity received at the time of termination of service by non–government (including foreign government) employee, covered by the Payment of Gratuity Act.

In such case, **Minimum of the Following Amount shall be exempted from tax:**

Actual Gratuity Amount Received	Xxxx
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>	
(1). Actual Gratuity received; xxxxx	} xxxxx
(2). Statutory Amount Rs 20,00,000; or xxxxx	
(3).15 working days salary for every completed year of service xxx [Arithmetically, $15/26 \times \text{Completed year of service} \times \text{Salary p.m.}$]	
Taxable Gratuity Amount	xxxxx

Notes: (a) Completed year of service includes any fraction in excess of 6 months.

(e.g. 7 Years 9 months will be treated as 8 years; 7 years 5 months will be treated as 7 years and 7 years 6 months will be treated as 7 years).

(b) **Salary** here means **Basic Pay + DA, last drawn**

Illustration 05

Ashok, an employee of ABC Ltd., receives Rs. 2,05,000 as gratuity under the Payment of Gratuity Act, 1972. He retires on 10th September, 2021 after rendering service for 35 years and 7 months. The last drawn salary was Rs 2,500 per month and D.A. was Rs.200.

Calculate the amount of gratuity chargeable to tax. Solution:

**Solution****Computation of Taxable Gratuity of Mr. Ashok for the A.Y.2022-23**

Particulars		Amount
Actual Gratuity Amount Received		2,05,000
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>		
(1). Actual Gratuity received;	2,05,000	
(2). Statutory Amount Rs 20,00,000; or	20,00,000	
(3). 15 working days salary for every completed year of service [15 / 26 x Completed year of service x salary p.m..] [15/26 x 36 x 2,700] = Rs. 56,077/-	56,077	56,077
Taxable Gratuity		1,48,923

Calculation of Salary: Basic Pay + DA (2500 + 200 = Rs.2700/)

C). Termination of Non – Government Employees (Private Employees)

Termination of service by Non – Government Employees is classified in to the following two ways of on the basis of covered by Payment of Gratuity Act.

(II). Termination of Non – Government Employees Not Covered by the Payment of Gratuity

Gratuity received at the time of termination of service by non–government (including foreign government) employee, not covered by the Payment of Gratuity Act.

In such case, ***Minimum of the Following Amount shall be exempted from tax:***

Particulars		Amount
Actual Gratuity Amount Received		Xxxx
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>		
(1). Actual Gratuity received;	xxxx	} xxxx
(2). Statutory Amount Rs 20,00,000; or	xxxx	
(3). 1/2 x Completed year of service x Average Salary p.m	xxx	
Taxable Gratuity Amount		xxxxx

Notes: (a) While calculating ***completed year of service ignore any fraction of the year.***



(e.g. 7 years 9 months will be treated as 7 years only)

(b) Salary here means Basic Pay + DA, last drawn + Commission (Fixed percentage on Turnover)

(Average Salary here means, Basic + DA + Commission (being a fixed percentage on turnover) being last 10 months average salary, immediately proceeding the month of retirement. (E.g. If an employee retires on 18/11/2021 then 10 months average salary shall be a period starting from Jan' 2021 and ending on Oct' 2021))

Illustration 05

Mr. Ramesh retired from his job after 29 years 6 months and 15 days of service on 17/12/2021 and received gratuity amounting Rs.4,00,000. His salary at the time of retirement was basic Rs. 6,000 p.m., Dearness allowance Rs.1,200 p.m., House rent allowance Rs.2,000, Commission on turnover 1%, Commission on profit Rs.5,000. He got an increment on 1/4/2021 of Rs.1,000 p.m. in Basic. Turnover achieved by assessee Rs.1, 00,000 p.m.

Calculate his taxable gratuity if he is a —

- (a) Government employee
- (b) Non-Government employee, covered by the Payment of Gratuity Act;
- (c) Non-Government employee not covered by the Payment of Gratuity Act

Solution :

Case .(a): Government Employee:

Computation of taxable gratuity of Mr. Ramesh for the A.Y. 2022-23

Mr.Ramesh is a Government Employee; Received Gratuity Amount is **Fully Exempted**

Taxable Gratuity amount: Nil as per section 10(10)(i)

**Case - (b): Non-Government employee, covered by the Payment of Gratuity Act:****Computation of Taxable Gratuity of Mr. Mr. Ramesh for the A.Y.2022-23**

Particulars		Amount
Actual Gratuity Amount Received		4,00,000
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>		
(1). Actual Gratuity received;	4,00,000	
(2). Statutory Amount Rs 20,00,000; or	20,00,000	
(3). 15 working days salary for every completed year of service [15 / 26 x Completed year of service x salary p.m..] [15/26 x 30 yrs x 7,200]= Rs. 1,24,615/-	1,24,615	1,24,615
Taxable Gratuity		2,75,385

(i). Calculation of Salary: Basic Pay + DA ((6,000 + 1,200) = Rs. 7,200)

(ii). Calculation of Completed Year of Service : (29 years 6 months and 15 days of service)

Therefore Completed Year of Service : 30 Years.

Case - (b): Non-Government employee, covered by the Payment of Gratuity Act:**Computation of Taxable Gratuity of Mr. Mr. Ramesh for the A.Y.2022-23**

Particulars		Amount
Actual Gratuity Amount Received		4,00,000
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>		
(1). Actual Gratuity received;	4,00,000	
(2). Statutory Amount Rs 20,00,000; or	20,00,000	
(3). ½ x completed year of service x Average salary p.m. [1 / 2 x 29 yrs x Rs.8,000] = Rs. 1,24,615/-	1,24,615	1,24,615
Taxable Gratuity		2,75,385

(i). Calculation of Completed Year of Service : (29 years 6 months and 15 days of service)

Therefore Completed Year of Service : 29 Years.

**(ii). Calculation of Average Salary Per Month :**

Salary here means **Basic + Dearness Allowance + Commission on turnover, being last 10 months average** just preceding the month of retirement, as shown below:

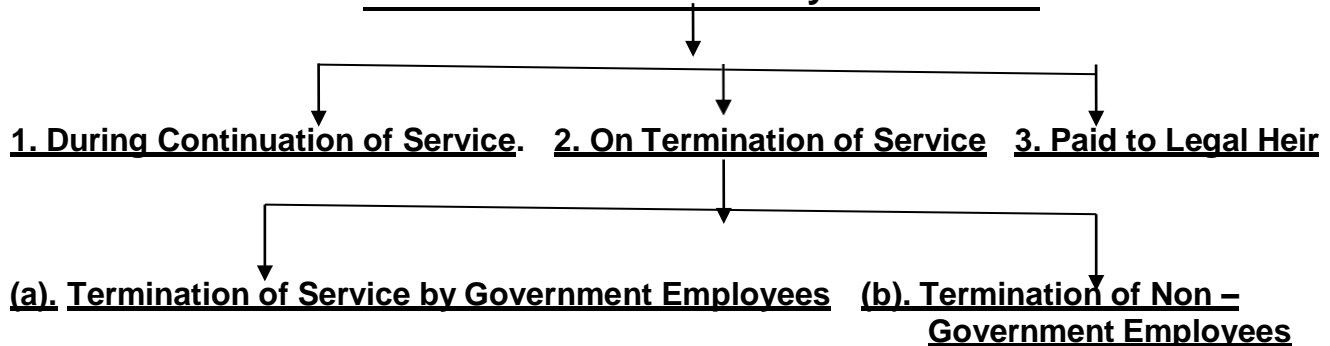
Particulars	1	2	3	4	5	6	7	8	9	10	Total
	Feb21	Mar21	Apr21	May21	June 21	July 21	Aug 21	Sep 21	Oct 21	Nov 21	
Basic Pay	5000	5000	6000	6000	6000	6000	6000	6000	6000	6000	58000
D.A	1200	1200	1200	1200	1200	1200	1200	1200	1200	1200	12000
Commission (100000x1/100 Rs.1000)	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
Total Salary in 10 Months											80,000
Average Salary Per Month = Total Salary in 10 Months / 10 Months = 80,000 / 10 = Rs.8,000/											

(3). Death of Employees or Gratuity received after Death of Employee

The Act is silent on treatment of gratuity received after death of employee. Received Gratuity Amount is **Fully Exempted** in calculation of Tax.

(7). LEAVE SALARY ENCASHMENT or EARNING LEAVE SALARY

As per service contract and discipline, normally, every employee is allowed certain period of leave (with pay) every year. Such leave may be availed during the year or accumulated by the employee. The accumulated leave lying to the credit of an employee may be availed subsequently or encashed. When an employee receives an amount for waiving leave lying to his credit, such amount is known as leave salary encashment.

Treatment of Leave Salary Encashment

**(1). Leave salary received during continuation of service**

Leave salary during continuation of service is **FULLY TAXABLE** in the case of the *Government employee as well as Non – Government Employees* or other employees

(2). Leave salary received by Government employee on termination of service

At the time of termination of service, leave salary received by the *Central or State Government employee* is **FULLY EXEMPTED**.

Taxpoint: Government employee here does not include employee of local authority or public sector undertaking or foreign Government employee.

(3). Leave salary received by non-Government employee on termination of service

At the time of termination of service, leave salary received by a non-Government employee (including employee of foreign Government, local authority, public sector undertaking) is **exempted to the minimum of the following amount:**

	Actual Leave Salary Amount Received	Xxxx
	<u>Less: Minimum of the Following Amount shall be exempted from tax</u>	
	(1). Actual Leave Salary amount Received	xxxx
	(2). Statutory Amount Rs 3,00,000;	xxxx
	(3). 10 x Average salary p.m.	xxx
(4).	To the maximum of 30 days (normally taken as 1 month) average salary for every completed year of service, subject to deduction for actual leave Availed during the tenure of service. or	xxxx
	[[{(1 x completed year of service) – leave actually taken in terms of month} x average salary p.m.]	
	Taxable Leave Salary Amount	xxxxx

(a) Calculation of Average salary means Basic pay + DA + Commission (as a fixed percentage on turnover) being last 10 months average salary ending on the date of retirement or superannuation. (e.g. if an employee retires on 18/11/2021 then 10 months average salary shall be a period starting from 19th Jan' 2021 and ending on 18th Nov' 2021).



(b). While calculating completed year of service, ignore any fraction of the year.

E.g. 10 years 9 months shall be taken as 10 years

Illustration 06

Mr. John retired on 31.08.2021 after 22 years of service and received Rs.1,50,000 as leave encashment for 15 months. His employer allowed him 60 days leave for each year of his service. During his service he has encashed 14 months leave. He received a basic salary of Rs.12,000 p.m, D.A of Rs.4,000 p.m. Ascertain his taxable leave encashment.

Solution:

Particulars	Amount
Actual Leave Salary Amount Received	1,50,000
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>	
(1). Actual Leave Salary amount Received	1,50,000
(2). Statutory Amount	3,00,000
(3). 10 months x Average salary p.m (10 x 16,000)	1,60,000
(4). To the maximum of 30 days (normally taken as 1 month) average salary for every completed year of service, subject to deduction for actual leave Availed during the tenure of service. or [{(1 x completed year of service) – leave actually taken in terms of month} x average salary p.m.]	1,28,000
= { (1 x 22 yrs) – 14 months x 16000 } = {22- 14 x 16000}	
= {08 x 16000} = Rs.1,28,000	1,28,000
Taxable Leave Salary Amount	22,000

Workings:

1. Average Salary for 10 Months

Basic Pay + DA + Commission on Turnover = 12000 + 4000 = **Rs.16,000/**

2. Calculation of Leave Due :

It is to be taken 1 Month for each year of service, if he / she allowed more than 30 days.

Leave salary due and earn leave eligibility (22 yrs x 1 month earn leave) = 22 months

Less: Leave already availed = 14 months

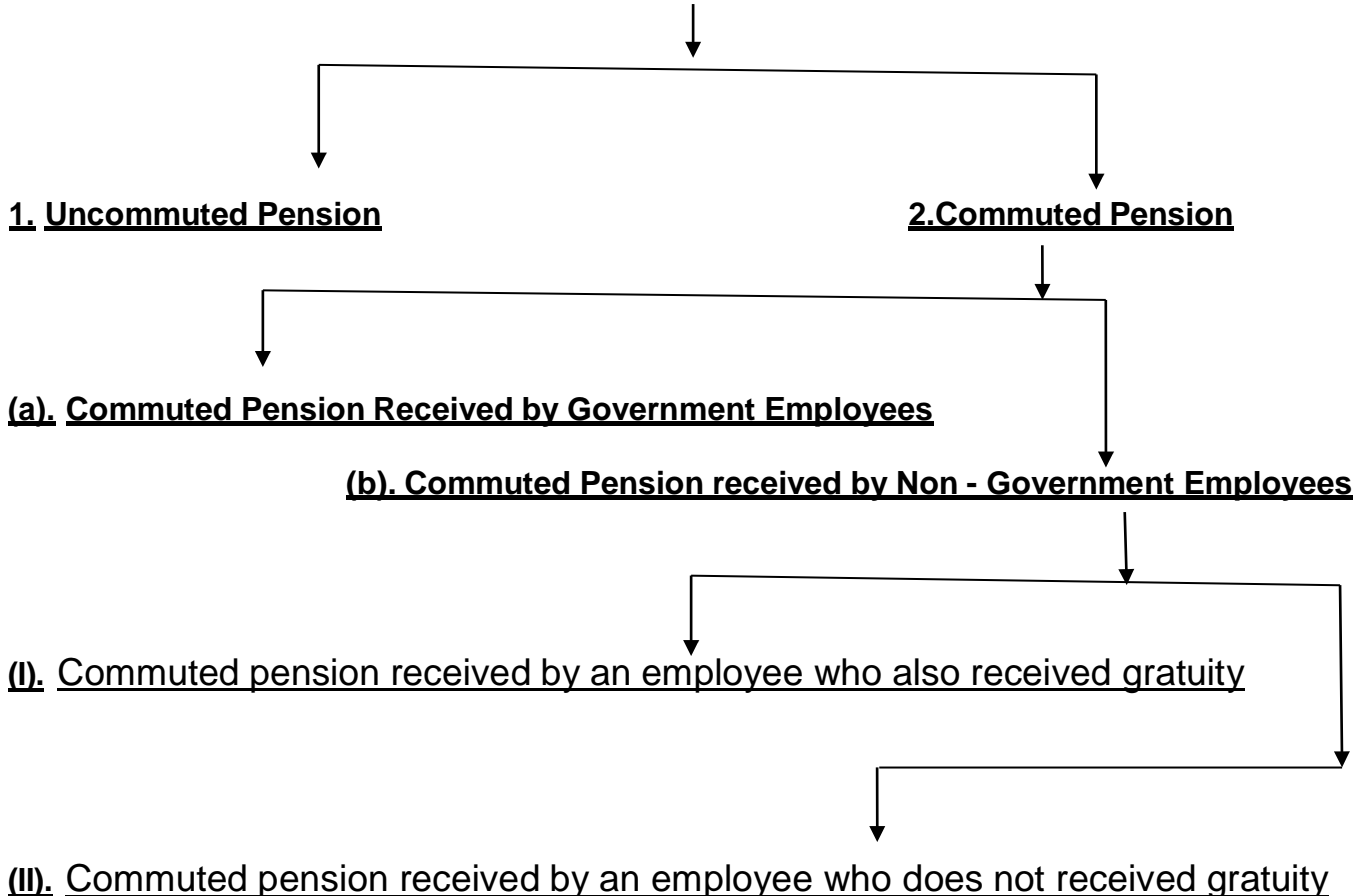
Leave due at the time of Retirement **08 months**



(8).PENSION

Pension means a periodical payment received by an employee after his retirement. On certain occasions, employer allows to withdraw a lump sum amount as the present value of periodical pension. *When pension is received periodically by employee, it is known as Uncommuted pension.* On the other hand, *pension received in lump sum is known as Commuted pension.* Such lump sum amount is determined considering factors like the age and health of the recipient, rate of interest, etc.

Treatment of Pension Received



(1). Uncommuted Pension:

Uncommuted pension is FULLY TAXABLE in the hands of all employees whether *Government or Non –Government employee.*

**(2). Commuted Pension**

Pension received in lump sum is known as commuted pension. Commuted Pension calculated in to the following ways,

(i). Commuted Pension Received by Government Employees.

Commuted pension received by a Government employee is FULLY EXEMPT FROM TAX .

Note: Government employee here includes *employee of the Central or State Government, Local authority as well as employee of Statutory corporation. Judges of the High Court and the Supreme Court* are also entitled to the exemption.

(b). Commuted Pension received by Non - Government Employees

Commuted Pension received by Non - Government Employees calculated in to the following two ways:

(i). Commuted pension received by an employee who also received gratuity

One third of total pension (1/3 of total Commuted amount) commuted is exempt.

Particulars		Amount
Uncommuted Pension (Month wise received Pension amount X 12 Month)		xxxx
Commuted Pension Received Amount		Xxxx
Less: 1/3 Portion of Exempted amount Full value (100%)		xxxx
Taxable Pension amount		xxxxx

(ii). Commuted pension received by an employee who does not receive gratuity

One half of total pension (1/2 of total commuted value amount)) commuted is exempt

Particulars		Amount
Uncommuted Pension (Month wise received Pension amount X 12 Month)		xxxx
Commuted Pension Received Amount		Xxxx
Less: 1/2 Portion of Exempted amount Full value (100%)		xxxx
Taxable Pension amount		xxxxx

**(9) Retrenchment Compensation**

Retrenchment means cancellation of contract of service by employer in case of Government and Non-Government Employee. Any compensation received by a worker at the time of retrenchment is **Exempted to the extent of minimum of the following amount:**

Particulars	Amount
Actual Compensation Amount Received	Xxxx
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>	
(1). Actual Compensation Amount Received	xxxx
(2). Statutory Amount Rs 5,00,000;	xxxx
(3). compensation equivalent to 15 days' average pay, for every completed year of service. (15/26 X Yrs of Service X Average Pay)	xxx
Taxable Retrenchment Compensation	xxxxx

10. Compensation Received at the Time of Voluntary Retirement

If an employee of Non – Government, accepts retirement willingly in lieu of compensation then such retirement is known as Voluntary Retirement. Voluntary retirement compensation received or receivable by an employee is eligible for **Exemption subject to the following amount**

Particulars	Amount
Compensation is received from specified employer	Xxxx
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>	
(1). Compensation is received from specified employer	xxxx
(2). Statutory Amount Rs 5,00,000;	xxxx
Taxable VRS Compensation	xxxxx

Guidelines: 1. Scheme (VRS) must be applicable to all employees (other than director) who have either completed age of 40 years or has completed 10 years of service. (This condition is, however, not applicable in the case of an employee of a public sector company)

2. Such scheme must be framed to reduce the number of employees.



(11). Annuity

Annuity means a yearly allowance, income, grant of an annual sum, etc. for life or in perpetuity. It is Fully Taxable in case of Government and Non-Government Employee.

(12). Salary Received In Lieu of Notice Period

When an employer retrenches an employee then he has to give a proper notice. If an employer fails to do so then he will have to pay salary equivalent to notice period, apart from retrenchment compensation. Such amount is known as salary received in lieu of notice period and it is FULLY TAXABLE.

(13). Profits In Lieu of Salary

Profits in lieu of salary are payments received by an employee in addition to the regular Salary. The Profits in lieu of salary can include both monetary and other forms of compensation. **It is Fully Taxable**

- Eg:**
1. Any payment from unrecognised provident fund or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.
 2. Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy.
 3. Any amount due to or received by the employee (in lump sum or otherwise) prior to employment or after cessation of employment.

II. ALLOWANCES.

'Allowances' means fixed amount payable to the employee in addition to his salary to meet some specific purpose. The assessee may or may not spend these allowances. But for tax purpose, certain allowances are:

- (a). Full Taxable Allowances
- (b). Partially Taxable or Exempted Allowances.
- (c). Fully Exempted Allowances.

**(a). Full Taxable Allowances.**

The following allowances for Fully Taxable are:

1. Dearness Allowance / Cost of Living Allowance / Interim Relief Allowance
2. City Compensatory Allowance
3. Project Allowance / Medical Allowance / Servant Allowance.
4. Tiffin / Meals Allowance / Dinner / Refreshment Allowance.
5. Non-practicing Allowance / Warden ship / Proctor Allowance.
6. Deputation / Substitute Allowance / Over Time Allowance.
7. Family Allowance / Marriage Allowance / Special Allowance.
8. Holiday Trip Allowance / Petrol Allowance / Transport Allowance / Gift Allowance

(b). Partially Taxable or Exempted Allowances.

The following allowances for Partially Taxable or Exempted Allowances are:

1. House Rent Allowance.

House Rent allowance is an amount given by the employer to employee to meet the expenses in connection with rent of his/ her accommodation. **Employee can claim Minimum of the Following amount.**

Particulars	Amount
Actual House Rent Allowance Received	Xxxx
Less: Minimum of the Following Amount shall be exempted from tax	
(1). Actual House Rent Allowance Received xxx	xxxx
(2). An amount equal to 50% of salary (when house is situated in a metro city- New Delhi, Mumbai, Calcutta and Chennai) or 40% of salary (when house is situated in any other place) for the Relevant period. xxx	
(3). Actual Rent Paid – 10% of Salary. xxx	
Taxable House Rent Allowance	xxxxx

Note : Salary means = Basic Pay + D.A. + Commission (% on Turnover)

**Illustration 07**

Mr. Ram is employed in Ashok Leyland Ltd, Chennai. He, receives a basic salary Rs.8,000 p.m. In addition, he gets 4000 as dearness allowance forming part of basic salary, 3% commission on sales made by him (sale made by Mr. Ram during the relevant previous year is Rs.300000) and Rs 6,000 as house rent allowance. He, however, pays Rs. 6,500 p.m. as house rent in Chennai. Determine the quantum of exempted house rent allowance.

Solution:**Computation of taxable house rent allowance of Mr. Ram for the A.Y. 2022-23**

Particulars	Amount
Actual House Rent Allowance Received (6000 pm X 12)	72000
Less: Minimum of the Following Amount shall be exempted from tax	
(1). Actual House Rent Allowance Received	72,000
(2). 50% salary Rs.1,53,000 (1,53,000 X 50/100 =76500)	76,500
(3). Actual Rent Paid – 10% of Salary.	62700
[(6500 pm X 12 = 78,000) – (1,53,000 X 10/100 = 15300)	
(78,000 – 15,300)	62,700
Taxable House Rent Allowance	9,300

Calculation of Salary = Basic Pay + DA + Commission on Turnover.

$$= [(Basic\ pay\ Rs.8000\ pm\ X\ 12) + (D.A.Rs.\ 4000\ pm\ X\ 12) + (Sales = Rs.300000\ x\ 3/100)]$$

$$= (96,000 + 48,000 + 9,000) = \text{Salary Rs.1,53,000/}$$

2. Entertainment Allowance.

Any amount received as Entertainment allowance by Government Employees. Deduction shall not be claimed by Non- Government Employee. **Government Employee** can claim **Minimum of the Following amount of Entertainment Allowance:**

Particulars	Amount
Actual Entertainment Allowance Received	Xxxx
Less: Minimum of the Following Amount shall be exempted from tax	
(1). Actual Entertainment Allowance Received	xxx
(2). 20% of the Basic Salary or Basic Pay	xxx
(3). Statutory Amount Rs.5000	xxx
Taxable Entertainment Allowance	xxxxx

**Illustration 08**

Mr. Sam is a Government employee working in Madurai. He gets Rs.9000 pm as basic salary, Rs.4000 pm as Dearness allowance and Rs.3000 pm as entertainment allowance. He has spent Rs.41, 000 towards it. Determine the quantum of exempted Entertainment allowance.

Solution:**Computation of taxable Entertainment allowance of Mr.Sam for the A.Y. 2022-23**

Particulars	Amount
Actual Entertainment Allowance Received (Rs.3000 pm X 12 Months)	36,000
Less: Minimum of the Following Amount shall be exempted from tax	
(1). Actual Entertainment Allowance Received	36,000
(2). 20% of the Basic Pay (Basic Pay Rs.9000 pm X 12 = Rs.1,08,00) (1,08,000 X 20 / 100 = Rs.21,600)	21,600
(3). Statutory Amount Rs.5000	5,000
Taxable Entertainment Allowance	31,000

(3). Children Education Allowance or Education Allowance.

An allowance to meet the expenses in connection with education of children, by whatever name called. Child includes adopted child or step child, but does not include illegitimate child and grandchild. **Rs.100 Per Month maximum of two children is allowed as exemption.** Any amount received excess over this limit shall be **taxable**:

Particulars	Amount
Actual Children Education Expenses	Xxxx
Less: Rs.100 Per Month maximum of two children is allowed as exemption (Rs.100 X 2 Children X 12 Months) = Rs.2,400/-	xxxx
Taxable Children Education Expenses	xxxxx

**(4). Children Hostel Allowance or Hostel Allowance.**

An allowance to meet the hostel expenses of children, by whatever name called. Child includes adopted child or step child, but does not include illegitimate child and grandchild. **Rs.300 Per Month maximum of two children is allowed as exemption.** Any amount received excess over this limit shall be **taxable**:

Particulars	Amount
Actual Children Hostel Expenses	Xxxx
Less: Rs.300 Per Month maximum of two children is allowed as exemption (Rs.300 X 2 Children X 12 Months) = Rs.7,200/-	xxxx
Taxable Children Hostel Allowance	xxxxxx

(5). Tribal Allowance.

It is provided to those who are working in tribal area. **It is exempted Rs.200 Per month**

Particulars	Amount
Actual Tribal area Expenses	Xxxx
Less: Rs.200 Per Month exemption (Rs.200 X 12 Months) = Rs.2,400/-	xxxx
Taxable Tribal area Allowance	xxxxxx

(6). Running Allowance.

It is provided to those who are working in any transport system to meet his / her personal expenses during the course of running of such transport. It is exempted **Minimum of the Following amount of Running Allowance**:

Particulars	Amount
Actual Running Allowance spent	Xxxx
Less: Minimum of the Following Amount shall be exempted from tax	
(1). 70% of Transport allowance	xxx xxxx
(2). Statutory Amount Rs.10, 000.Per month.	XXX
Taxable Running Allowance	xxxxxx

(7). Transport Allowance.

It is provided to meet the expenditure for commuting between the office and the residence. **It is exempted Rs.3, 200 p.m only for the blind or handicapped assessee.**



(8). Conveyance Allowance.

It is provided to meet the expenditure on conveyance in performance of office duties. *It is allowed as exemption up to actual amount spent for the said purpose.* If there is any excess over actual expenses, it is taxable. However expenses incurred between office and residence is not conveyance allowance. Hence, it is not exempted.

(9). Daily Allowance.

It is provided to meet the daily expenses incurred by an employee on account of absence from normal duty. *It is allowed as exemption up to actual amount spent for the said purpose.* If there is any excess over actual expenses, it is taxable.

(10). Helper Allowance.

It is an expenditure incurred for a helper who is working for the performance of office duties. *It is allowed as exemption up to actual amount spent for the said purpose.* If there is any excess over actual expenses, it is taxable.

(11). Transfer Allowance.

It is provided in connection with transfer, packing and transportation of personal things. *It is allowed as exemption up to actual amount spent for the said purpose.* If there is any excess over actual expenses, it is taxable.

(12). Travelling Allowance.

It is provided to meet the cost of travel on tour or on transfer. *It is allowed as exemption up to actual amount spent for the said purpose.* If there is any excess over actual expenses, it is taxable.

(13). Uniform Allowance.

It is provided to meet the expenditure on the purchase or maintenance of uniform during the performance of office duties. *It is allowed as exemption up to actual amount spent for the said purpose.* If there is any excess over actual expenses, it is taxable.



Illustration 09

Mr. Mugesh joined Star Ltd in Chennai on 1/4/2021. Details regarding his salary are as follows: Basic pay Rs.5,000 p.m., Dearness Allowance Rs.2,000 p.m.
Education Allowance Rs.1,000 p.m. (he has 1 son and 3 daughters).
Hostel Allowance Rs.2,000 p.m. (none of the children is sent to hostel).
Medical Allowance Rs.1,000 p.m. (total medical expenditure incurred Rs 3,000),
Transport Allowance Rs.1,800 p.m. (being used for office to residence & vice versa),
Servant Allowance Rs.1,000 p.m. City compensatory Allowance Rs.2,000 p.m.
Entertainment Allowance Rs.1,000 p.m.
Assistants Allowance 3,000 p.m. (paid to assistant 2,000 p.m.),
Professional Development Allowance 2,000 p.m. (actual expenses for the purpose ` 8,000 p.m.),
Bonus Rs.24,000 p.a., Commission Rs. 9,000 p.a., Fees Rs.5,000 p.a.,
Travelling Allowance (He spend Rs.3000 only) Rs.5,000 p.a
Uniform and Maintenance Allowance Rs.200 p.m (He Spent Rs.2000 for this purpose).
Overtime Allowance Rs.500 p.m. Tiffin allowance Rs 2,000 p.m
House Rent Allowance (Actual Rent Paid Rs.3,500 p.m) Rs.3000 p.m.

Compute his gross taxable salary for the assessment year 2022-23.

**Solution:****Computation of gross taxable salary of Mr. Mugesh for the A.Y.2022-23**

Particular		Amount
(1). SALARY AND OTHER ITEMS		
1. Basic Salary (Rs.5000 .pm X 12 Months)		60,000
2. Bonus (Rs.24000 p.a)		24,000
3. Commission (Rs.9000 p.a)		9,000
4. Fees (Rs.5000 p.a)		5,000
(2). ALLOWANCES:		
1. Dearness Allowance 2,000 p.m (Rs.2000 X 12 Month)	-	24,000
2. Education Allowance 1,000 p.m (Rs.1000 X 12 Month)	12,000	
Less : Exempted of Education Allowance. (Rs.100 per month X 2 children) (Rs.100 X 2 Child X 12 Month)	2,400	9,600
3. Hostel Allowance 2,000 p.m (2000 X 12 Months)	24,000	
Less : Exempted Hostel Allowance (Rs.300 X 2 Child X 12 Months)	7,200	16,800
4. Medical Allowance 1,000 p.m (1000 X 12 Months)		12,000
5. Transport Allowance 1,800 p.m (1800 X 12 Months)		21,600
6. Servant Allowance 1,000 p.m. (1000 12 Months)		12,000
7. City compensatory Allowance 2,000 p.m. (2000 X 12 Months)		24,000
8. Entertainment Allowance 1,000 p.m.(1000 X 12 Months) <i>(since he is a non government employee, entertainment allowance is fully taxable and on deduction is eligible)</i>		12,000
9. Assistants Allowance 3,000 p.m (3000 X 12 Months)	36,000	
Less : Exemption (Being Actual Expenditure Rs.2000 X 12 Month)	24,000	12,000
10. Professional Development Allowance 2,000 p.m (2000 X 12)	24,000	
Less : Exemption (actual expenses for the purpose ` 8,000 p.m) (8000 X 12 Month = 96,000) More amount spent this purpose. So, Tax is Nil	96,000	Nil
11.Travelling Allowance (He spend Rs.3000 only) Rs.5,000 p.a	5,000	
Less : Actual amount spent for this purpose	3,000	2,000
12. Uniform and Maintenance Allowance Rs.200 p.m (200 X 12)	2,400	
Less : Actual amount spent for this purpose	2,000	400
13. Overtime Allowance Rs.500 p.m (500 X 12)		6,000
14. Tiffin allowance Rs 2,000 p.m (2000 X 12)		7,200
15. House Rent Allowance (Working note : 1)		8,000
Gross Taxable Salary (1) +(2)		2,65,600

**Computation of taxable house rent allowance of Mr.mugesh for the A.Y. 2022-23**

Particulars	Amount
Actual House Rent Allowance Received (3000 pm X 12)	36, 000
<u>Less: Minimum of the Following Amount shall be exempted from tax</u>	
(1). Actual House Rent Allowance Received	36,000
(2).50%salary Rs.84,,000 (84,000 X 50/100 =24000)	24,000
(3). Actual Rent Paid – 10% of Salary.	24,000
[(3500 pm X 12 = 42,000) – (84,000 X 10/100 = 8400)	
(42,000 – 8,400)	33,600
Taxable House Rent Allowance	8,000

Calculation of Salary = Basic Pay + DA + Commission on Turnover.

$$= [(Basic\ pay\ Rs.5000\ pm\ X\ 12) + (D.A.Rs.\ 2000\ pm\ X\ 12\ x)]$$
$$= (60,000 + 24,000) = \text{Salary Rs.84, 000/}$$

(c). Full Exempted Allowances.**The following allowances for Fully Exempted are:**

- | |
|--|
| 1. Foreign allowance (to a government servant for services outside India) |
| 2. Allowance to High Court and Supreme Court Judges. |
| 3. Sumptuary allowance to High Court and Supreme Court Judges. |
| 4. Out of Pocket or outfit allowance for NCC Officers. |
| 5. Allowances to employees of UNO(United Nations Organizations) |
| 6. Transport allowance /Sumptuary allowance to UPSC, Chairman and Members |
| 7. Allowances received by a teacher / Professor from SAARC member countries. |

(III). PERQUISITE [SEC. 17(2)]

‘Perquisite’ means, any casual emoluments or benefits attached to an office or position, in addition to salary or wages, which is availed by an employee. In other words, perquisites are the benefits in addition to normal salary.

It may be received in cash or in kind. If it is given in kind, it should be in a position of be measured in terms of money. Where goods are presented to an employee, the value to be taxed is not their cost to the employer but their value to the employee.



Types of Perquisites

For computing income from salary, perquisites can be classified into three types on the basis of their treatment. They are

1. Perquisites **Taxable in ALL Cases** (Whether ordinary or specified assessee).
2. Perquisites **Taxable in SPECIFIED Assessee**.
3. **Exempted** Perquisites.

(1). Perquisites Taxable in ALL Cases (Whether ordinary or specified assessee).

Specified Assessee or Specified Employees

1. A director employee in case full time or part time.
2. An employee who has substantial interest in the employer company. Substantial interest means the employee who beneficially holds 20% or more voting power in the employer company.
3. An employee whose aggregate salary from all employers together exceeds ` 50,000 p.a.
For computing the sum of ` 50,000, following are to be excluded/deducted:
 - a) All non-monetary benefits;
 - b) Non-taxable monetary benefits;
 - c) Deduction u/s 16(ia), 16(ii) and 16(iii); and
 - d) Employer's contribution to Provident Fund

(1). Valuation of Accommodation

Valuation of Accommodation is calculated in the following ways:

- (1). **Rent Free Unfurnished Accommodation (RFUA)**
- (2). **Rent Free Furnished Accommodation (RFFA)**
- (3). **Concessional Rent Accommodation**

(1). Rent Free Unfurnished Accommodation (RFUA)

If the employees are provided rent free unfurnished accommodation. **It is taxable in all cases** except for the Judges of High Courts or the Supreme Court, officials of Parliament, Union Ministers and Leader of opposition.

For the purpose of valuation, employees are divided into two categories:

- i). Government Employees



ii). Non Government Employees / Other Employees.

(i). Government Employees

In case of Government Employees - **Taxable amount determined by the Government would be the value of Perquisite.**

Illustration 10

Mr.Nair, Central Government employee is provided with an accommodation in Chennai. The rental value of which is Rs.1,00,000. The rate fixed by the Government is Rs.1,000 p.m. His monthly salary is Rs.10,000 plus D.A. Rs.4,000. Calculate the perquisite value.

Solution :

Perquisite value of Rent Free Accommodation in the case of a Government Employee is the rate fixed by the Government. Government Fixed rate Rs.1000 p.m
Therefore, the Perquisite Value is Rs.1,000 X 12 Months = Rs.12,000/

(ii). Non – Government Employee or Other Employees.

The following ways determined the **taxable perquisite**

Place in which Accommodation is provided	Accommodation owned by the Employer	Accommodation not owned by the Employer
1). If the population is less than 10 Lakhs	Taxable for 7.5 % of Salary	Minimum of the Following Amount : 1. 15% of Salary 2. Rent paid by Employer
2). If the population is between 10 Lakhs to 25 Lakhs.	Taxable for 10 % of Salary	
3). If the population is above 25 Lakhs.	Taxable for 15 % of Salary	

Calculation of Salary:

Particulars	Amount
1. Basic Pay	xxxxx
2. Dearness Allowance (If it enters into retirement benefits)	xxxxx
3. Bonus	xxxxx
4. Commission	xxxxx
6. Fees.	xxxxx
7. Taxable portion of all allowances	xxxxx
Total Salary	xxxxx

(2). Rent Free Furnished Accommodation (RFFA)

Furnished accommodation means Accommodation + Furniture.



Valuation of Furniture: As per the following table

case	Taxable Value
Furniture owned by the employer	10% of original cost of furniture
Furniture hired by the employer	Actual hire charges paid / payable by the employer

(3). Concessional Rent Accomodation

If the employer is provide with a concessional rent accommodation, and then the value of concessional rent accommodation is to be computed in following manner.

Perquisite value of Rent Free Furnished Accommodation	xxxx
Less: Rent paid by the Employee for that accommodation	<u>xxxx</u>
Perquisite Value	<u>xxxx</u>

Illustration 10

Mr.Venu has furnished the following Particulars :

- Basic Salary Rs.6,000 p.m.
- D.A. (Forming part of Salary)Rs.3,000 p,m
- City compensatory Allowance Rs.2,500 p.m.
- Bonus Rs.5000 p.a

He is provided with a rent free accommodation in cuddalore, the population of which is 20 lakhs. Compute the perquisite value if,

- The employer owns such an accommodation.
- The employer hires such an accommodation as a monthly rent of Rs.1,500 p.m.

Solution :

(i). The employer owns such an accommodation.

If accommodation is owned by Employer :

Rule : the population of which is 20 lakhs.Value of Rent Free Accommodation is 10 % Salary. Value of R.F.A is Rs.143,000 X 10 / 100 = **Rs.14,300/**

Calculation of Salary:

Basic Salary Rs.6,000 p.m.(6000 X 12)	72,000
D.A Rs.3,000 p,m (3000 X 12)	36,000
CCA Rs.2,500 p.m (2,500 X 12)	30,000
Bonus	5,000
Total	1,43,000



(ii). The employer hires such an accommodation as a monthly rent of Rs.1,500 p.m

Perquisite value of Rent free unfurnished accommodation, Minimum of the following amount is taxable.	
1. 15% of Salary Rs.1,43,000	= Rs.21,450
2. Actual Rent paid by Employer Rs.1500 X 12 Month = Rs.18,000	
}	
Whichever is less is perquisite value. Hence, perquisity value of RFA is Rs.18,000/	

(2). Valuation of Motor Car

Motor-car facility provided by an employer is taxable in the hands of employee on the following basis:

S.No	Car Owned by	Car Expenses met By	Purpose of Use Car Expenses met By	Taxable Value												
01	Employer		Official Use	Nil												
02			Personal Use	<table border="1"> <tr> <td>1. Running Expenses / Maintenance Cost</td> <td>XXX</td> </tr> <tr> <td>2. Driver Salary</td> <td>XXX</td> </tr> <tr> <td>3. 10% of Cost of Car or Depreciation</td> <td>XXX</td> </tr> <tr> <td style="text-align: center;">Total</td> <td>xxx</td> </tr> <tr> <td>Less: Amount Charged from Employee</td> <td>XXX</td> </tr> <tr> <td>Taxable Value of Motor Car</td> <td>XXX</td> </tr> </table>	1. Running Expenses / Maintenance Cost	XXX	2. Driver Salary	XXX	3. 10% of Cost of Car or Depreciation	XXX	Total	xxx	Less: Amount Charged from Employee	XXX	Taxable Value of Motor Car	XXX
1. Running Expenses / Maintenance Cost			XXX													
2. Driver Salary	XXX															
3. 10% of Cost of Car or Depreciation	XXX															
Total	xxx															
Less: Amount Charged from Employee	XXX															
Taxable Value of Motor Car	XXX															
03	Official use and Personal use (Both)	<table border="1"> <tr> <td>1. Running Expenses/ Maintenance Cost (Rs.1800 for Small Car and Rs.2400 for Big Car)</td> <td>XXX</td> </tr> <tr> <td>2. Driver Salary if provided Rs.900 p.m</td> <td>XXX</td> </tr> <tr> <td>Taxable Value of Motor Car</td> <td>xxx</td> </tr> </table>	1. Running Expenses/ Maintenance Cost (Rs.1800 for Small Car and Rs.2400 for Big Car)	XXX	2. Driver Salary if provided Rs.900 p.m	XXX	Taxable Value of Motor Car	xxx								
1. Running Expenses/ Maintenance Cost (Rs.1800 for Small Car and Rs.2400 for Big Car)	XXX															
2. Driver Salary if provided Rs.900 p.m	XXX															
Taxable Value of Motor Car	xxx															
04	Employer	Employee	Official Use	Nil												
05			Personal Use	1. 10% of Cost of Car or Depreciation XXXX												
06			Official use and Personal use (Both)	<table border="1"> <tr> <td>1. Running Expenses (Rs.1600 for Small Car and Rs.900 for Big Car)</td> <td>XXX</td> </tr> <tr> <td>2. Driver Salary if provided Rs.900 p.m</td> <td>XXX</td> </tr> <tr> <td>Taxable Value of Motor Car</td> <td>xxx</td> </tr> </table>	1. Running Expenses (Rs.1600 for Small Car and Rs.900 for Big Car)	XXX	2. Driver Salary if provided Rs.900 p.m	XXX	Taxable Value of Motor Car	xxx						
1. Running Expenses (Rs.1600 for Small Car and Rs.900 for Big Car)	XXX															
2. Driver Salary if provided Rs.900 p.m	XXX															
Taxable Value of Motor Car	xxx															



07			Official Use	Nil	
08			Personal Use	1. Running Expenses / Maintenance Cost xxxx	
09	Employee	Employer	Official use and Personal use (Both)	<u>1. Running Expenses</u> (Rs.1800 for Small Car and Rs.2400 for Big Car)	
				2.Driver Salary if provided Rs.900 p.m	
				Taxable Value of Motor Car	
10	Employee	Employee	Any purpose	NIL	

Note : (a).If cubic capacity (cc) of the car is less than 1600 cc, it is considered as **Small** car
 (b).If cubic capacity (cc) of the car is More than 1600 cc, it is considered as **Big** car.



Unit – III

Income from House Property

INTRODUCTION

Income Tax Act, 1961, Sections 22 to 27 deal with the computation of the taxable income from house property. This is the second head of income. *Income from house property is not based on the actual income, but it is based upon the notional income or the annual value of that property.*

3.2. BASIS OF CHARGEABILITY [SEC. 22]

The basis of charge of income under this head is the Annual Value of the property. As per Sec.22, the following three conditions are to be satisfied for charging income under this head.

Annual value of the property shall be taxable under the head “Income from house property” subject to the following:

Condition 1: The property should comprise of any Building or land appurtenant thereto

The term ‘house property’ is not defined in Income tax Act. However, various judicial interpretations have construed the term house property as –

- **Any land surrounded by wall having roof or not; and**
- **Any land appurtenant to**

a building.Notes:



- a) Building includes an enclosure of **bricks, stone work or even mud walls**
- b) Building includes **residential as well as commercial houses**.
- c) Vacant land is not a house property. Hence, income from letting of **vacant land is nontaxable** under this head but taxed as business income or as income from other sources.
- d) Roof is not necessary for a non-residential house property. **A large stadium or a open airswimming pool is also considered as building.**
- e) It should be a **permanent structure meant for a useful purpose**.
- f) If a building consists of **several flats, then each flat is considered as a separate houseproperty**.
- g) **An incomplete, a ruined or demolished house cannot be termed as house property.**
- h) Land appurtenant to a **building includes car parking area, approach roads, backyards, courtyards, etc. attached to such building.**

Condition 2: The Assessee must be the Owner of such house property.

Annual value of a property is assessed to tax only in the hands of the owner even if he is not in receipt of any income. Owner includes legal owner, beneficial owner and deemed owner.

(1). Legal owner: Legal owner means a person who has the *legal title of the property as per the Transfer of Property Act, Registration Act, etc.*



(2). Beneficial owner: For income tax purpose it is not necessary that the *property must be registered in the name of the assessee*. If the assessee is enjoying the property as an owner to full extent he will be treated as a beneficial owner of such property and will be charged under the head 'Income from house property'.

(3). Fictional owner or Deemed owner [Sec. 27] U/s 27,

As per the provision of Sec 27, the following cases, a person shall be treated as deemed owner of the house property though they are not the real owner so the house property.

(a). If an individual who transfers house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, then the transferor shall be deemed as the owner of the house property.

(b). if an individual who transfers the house property to his or her minor child not being a married daughter without adequate consideration, then the transferor shall be deemed as the owner of the house property.

(c). The holder of an impartial estate shall be deemed to be the owner of all the properties comprised in the estate.

(d). A member of co-operative society to whom a building or part thereof is allotted or leased under a home building scheme or the society shall be deemed to be the owner of that building.

Condition 3: Property is not used for business or profession carried on by the assessee

When a person carries on business or profession in his own house property, annual value thereof **is not taxable** u/s 22 provided income of such business is chargeable to tax.



Incidences thereof

- **Letting out to employees:** If an assessee lets out the property to his employee, where such letting out supports smooth flow of his business, then such letting out shall be deemed to be incidental to business and such rent shall be chargeable under the head “Profits & gains of business or profession”.
- **Letting out to Government Agencies:** Where an assessee let out his property to any Government agency for locating branch of a nationalized bank, police station, post office, excise office, railway staff quarters, etc. for the purpose of running the business of assessee more efficiently, such letting out shall be deemed to be incidental to business and such rent shall be chargeable under the head “Profits & gains of business or profession”.
- **Letting out to ancillary units:** Where an assessee lets out its property to ancillary units, which manufactures components required by the assessee. Income from such letting out shall be taxable under the head “Profits & gains of business or profession”.

- **Disputed ownership**

Merely, due to dispute regarding the title of property, assessment cannot be postponed. In such case, person who is in receipt of income or who enjoys the possession of the property is assessable to tax.

- **Composite rent**

Together with rent of the building, if the owner gets charges for other services or rent of other assets provided in the building (e.g. furniture, machinery, etc.), amount so received is termed as ‘composite rent’.

Composite Rent = Rent for building + Rent for assets / Charges for various services.



3.3. EXEMPTED INCOME FROM HOUSE PROPERTY

Income from the following house properties are exempted from tax:

- **One self occupied property / if two properties** are used for own residential purposes, two residential properties are treated as self occupied properties
- Income from **farm house**.
- Annual value of the place of an **ex-Indian ruler**.
- Income from property held for **charitable purposes**.
- Income from house property by a **registered trade union**.
- Income from house property used for assessee's **own business profession**.
- Income from house property held by a **local authority**.
- Income from property owned by **scientific research association**.
- Property income of a **political party**.
- Property income of an **educational institution existing for educational purposes**.

3.4. COMPUTATION OF INCOME FROM HOUSE PROPERTY

The chapter is divided into the following categories for the purpose of computation:

1. Let out property (LOP) [Sec. 23(1)]
2. Self-occupied property (SOP) [Sec. 23(2)(a)].
3. Deemed to be let out property (DLOP) [Sec. 23(4)].
4. Partly let out and partly self occupied property (PLOP and PSOP) [Sec. 23(3)]
5. Part of the year let out and part of the year self occupied.



3.5. COMPUTATION OF INCOME FROM PROPERTY

Computation at a glance Computation of Income from house property of
for the Assessment Year

Particulars		Amount
Gross Annual Value (GAV)		XXXX
Less: Municipal tax (Charge on Municipal Value of Property)		XXXX
Net Annual Value (NAV)		XXXX
Less: Deductions u/s 24		
(a) Standard Deduction [30% of NAV]	XXXX	
(b) Interest on Borrowed Capital	XXXX	XXXX
Income from House Property		XXXX

3.6. TERMS USED IN CALCULATIONS OF INCOME FROM HOUSE PROPERTY.

(1). Gross Annual Value (GAV) or Annual Value.

Normally, income tax is charged on income, but under the head 'Income from house property', tax is not charged on the rent earned from house property but on the inherent earning capacity of the house property. Such earning capacity is termed as Annual Value. Annual value is determined considering the following factors:



Factors Determining the Annual Value:

(A). Actual Rent Receivable [ARR]

Any sum receivable as rent of the house property for the previous year is an evidence for determining the earning capacity of the building. Such actual rent receivable is to be computed on accrual basis. However, where tenant pays rent, which is influenced by benefits provided by the owner of the property, such rent must be disintegrated to determine actual rent i.e. De-facto rent of the property.

Taxpoint: While computing actual rent receivable, outstanding rent shall be considered but **advance rent** received during the financial year is not to be considered.

(B) Gross Municipal Value or Municipal Rental Value. (MRV)

It means the annual value of the property decided by municipality on which they charge municipal tax. Such valuation may also be taken as evidence of earning capacity of a property.

In metro cities (i.e. Chennai, Delhi, Kolkata, Mumbai), municipal authorities charge tax on Net Municipal Value after giving a deduction for repairs (being **10%** of Gross Municipal value) and an allowance for service taxes (like sewerage tax, water tax etc. as a % of Net Municipal value). Hence, the relation between Gross Municipal Value and Net Municipal Value can be concluded as under - In metro cities $NMV = GMV - 10\% \text{ of } GMV - \text{Sewerage/Water Tax etc. (as a \% of NMV)}$ In non-metro cities $GMV = NMV$

(C). Fair or Notional rent of the property or Fair Rental Value (FRV)

Fair or notional rent of a property means rent fetched by a similar property in the same or similar locality. Though two properties might not be exactly similar still it is an indicator of rent reasonably expected from the property. An inflated or deflated rent



due to emergency, relationship and such other conditions need to be adjusted to determine fair rent.

For instance, a property was let out to a friend for a monthly rent of Rs 2,000 which might be let out to another person at the rate of Rs 2,500 p.m. In such case, fair rent of the property shall be Rs 2,500 p.m.

(D) Standard rent under the Rent Control Act Or Standard Rent (SR)

The maximum amount rent fixed under the Rent Control Act which a person can legally recover from his tenant. A landlord cannot reasonably expect to receive from a tenant any amount more than Standard Rent. Accordingly, it can be concluded that if the property is covered by the Rent Control Act then Reasonable Expected Rent (RER) cannot exceed Standard Rent.

Taxpoint: Reasonable Expected Rent cannot exceed Standard Rent but can be lower than Standard Rent

(2). Expected Rental Value (ERV).

The Expected Rental Value is **computed on the basis of the following three factors**, namely.

(a). Municipal Rental Value

(MRV).(b). Fair Rental

Value (FRV) and, (c).

Standard Rental Value

(SRV)

Municipal value and fair rent **whichever is higher** subject on a maximum of standard rent is called Expected Rental value.

(3). Composite Rent



The amount received by the owner towards rent for house as well as for various amenities provided to the tenant, such as lift, security, electricity; water etc. is called composite rent.

(4). Unrealized Rent (URR).

The rent which could not be realized by the owner from the tenant is called URR. It should be deducted from actual rent received or receivable (ARR) subject to the following conditions.

- The tenancy is bona fide.
- The defaulting tenant has vacated or steps have been taken to compel him to vacate the property.
- The defaulting tenant should not occupy any other property of the assessee.
- The assessing officer is satisfied with all the steps by taken by the assessee with regard to institute legal proceedings for the recovery of the unpaid rent.

(5). Loss Due to Vacancy (LDV).

Vacancy means the period for which no one has occupied the house property. The loss of rent that arises due to this is called loss due to vacancy.

(6). Municipal Tax

The municipal tax includes the following.

1. Any cess / surcharge / rate levied by any local or municipal authorities.
2. Any sanitation cess, sewerage tax, conservancy cess, etc.



3. Any fire tax, educational cess, water tax , etc.

Note:

- Actual amount paid by the owner is allowed (Amount due not allowed)
- Amount paid by **tenant is not allowed.**
- If property is situated in foreign country, municipal taxes levied by foreign local authority is deductible, provided it is paid by the owner.

(7). Standard Deduction.

1. It is allowed at **30% on** the NAV calculated. Amount or percentage given in the problem should not be considered.
2. It is a must to allow standard deduction for **Let out (LOP) and Deemed to be let out (DLOP) house property.**
3. It is not allowed for **self-occupied (SOP) houses.**
4. Allow 30% as deduction while calculating property income irrespective of whether it is given in the problem or not.

3.7. IMPORTANT POINTS OR POINTS TO BE REMEMBERED.

1. Gross Annual Value (GAV) is **nil for self occupied house.**
2. Municipal tax paid by the **owner is allowed.** Paid by the tenant is not allowed.
3. **Municipal tax due is also not allowed.**
4. Standard Deduction should be given for all houses compulsorily (Except for self-occupied houses) at **30% on Net Annual value.** It will not be mentioned in the problem.
5. if only **one property is** used for own residential purposes, it is treated as self occupied property.
6. if **two properties are used for own residential purposes, two residential**



properties are treated as self occupied properties.

7. if more than two properties are used for own residential purposes, **only two houses of the taxpayer choice are treated as self occupied houses** and the **other houses will be treated as ‘deemed to be let out’**

8. **Joint expenses should be separated on municipal valuation.**

9. **Municipal tax**, is to be calculated on percentage basis and it should be calculate on municipal valuation.

10. For self occupied house, only **“Interest on borrowed capital”** is allowed.

11. Self occupied house will always show **“loss of house property Income”**

3.8. LET OUT PROPERTY (LOP) [SEC. 23(1)]

The house which has been let out by the owner to the tenant for residential or commercial purpose is called let out property. For computing annual value of let out property, the property may be classified under the following four heads.

1. Let out without vacancy and Unrealized Rent.
2. Let out with Vacancy only.
3. Let out with URR only.
4. Let out with both URR and Vacancy.

3.9 .Computation of Gross Annual Value

Step 1: Calculate reasonable expected rent (RER) of the property being higher of the following:

- a) Gross Municipal Value.



b) Fair Rent of the property.

Note: RER cannot exceed Standard Rent.

* Reasonable Expected Rent (RER) is also known as Annual Letting Value (ALV).

Step 2: Calculate Actual Rent Received or Receivable (ARR) for the year less current year unrealised rent (UR) subject to certain conditions #.

#Unrealised Rent [Rule 4] : Unrealized Rent of current year shall be deducted in full from Actual Rent Receivable, provided the following conditions are satisfied:

- (i) The tenancy is bona fide;
- (ii) The defaulting tenant has vacated the property or steps have been taken to compel him to vacate the property;

(iii) The defaulting tenant is not in occupation of any other property of the assessee;

(iv) The assessee has taken all reasonable steps to institute legal proceeding for the recovery of the unpaid rent or has satisfied the Assessing Officer that legal proceedings would be worthless.

Step 3: Compare the values calculated in step 1 and step 2 and take the higher one.

Step 4: Where there is vacancy and owing to such vacancy the 'ARR – UR' is less than the RER, then 'ARR - UR' computed in step 2 will be treated as GAV.

Steps	Particular	Amount
1 st	<u>Compute Reasonable Expected Rent [RER] or Annual Letting Value (ALV)</u>	
	Gross Municipal Value (a)	XXX
	Fair Rent (b)	XXX
	Higher of the (a) and (b) [A]	XXX
	Standard Rent [B]	XXX



	Reasonable Expected Rent [Lower of (A and B)] [C]	XXX
2 nd	<u>Calculate Actual Rent Received</u> Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year (UR) [D]	XXX
3 rd	Gross Annual Value	XXX
	Higher of C and D shall be considered as GAV	XXX
4 th	However, where ‘ARR – UR’ is lower due to vacancy, then ‘ARR - UR’ computed in step 2 will be treated as GAV	XXX

1. Computation of Gross Annual Value (GAV) – When Actual Rent Value (ARV) is Not Given.

Illustration – 1

From the following particulars, calculate the Gross Annual Value.

Municipal Rental Value (MRV) Rs.3,00,000. Fair Rental Value (FRV) Rs.2,80,000.

Standard Rental Value (SRV) Rs.3,50,000.

Solution : CALCULATION OF GRASS ANNUAL VALUE

Particulars	Amount
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
(a) - Higher of the following.(MRV and FRV) or Whichever is High (WEH)	
1. Municipal Rental Value - Rs.3,00,000	}
2. Fair Rental Value - Rs. 2,80,000	
	(A) - Rs.3,00,000
(b) – Minimum of the Following amount or Whichever is Less (WEL) –	
((a)	
and SRV)	
1. High value of (A) - Rs. 3,00,000	



2. Standard Rental Value – Rs.3,50,000	(B) – Rs. 3,00,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year (UR) [C]	
(In this question is not given a details of Actual Rent Received and Unrealized Rent Amount)	
	[C] = NIL
<u>Step – 3 - Calculation of Gross Annual Value [D]</u>	
<u>Higher of the following (D)</u> }	
<u>1. Reasonable Expected Rent amount (B) - Rs.3,00,000</u>	
<u>2. Actual Rent Value amount</u>	<u>(C) - Nil</u> <u>Rs.3,00,000</u>
Gross Annual Value Rs.300,000	
Gross Annual Value	
	Rs.3,00,000

Illustration – 2

From the following particulars, calculate the Grass Annual Value.

Particulars	House - A	House - B	House - C
MRV	30,000	4,20,000	1,20,000
FRV	24,000	5,00,000	1,10,000
SRV	35,000	6,00,000	90,000

**.Solution : CALCULATION OF GRASS ANNUAL VALUE**

Particulars	House A	House B	House C
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>			
(A) - Higher of the following.(MRV and FRV) or <u>Whichever is High (WEH)</u>			
1. Municipal Rental Value (MRV)	30,000	4,20,000	1,20,000
2. Fair Rental Value (FRV)	24,000	5,00,000	1,10,000
Highest amount of 1 and 2 or WEH (A)	30,000	5,00,000	1,20,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a) and SRV)			
1. Highest Amount of (A)	30,000	5,00,000	1,20,000
2. Standard Rent Value (SRV)	35,000	6,00,000	90,000
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	30,000	5,00,000	90,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>			
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year (UR) [C]			
(In this question is not given a details of Actual Rent Received and Unrealized Rent Amount)			
[C] = NIL			
<u>Step – 3 - Calculation of Gross Annual Value [D]</u>			
<u>Higher of the following (D)</u>			
1. Reasonable Expected Rent amount (B)	30,000	5,00,000	90,000



2. Actual Rent Value amount (C)	Nil	Nil	Nil
Gross Annual Value	30,000	5,00,000	90,000

2. Computation of Gross Annual Value (GAV) – When Actual Rent Value (ARV) is Given.

Illustration – 3

From the following particulars, calculate the Gross Annual Value.

Particulars	House - A	House - B
MRV	50,000	30,000
FRV	60,000	40,000
SRV	65,000	39,000
ARV	55,000	42,000

Solution : CALCULATION OF GRASS ANNUAL VALUE

Particulars	House A	House B
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>		
(A) - Higher of the following.(MRV Or FRV) or Whichever is High (WEH)		
1. Municipal Rental Value (MRV)	50,000	30,000
2. Fair Rental Value (FRV)	60,000	40,000
Highest amount of 1 and 2 or WEH (A)	60,000	40,000



(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a) or SRV)		
1. Highest Amount of (A)	60,000	40,000
2. Standard Rent Value (SRV)	65,000	39,000
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	60,000	39,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>		
[C] – ARV already given in this question	55,000	42,000
<u>Step – 3 - Calculation of Gross Annual Value [D]</u>		
<u>Higher of the following (D)</u>		
1. Reasonable Expected Rent amount (B)	60,000	39,000
2. Actual Rent Value amount (C)	55,000	42,000
Gross Annual Value	60,000	42,000

2. Computation of Gross Annual Value (GAV) – Let out property with vacancy only

When let out property is given with vacancy period, its gross annual value can be computed as under.

ERV = MRV Or FRV whichever ever is higher subject to standard rent.

ARV = Annual Rental Value LDV = Loss Due to Vacancy.

The following steps to be adopted to arrive at gross the annual value if the house properly is not let out and there is vacancy only.

STEP – 1 = Compute ERV



STEP – 2 = Compare **ERV** with **ARV** to find out **whichever is higher**
STEP – 3 = Deduct Loss Due to Vacancy(LDV) from the Higher Value

i.e. ERV or ARV Which ever is Higher minus LDV

For LDP with V Only:

GAV = ERV / ARV WITHEVER IS Higher - LDV

Illustration – 3

Calculate the Gross Annual Value, from the following particulars, Municipal value Rs. 36,000.

Fair Rental Value

Rs.24,000. Actual

Rental Value Rs.

42,000Vacancy

Period 2 Months.

Solution : CALCULATION OF GRASS ANNUAL VALUE

Particulars	House A
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
(A) - Higher of the following (MRV and FRV) or Whichever is High (WEH)	
1. Municipal Rental Value (MRV)	36,000
2. Fair Rental Value (FRV)	24,000
Highest amount of 1 and 2 or WEH (A)	36,000



(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a)and SRV)	
1. Highest Amount of (A)	36,000
2. Standard Rent Value (SRV)	Nil
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	36,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C] C = Actual Rent Value – Loss due to vacant.(2 month vacant) = 42,000 – (Total Rent Amt = 42,000 / 12 month X 2 month Vacant) = 42,000 – 7000 = Rs.35,000. [C] = 35,000	35,000
<u>Step – 3 - Calculation of Gross Annual Value [D]Higher of the following (D)</u>	
1. Reasonable Expected Rent amount (B)	36,000
2. Actual Rent Value amount (C)	35,000
Gross Annual Value	36,000

Illustration – 4

Calculate the Gross Annual Value, from the following particulars,

Particulars	House - M	House - N
Municipal Value	30,000	48,000
Fair Rental Value	24,000	36,000
Standard Rental Value	Nil	30,000



Actual Rental Value	48,000	39,000
Vacant (In months)	3	2

Solution : CALCULATION OF GRASS ANNUAL VALUE

Particulars	House M	House N
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>		
(A) - Higher of the following.(MRV and FRV) or Whichever is High(WEH)		
1. Municipal Rental Value (MRV)	30,000	48,000
2. Fair Rental Value (FRV)	24,000	36,000
Highest amount of 1 and 2 or WEH (A)	30,000	48,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) –((a) and SRV)		
1. Highest Amount of (A)	30,000	48,000
2. Standard Rent Value (SRV)	Nil	30,000
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	30,000	30,000



<p><u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u></p> <p>[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C]</p> <p><u>House M = Actual Rent Value – Loss due to vacant.(3month vacant)</u></p> <p>= 48,000 – (Total Rent Amt = 48,000 / 12 month X 3 month Vacant)</p> <p>= 42,000 – 12000 = Rs.30,000. [C] = 30,000</p> <p><u>House N = Actual Rent Value – Loss due to vacant.(3month vacant)</u></p> <p>= 39,000 – (Total Rent Amt = 39,000 / 12 month X 2 month Vacant)</p> <p>= 39,000 – 6500 = Rs.32,500. [C] = 32,500</p>	<p>30,000</p>	<p>32,500</p>
<p><u>Step – 3 - Calculation of Gross Annual Value [D] Higher of the following (D)</u></p> <p>1. Reasonable Expected Rent amount (B)</p> <p>2. Actual Rent Value amount (C)</p>	<p>30,000</p> <p>30,000</p>	<p>30,000</p> <p>32,500</p>
<p>Gross Annual Value</p>	<p>30,000</p>	<p>32,500</p>

Illustration – 5

Calculate the Gross Annual Value, from the following particulars,

Particulars	Amount (Rs)
Municipal Value	72,000 p.a



Fair Rental Value	78,,000 p.a
Standard Rental Value	84,000 p.a
Actual Rental Value	90,,000 p.a
Date of new house completion	31.05.2021
Date of Letting or let out	01.08.2021

Solution : CALCULATION OF GRASS ANNUAL VALUE

- Since it is a new house property and its construction was completed only on **31.05.2021**, the per annum value of all factors is to reduced 10 months (Let out period only) from **01.06.2021 to 31.03.2021**.
- Since let out only on **01.08.2021**, vacancy period is **2 months from 01.06.2021 to 31.07.2021**.

Annual value of all factors reduced 10 months. Hence,

Particulars	Amount (Rs)	Amount reduced for 10 months let out period only.
Municipal Value	72,000 / 12 X 10 Months	60,000
Fair Rental Value	78,,000 / 12 X 10 Months	65,000
Standard Rental Value	84,000 / 12 X 10 Months	70,000
Actual Rental Value	90,,000 / 12 X 10 Months	75,000

CALCULATION OF GRASS ANNUAL VALUE

Particulars	Amount
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
(A) - Higher of the following.(MRV and FRV) or Whichever is High (WEH)	
1. Municipal Rental Value (MRV)	60,000
2. Fair Rental Value (FRV)	65,000



Highest amount of 1 and 2 or WEH (A)	65,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a) and SRV)	
1. Highest Amount of (A)	65,000
2. Standard Rent Value (SRV)	70,000
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	65,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C]	
<u>C = Actual Rent Value – Loss due to vacant.(2 months vacant)</u>	
(Let out only on 01.08.2021 (2 months vacant))	60,000
= 75,000 – (Total Actual Rent Amt = 75,000 / 10 month X 2 month Vacant)	
= 75,000 – 15,000 = Rs.60,000. [C] = 60,000	
<u>Step – 3 - Calculation of Gross Annual Value [D]</u>	
<u>Higher of the following (D)</u>	
1. Reasonable Expected Rent amount (B)	65,000
2. Actual Rent Value amount (C)	60,000
Gross Annual Value	65,000

Illustration – 6

Calculate the Gross Annual Value, from the following particulars,

Particulars	Amount (Rs)
Municipal Value	60,000 p.a
Fair Rental Value	66,,000 p.a
Standard Rental Value	63,000 p.a



Actual Rental Value	66,000 p.a
Date of new house completion	30.06.2021
Date of Letting or let out	01.10.2021

Solution : CALCULATION OF GRASS ANNUAL VALUE

- Since it is a new house property and its construction was completed only on **30.06.2021**, the per annum value of all factors is to reduced 09 months (Let out period only) from **01.07.2021 to 31.03.2021**.
- Since let out only on **01.10.2021**, vacancy period is 3 months from **01.07.2021 to 31.09.2021**.

Annual value of all factors reduced 09 months. Hence,

Particulars	Amount (Rs)	Amount reduced for 09 months let out period only
Municipal Value	60,000 / 12 X 09 Months	45,000
Fair Rental Value	66,000 / 12 X 09 Months	49,500
Standard Rental Value	63,000 / 12 X 09 Months	47,250
Actual Rental Value	66,000 / 12 X 09 Months	49,500

Calculation of Gross Annual Value:

Particulars	Amount
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
(A) - Higher of the following.(MRV and FRV) or Whichever is High (WEH)	
1. Municipal Rental Value (MRV)	45,000
2. Fair Rental Value (FRV)	49,500



Highest amount of 1 and 2 or WEH (A)	49,500
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a) and SRV)	
1. Highest Amount of (A)	49,500
2. Standard Rent Value (SRV)	47,250
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	47,250
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C]	
<u>C = Actual Rent Value – Loss due to vacant.(2 months vacant)</u>	33,000
(Let out only on 01.10.2021 (3 months vacant))	
= 49,500 – (Total Actual Rent Amt = 49,500 / 09 month X 3 month Vacant)	
= 49,500 – 16,500 = Rs.33,000. [C] = 33,000	
<u>Step – 3 - Calculation of Gross Annual Value [D]</u>	
<u>Higher of the following (D)</u>	
1. Reasonable Expected Rent amount (B)	47,250
2. Actual Rent Value amount (C)	33,000
Gross Annual Value	47,250

3.9 **LET OUT PROPERTY (LOP) WITH UNREALISED RENT (URR) ONLY**

When let out property is given with unrealized Rent, its Gross Annual Value can computed is given below:



Step 1 – Calculation of Reasonable Expected Rent or Expected Rent Value.

Step 2 – Calculation of Actual Rent Receivable.

Step 3 – Calculation of Gross Annual Value is **Highest of the Following Amount.**

- | | | |
|---------------------------|-----|------------------------------------|
| 1. Expected Rent Value | } — | Which ever is Highest Amount (WEH) |
| 2. Actual Rent Receivable | | |

FOR LOP with URR = GAV = ERV / ARR Whichever is High

Illustration – 7

Calculate the Gross Annual Value, from the following particulars,

Particulars	HOUSE - M	HOUSE - N
Municipal Value	18,000	24,000
Fair Rental Value	21,000	26,400
Standard Rental Value } Actual Rental Value }	24,000	30,000
	36,000	22,800
Unrealized Rent in months	2 months	2 months

SOLUTION: CALCULATION OF GRASS ANNUAL VALUE

Particulars	HOUSE - M	HOUSE - N
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>		
(A) - Higher of the following.(MRV and FRV) or Whichever is High(WEH)		
1. Municipal Rental Value (MRV)	18,000	24,000
2. Fair Rental Value (FRV)	21,000	26,000
Highest amount of 1 and 2 or WEH (A)	21,000	26,000



(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a) and SRV)		
1. Highest Amount of (A)	21,000	26,000
2. Standard Rent Value (SRV)	24000	22,800
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	21,000	22,800
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>		
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C]		
<u>C = Actual Rent Value – Unrealised Rent (2 Months)</u>		
<u>House M = 36,000 – (Total Actual Rent Amt = 36,000 / 12 month X 2 month unrealised)</u>	30,000	
= 36,000 – 6,000 = Rs.30,000. House M [C] = 30,000		
<u>House N = 30,000 – (Total Actual Rent Amt = 30,000 / 12 month X 2 month unrealised)</u>		25,000
= 30,000 – 5,000 = Rs.25,000. House N [C] = 25,000		
<u>Step – 3 - Calculation of Gross Annual Value [D]</u>		
<u>Higher of the following (D)</u>		
1. Reasonable Expected Rent amount (B)	21,000	22,800
2. Actual Rent Value amount (C)	30,000	25,000
Gross Annual Value	30,000	25,000

3.11. LET OUT PROPERTY (LOP) WITH VACANCY AND UNREALISED RENT (URR)

When let out property is given with unrealized Rent, its Gross Annual Value can computed is given below:

Step 1 – Calculation of Reasonable Expected Rent or Expected Rent Value.

Step 2 – Calculation of Actual Rent Receivable.

**a) Calculation of Actual Rent Receivable (ARR)**

$$= \text{Actual Rent Received} - (\text{Unrealised Rent} + \text{Vacant Month Rent})$$

a) Calculation of Unrealised Rent - (ARR (U))

$$= \text{Actual Rent Received} - (\text{Unrealized Rent only})$$

Step 3 – Calculation of Gross Annual Value (GAV is Highest of the Following Amount.

1. If Actual Rent Received (ARR) or Unrealized Rent (ARR (U)) is more than the Expected Rent Value. Actual Rent Received amount is taken as a Gross Annual Value (GAV).
2. Otherwise Gross Annual Value (GAV) = Expected Rent Value – Vacant Period Rent Amount.

Illustration – 8

Calculate the Gross Annual Value, from the following particulars,

Particulars	HOUSE - M	HOUSE - N
Municipal Value	18,000	1,00,000
Fair Rental Value	20,000	1,25,000
Standard Rental Value	4,000	1.12.500
Actual Rental Value	36,000	1,20,000
Unrealized Rent	3,000	1 months
Vacancy (In months)	1	1.5

SOLUTION: CALCULATION OF GRASS ANNUAL VALUE

Particulars	HOUSE	HOUSE
	- M	- N



<u>Step -1 Calculation of Reasonable Expected Rent [RER] or ERV</u>		
(A) - Higher of the following.(MRV and FRV) or Whichever is High(WEH)_____	18,000	1,00,000
1. Municipal Rental Value (MRV)	20,000	1,25,000
2. Fair Rental Value (FRV)		
Highest amount of 1 and 2 or WEH (A)	20,000	1,25,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a) and SRV)		
1. Highest Amount of (A)	20,000	1,25,000
2. Standard Rent Value (SRV)	18,000	2,10,000
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	18,000	1,25,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>		
<u>House M: a) Calculation of Actual Rent Receivable (ARR) =</u>		
Actual Rent Received – (Unrealised Rent + Vacant Month Rent)		
= 36,000 – 3000 + (36,000 / 12 X 1 = 3,000)		
= 36,000 – 6,000 = Rs.30,000		
<u>House M: a) Calculation of Unrealised Rent - (ARR (U))</u>		
= Actual Rent Received – (Unrealized Rent only)		
= 36,000 – 3,000 = Rs.33,000		
<u>House N: a) Calculation of Actual Rent Receivable (ARR)</u>		
= Actual Rent Received – (Unrealised Rent + Vacant Month Rent)		
= 1,20,000 – (1,20,000 / 12 X 1 = 10,000) + (1,20,000 / 12 X 1.5 = 15,000)		
= 1,20,000 – (10,000 + 15,000)		
= 1,20,000 – 25,000 = Rs.95,000		
<u>House N: a) Calculation of Unrealised Rent - (ARR (U))</u>		
= Actual Rent Received – (Unrealized Rent only)		
= 1,20,000 – 10,000 = Rs.1,10,000		



<u>Step – 3 - Calculation of Gross Annual Value [D]</u>		
<p>House M = ARR or ARR (U) = ERV = Rs.30,000 or 33,000 = 18,000</p> <p>Rule : If Actual Rent Received (ARR) or Unrealized Rent (ARR (U)) is more than the Expected Rent Value. Actual Rent Received amount is taken as a Gross Annual Value (GAV). Rs.30,000 (ARR)</p>	30,000	1,25,000
<p>House N = ARR or ARR (U) = ERV = Rs.95,000 or 1,10,000 = 1,25,000</p> <p>Rule : If Actual Rent Received (ARR) or Unrealized Rent (ARR (U)) is less than the Expected Rent Value. In this case Expected Rent Amount is taken as a Gross Annual Value (GAV). Rs.1,25,000</p>		
Gross Annual Value	30,000	1,25,000

3.11. CALCULATION OF INCOME FROM HOUSE PROPERTY

Illustration – 9

Mr. Venugopal owns a house at Chennai. The particulars of the house are given below.:

Particulars	Amount (Rs)
Municipal Value	84,000
Fair Rental Value	96,000
Municipal taxes	12,000
Ground rent	7,500
Repairs	Rs.3,000 p.a

Interest on loan borrowed for construction of house of Rs.15,000. The house was let out for residential purpose for Rs.12,000 p.m. Ascertain taxable income from house property for the P.Y. 2021-2022.

**SOLUTION: CALCULATION OF GRASS ANNUAL VALUE**

Particulars	Amt
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
<u>(A) - Higher of the following.(MRV and FRV) or Whichever is High (WEH)</u>	84,000
1. Municipal Rental Value (MRV)	96,000
2. Fair Rental Value (FRV)	
Highest amount of 1 and 2 or WEH (A)	96,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a)and SRV)	
1. Highest Amount of (A)	96,000
2. Standard Rent Value (SRV)	-
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	96,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C] <u>Actual Rent Received Rs.12,000 x12 months</u>	1,34,000
<u>Step – 3 - Calculation of Gross Annual Value [D]Higher of the following (D)</u>	
1. Reasonable Expected Rent amount (B)	96,000
2. Actual Rent Value amount (C)	1,34,000
Gross Annual Value	1,34,000



COMPUTATION OF INCOME FROM HOUSE PROPERTY

Particulars	Amount
Gross Annual Value (GAV)	1,34,000
Less: Municipal tax (Already given in this question)	12,000
Net Annual Value (NAV)	1,22,000
Less: Deductions u/s 24	
(a) Standard Deduction [30% of NAV](122,000X 30 /100)	36,600
(b) Interest on Borrowed Capital	15,000
Income from House Property	70,400

Note : Repair expense not consider to calculation of Income from house property in let ourpurpose.

Illustration – 10

Mr. Rajasekar owns a house at Madurai. The particulars of the Calculate the GrossAnnual Value, from the following particulars,

Particulars	Amount (Rs)
Municipal Valuation	96,000
Fair Rental	84,000
Municipal taxes	10,000
Fire Insurance Premium	2,200 p.a
Interest on loan borrowed for construction of the house.	Rs.3,000 p.a

The house was let out for residential purpose for Rs.10,000 p.m. Ascertain taxableincome from house property for the P.Y. 2021-2022.

**Calculation of Gross Annual Value**

Particulars	Amt
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
(A) - Higher of the following.(MRV and FRV) or Whichever is High (WEH)	96,000
1. Municipal Rental Value (MRV)	84,000
2. Fair Rental Value (FRV)	
Highest amount of 1 and 2 or WEH (A)	96,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a)and SRV)	
1. Highest Amount of (A)	96,000
2. Standard Rent Value (SRV)	-
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	96,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] - Actual Rent Received or Receivable (ARR) – Unrealised Rent of the current year or Loss due to vacant (UR) [C] <u>Actual Rent Received Rs.10,000 x12 months</u>	120,000
<u>Step – 3 - Calculation of Gross Annual Value [D]Higher of the following (D)</u>	
1. Reasonable Expected Rent amount (B)	96,000
2. Actual Rent Value amount (C)	1,20,000
Gross Annual Value	1,20,000

1. COMPUTATION OF INCOME FROM HOUSE PROPERTY

Particulars	Amount
Gross Annual Value (GAV)	1,20,000



Less: Municipal tax (Already given in this question)		10,000
Net Annual Value (NAV)		1,10,000
Less: Deductions u/s 24		
(a) Standard Deduction [30% of NAV](110,000X 30 /100)	33,000	
(b) Interest on Borrowed Capital	13,000	46,000
Income from House Property		64,000

Illustration – 11

Mr. Saravanan owns a house property in Tirunelveli which is let out for Rs.120,000 p.a, Municipal valuation is Rs.1,00,000 and municipal tax is 10% of municipal value. Only 80% of the municipal tax was paid during the previous year. He bears the following expenses on amenities.

Particulars of amenities	Amount (Rs)
Lift expenses	4,000
Water charges	5,000
Gardeners salary	3,000
Lights of Stairs	3,000

He claims the following deduction:

Collection Charges.Rs.9,000. Annual
Charge Rs.5,000.Interest on loan taken for
construction of a house Rs.12,000.

Compute the taxable income from house property for the P.Y.2021 -2022.

Calculation of Gross Annual Value

Particulars	Amt
<u>Step -1 Calculation of Reasonable Expected Rent [RER]</u>	
(A) - Higher of the following.(MRV and FRV) or Whichever is High (WEH)	1,00,000
1. Municipal Rental Value (MRV)	-
2. Fair Rental Value (FRV)	
Highest amount of 1 and 2 or WEH (A)	1,00,000
(B) – Minimum of the Following amount or Whichever is Less (WEL) – ((a)and SRV)	
1. Highest Amount of (A)	1,00,000
2. Standard Rent Value (SRV)	-
Reasonable Expected Rent [RER] - Minimum amount of Above or WEL (B)	1,00,000
<u>Step – 2 - Calculate Actual Rent Received or Actual Rent Value (C)</u>	
[C] = Actual Rent Received or Receivable (ARR) – Total Amounts of Amenties [C] = 1,20000 –15,000 = Rs.105,000.	105,000
<u>Step – 3 - Calculation of Gross Annual Value [D]Higher of the following (D)</u>	
1. Reasonable Expected Rent amount (B)	1,00,000
2. Actual Rent Value amount (C)	1,05,000
Gross Annual Value	1,05,000



Calculation of Total Amount Amentias

Particulars	Total amount of Amentias
Lift expenses	4,000
Water charges	5,000
Gardeners salary	3,000
Lights of Stairs	3,000
Total amount	15,000

1. COMPUTATION OF INCOME FROM HOUSE PROPERTY

Particulars	Amount
Gross Annual Value (GAV)	1,05,000
Less: Municipal tax (Municipal Value = 1,00,000 X 10/100 X 80/100)	8,000
Net Annual Value (NAV)	97,000
Less: Deductions u/s 24	
(a) Standard Deduction [30% of NAV](97,000X 30 /100)	29,100
(b) Interest on Borrowed Capital	12,000
Income from House Property	55,900



Unit – IV

INTRODUCTION

Sec.28 to 44 of the Income Tax Act, 1961 deals with the provision regarding the computation of profits and gains of a business or a profession. This is the third of head of income. It provides adequate tax revenue to the Government. Therefore, it is considered to be the most important head among the five heads of income.

IMPORTANT TERMS

(1). BUSINESS

According to Sec.2 (13) the term business refers to any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce and manufacture. Any single activity or series of activities in the nature of trade or manufacture is considered as business. Similarly neither repetition nor continuity of transaction necessary. The main motive of any business is to earn profit.

(2). PROFESSION

Profession is an occupation, which requires specialized or intellectual skill in a particular field of activity. Those activities that earn livelihood is earned through their intellectual skill is called as “Profession”. For example, the services rendered by a chartered accountant, lawyer, doctor and engineer and son on are in the nature of profession. They are using their intellectual skill for their earnings.

(3). VACATION

Vocation implies natural ability of a person to do some particular work e.g. singing, dancing, tax practitioners, investment consultants and financial consultants. The term “vocation” is different from the term “hobby”. Vocation must have the earning feature. It can be treated as an earning means by which a man passes his life. Unlike profession, vocation does not require a degree or special learning.



(4). SPECULATION BUSINESS

Speculation business refers to earning money through speculative transactions. It takes place without taking actual delivery. Majority of the traders in stock markets are doing this speculative business. They enter into contract with others for purchase or sale of stocks or shares other than actual delivery. Income arising from speculation business is calculated as business income for tax purpose.

Speculation Transaction = Any transaction without actual delivery.

(5). ILLEGAL BUSINESS.

Any business which is not permitted by the law of the land is called as an illegal business. Income tax act does not make any difference between legal and illegal business for tax purpose. Illegal business profit is calculated by deducting expenses relating to illegal business. Income earned from such illegal business will be taxed under income tax act, 1961. However, illegal business expenses cannot be adjusted against legal business income.

Illegal business profit = Illegal business income – Illegal business expenses.

(6). BASIS OF CHARGE OF INCOME FROM BUSINESS AND PROFESSION

The following incomes are chargeable to tax under the head “Profits and gains of business or Profession”

1. Profits and gains of any business or profession carried out by the assessee during the previous year.
2. Any compensation or other payments due to or received by a person doing business or profession.
3. Any interest, salary, bonus, commission or remuneration due or received by a partner of a firm.
4. Income of a trade or professional association from specific service rendered to its members.



5. Money received for not to share any patents, copyrights, trademarks and know how etc.

(7). PRINCIPLES FOR CHARGING UNDER BUSINESS OR PROFESSION.

Preparation of Income from business and profession, only taken into relevant business expenses and incomes not consider to not relevant expenses in business and not relevant incomes in business and profession.

- Tax chargeable to the person who **carries on the business**. It is immaterial whether the assessee carries on the business through a manager or an agent or a servant.
- Tax is charged on the **Total Income of all Business**.
- The assessee can carry on the business at any time during the previous year.
- Tax will be calculated on the actual profit earned during the current previous year and **not on the notional or anticipated profit**.
- Income from **illegal business** is also taxed.
- Business loss which are considered to be incidental to the business and not of capital nature are deductible during the current previous year.
- Any amount allowed as deduction in the **earlier years**, if recovered during the current previous year, and then it is taxed during the current previous year.
- Any amount received by a **sportsman in his professional capacity is taxable as professional income**. If it is received in any other capacity then it is treated as gift and not taxed as professional income.

(8). TREATMENT OF 'UNDER AND OVER' VALUATION OF STOCKS

Generally opening stock is debited in the Profit and Loss account considering that it is expense. When it is overvalued in the books, it leads to suppress the profit. To find the actual profit, the amount of overvaluation should be added back to the profit. When it is



undervalued in the books, it leads to increase the profit. To find the actual profit, the amount of undervaluation should be reduced from the profit.

Generally closing stock is credited in the Profit and loss account considering that it is income. When it is overvalued in the books, it leads to increase the profit. To find the actual profit, the amount of overvaluation should be reduced from the profit. When it is undervalued in the books, it leads to suppress the profit. To find the actual profit, the amount of undervaluation should be added back to the profit.

Treatment of under valuation and over valuation of stock.

1. **Over Valuation of Opening Stock and Under Valuation of Closing Stock – ADD** to the Given on Net Profit.
2. **Under Valuation of Opening Stock and Over Valuation of Closing Stock – LESS** From the Given on Net Profit.

FORMAT OR PROFORMA FOR COMPUTING INCOME FROM BUSINESS

Particulars		Amount
Net profit as per Profit and loss account (Debit Side)		xxxxx
Add : Not relevant to Business Expenses but Debited to Profit and Loss Account and Not Allowed Income Credited to Profit and Loss Account.		
1. NOT RELEVANT Expenses to business or Not Allowed Expenses but Debited to Profit and Loss Account.	xxx	
2. Not relevant to Business Income Credited to Profit and Loss Account. Or Not Allowed Income credited to Profit and Loss Account	xxx	
3. Over Valuation of Opening Stock	xxx	
4. Under Valuation of Closing Stock.	xxx	xxxx



Less : Relevant to Business Expenses but not Debited to Profit and Loss Account and Relevant to Business Income but not Credited to Profit and Loss Account.		
1. RELEVANT Expenses to business or Allowable Expenses but not Debited to Profit and Loss Account.	xxx	
2. RELEVANT to Business Income or Allowable business income but not credited to Profit and Loss Account	xxx	
3. Under Valuation of Opening Stock	xxx	
4. Over Valuation of Closing Stock.	xxx	xxxx
Business Income or Income from Business		xxxxx

ALLOWABLE EXPENSES

The following list of expenses allowed while computing Income from business or Profession.

(1). EXPENSES ON SCIENTIFIC RESEARCH (SEC . 35)

1. Revenue Expenditure. (Sec . 35 (1)(i))

In any revenue expenditure on scientific research incurred by the assessee to his own business during the previous year shall be allowed in full.

2. Capital Expenditure. (Sec . 35 (1)(iv))

In any capital expenditure on scientific research incurred by the assessee to his own business during the previous year shall be allowed in full except expenses **on land**.

3. Sums paid for Scientific Research to a Company.

Any amount paid to a company for scientific research shall be allowed at 100% provided that company is registered in India and its object is scientific research and development.

4. Sums paid for Social Science or Statistical Research.



Any amount paid to an approved research association or to a University or other institution for social science research or statistical research is allowed at 100% whether it is related or not related to assessee business.

5. Contribution made to outsiders.

Any amount paid to outsiders for scientific research purpose, it is allowed as deduction at 150% of that contribution whether it is related or unrelated to assessee's business.

6. Sums paid to a National Laboratory or Recognized University or Approved Institutions.

Any amount paid to any national laboratory or recognized University or approved institutions for carrying out scientific research programme is eligible for deduction at **150%** of that contribution.

7. Expenditure on In-house Research.

Any amount incurred by a company on in house research and deduction is allowed at 150% of that expenditure except land.

8. Expenditure on Patent or Copyright.

Any expenditure incurred for patent or copyright is eligible for depreciation allowance at **25%** of that expenditure.

9. Expenditure on Know-how.

Any expense incurred by an assessee to acquire know how is eligible for 25% of that expense as depreciation allowance.

10. Preliminary Expenses.

Any expenses incurred as preliminary expenses in the nature of capital by an Indian company or non corporate assessee can claim one-fifth of the preliminary expenses for **five years** from the year of commencement of business. The following are some of the preliminary expenses:

- Preparation of feasibility report.
- Preparation of project report.
- Expenses incurred to conduct market survey.



-
- Legal charges for drafting articles or Memorandum of association.
 - Fees paid for registering a company.
 - Expenses on issue of shares or debentures like underwriting commission, brokerage, etc.

(2). OTHER DEDUCTIONS ALLOWED (Sec.36).

The following are the various deductions allowed u/s 36 relating to income from business or profession.

1. Insurance Premium on Stocks.

Any sum paid as insurance premium against risk of damage or destruction of stock and stores used for the purpose of business or profession is allowable as deduction in full.

2. Insurance premium on Health of Employees.

Any amount paid by the assessee for insurance on the health of employees is fully eligible for deduction.

3. Bonus or Commission.

Any bonus or commission paid to employees is allowed as deduction. Such amount must have been paid before the date of filling the return.

4. Interest on borrowed capital.

Any amount of interest paid in respect of capital borrowed for the purposes of business or profession is eligible as deduction. However interest on capital in case of partnership is not deductible. Similarly in case of interest is paid outside India without tax deducted at source is not deductible.

5. Contribution to Recognized Provident fund and approved superannuation fund.

Any amount paid by the employer towards recognized provident fund or an approved superannuation fund is allowed as deduction in full.



6. Contribution to gratuity fund.

Any sum paid to employers contribution towards an approved gratuity fund exclusively for the benefit of employee is allowed as deduction.

7. Bad debts.

When the amount of any debt or part thereof becomes bad i.e, not recoverable is allowed as deduction on satisfaction of the following conditions.

- It must be incidental.
- It must be related to running business.
- It must be written off.
- It must be of revenue nature.

8. Expenditure on promotion of Family Planning.

Any amount spent for the promotion of family planning of employees is allowed as deduction as under.

- Revenue Nature: It is fully allowed.
- Capital Nature : It is allowed in five equal installments commencing from the year in which is incurred.

9. Securities Transaction.

Any amount of securities tax paid by the assessee during the previous year is allowed as deduction provided income arising from such transaction is included in the income from business or profession.

10. Commodities Transaction tax.

Any amount of commodities transaction tax paid during the previous year is allowed as deduction provided income arising from such transaction is included in the income from business or profession.

(3). GENERAL DEDUCTIONS ALLOWED.



The following are some of such expenses which are allowed under this section:

- Amount paid to rivals for not to compete with business.
- Audit fees.
- Cash shortage.
- Compensation paid to terminated employee
- Customs duty.
- Excise duty.
- Foreign tour expenses of Director.
- Fines of delayed performance of contract.
- Gift to employees.
- Income tax appeal expenses
- Interest paid to outside India after deducting TDS.
- Legal expenses for company's assets.
- Professional tax by local authority.
- Salary paid to outside India after deducting TDS.
- Sales tax etc.
- Sales tax appeal expenses.
- Tax paid under any law paid on or before filling the return.
- Value Added Tax.
- Workmen compensation paid.
- Festival allowance to employees.
- Interest paid to sales tax department on arrears of sales tax.
- Subscriptions to trade associations.
- Expenditure on advertisement in souvenirs published by trade organizations.

(4). DISALLOWED EXPENSES.

The following expenses are not allowed under this section:

1. Fees paid to increase the Authorized Capital.
2. Interest or penalty paid under Income tax act.



3. Fines paid for traffic offences.
4. Litigation expenditure for registration of shares.
5. Payment for acquisition of goodwill.
6. Expenditure incurred in shifting the registered office.
7. Donation to Political Parties / Gift and Charity / Gift Tax / Wealth Tax / charity.
8. Expenditure incurred to buy off competition.
9. Expenses of personal nature like drawings, salary to proprietors, interest on capital to owners, medical expenses, LIC Premium.
10. Expenses relating to other heads of Income.
11. Expenditure incurred in violation of another statute.
12. Guest house expenses / House hold expenses.
13. Litigation expenses for registration of shares.
14. Past losses charged to Profit and loss account debit side.
15. Provision or reserve made in anticipation of expenses or losses / provision for bad and doubtful debts / Provision for Depreciation.
16. Payment to outside India without deducting TDS.
17. Penalty for custom authorities.
18. Payment made to relatives.
19. Payment exceeding Rs.10,000 (cash) otherwise than account payee cheque, draft or any electronic mode for expenses other than plying, hiring or leasing goods.
20. Payment exceeding Rs.35,000 other than account payee cheque, draft or electronic mode for expenses of plying, hiring or leasing goods.
21. Provision of gratuity / payment to unapproved fund.
22. Personal expenses / any provision or reserve.
23. Under Valuation of Opening Stock and Closing Stock.
24. Over Valuation of Opening Stock and Closing Stock.

(5). ALLOWABLE INCOME

1. Sales income.



2. Scrip or Damaged product sold.
3. Real Business Income allowed.
4. Sale of old machine / Income from illegal business.
5. Sundry Receipts.

(6). DISALLOWABLE INCOME

1. Dividend from investment.
2. Income from investment / Income from dividend.
3. Profit on sale of investment.
4. Bad debts Recovered (Disallowed earlier years).
5. Income from capital gain.
6. Commission Received.
7. Rent received / Gift from father.
8. Interest on Debentures / Interest on Government Securities / Interest on capital.

1. CALCULATION OF INCOME FROM BUSINESS WITH OUT ADJUSTMENTS.

Illustration : 1

From the following Profit and loss account of Mr.Arul, Compute his taxable income from business for the P.Y. 2021 -2022.

Particulars	Amount	Particulars	Amount
To Salary to Staff	48,000	By Gross Profit	75,000
To Donation	6,000	By Income from House Property	15,000
To Electricity Charges	5,000	By Dividend from Investments	5,000
To Provision for Bad debts	3,000		
To Net Profit	33,000		
Total	95,000	Total	95,000

Solution:

Income from Business Mr.Arul for the P.Y. 2021 -2022

Particulars	Amount
--------------------	---------------



Net profit as per Profit and loss account (Debit Side)		33,000
Add : Not relevant to Business Expenses but Debited to Profit and Loss Account and Not Allowed Income Credited to Profit and Loss Account.		
1. Donation	6,000	9,000
2. Provision for bad debts	3,000	
		42,000
Less : Relevant to Business Expenses but not Debited to Profit and Loss Account and Relevant to Business Income but not Credited to Profit and Loss Account.		
1. Income from House Property.	15,000	20,000
2. Income from dividend	5,000	
Business Income or Income from Business		22,000

Working Notes : 1. Donation and Provision for bad debts are not allowable expenses. Hence, they are added to the net profit. 2. Income from house property and dividend from investment are not related to business. Hence, they are deducted from the net profit.

Illustration : 2

From the following Profit and loss account of Mr. Aravind, Compute his taxable income from business for the P.Y. 2021 -2022.

Particulars	Amount	Particulars	Amount
To Opening Stock (Overvalued by 20 %)	48,000	By Gross Profit	1,90,000
To Purchases	6,000	By Income from Capital Gain	20,000
To Preliminary Expenses	5,000	By Dividend from Investments	5,000



To Bad Debts	3,000	By Bad debts Recovered. (Disallowed earlier years)	8,000
To Provision for Bad and doubtful Debts	33,000	By Closing Stock (Undervalued by 20%)	50,000
To Income Tax	3,000	By Profit on sale of investments	7,300
To Wealth Tax	4,000		
To Sales Tax	5,000		
To Donations	6,000		
To Excise Duty	1,000		
To Wages	20,000		
To Salary	25,000		
To Advertisement Exp	15,000		
To Gift	3,000		
To Factory Expenses	23,000		
To Office Expenses	24,000		
To Printing Expenses	2,000		
To Telephone Expense	3,000		
To Value added tax	1,300		
To Net Profit	50,000		
Total	2,80,300	Total	2,80,300

Solution:**Income from Business Mr.Aravind for the P.Y. 2021 -2022**

Particulars	Amount
Net profit as per Profit and loss account (Debit Side)	50,000
Add : Not relevant to Business Expenses but Debited to Profit and Loss Account and Not Allowed Income Credited to Profit and Loss Account.	



1. Preliminary Expenses (Deductable to Five Installments) (10,000 x 1/5)	10,000	
2. Provision for bad and doubtful debts	2,000	
3. Income tax	3,000	
4. Wealth Tax	4,000	
5. Donation	6,000	
6. Opening Tax (Actual)	5,000	
7. Gift	3,000	
8. Value added tax	1,300	
9. Under valuation of Closing stock (50,000 x 20 / 80) (100% - undervalued 20% = 100 - 20 = 80)	12,500	46,800
		96,800
Less : Relevant to Business Expenses but not Debited to Profit and Loss Account and Relevant to Business Income but not Credited to Profit and Loss Account.		
1. Income from Capital Gain	20,000	
2. Bad debts recovered	5,000	
3. Preliminary Expenses (Deductable to Five Installments) (10,000 x 1/5)	2,000	
4. Profit on sale of investments	7,300	
		34,300
Business Income or Income from Business		62,500

Working Notes :

1. Preliminary expenses are deductible in 5 equal installments u/s 35. Hence actual preliminary expenses debited is added to the Net Profit and 1/5 portion of preliminary expenses is deducted from Net Profit



2. An anticipated loss or any provisions is not allowed.
3. Income tax, wealth tax, valued added tax and donations, gift is not allowed.
4. Over valuation of opening stock will decrease the profit. To rectify, it is added to the Net profit. ($30,000 \times 20 / 120$)
5. Over valuation of closing stock will increase the profit . To rectify, it is deducted from the profit ($40,000 \times 25 / 125$)
6. Income from capital gain, profit on sale of investments is not related to Business income.
7. Bad debts already disallowed means, the tax on it already paid. Hence, it need not be taken for computing income from business.

PROFIT AND LOSS ACCOUNT WITH ADJUSTMENTS.

Illustration : 3

From the following Profit and loss account of Mr. Anish Compute his taxable income from business for the P.Y. 2021 -2022.

Particulars	Amount	Particulars	Amount
To Rent	6,000	By Gross Profit	1,20,000
To Salary	12,000	By Dividend	15,000
To Advance Income Tax	3,000	By Income from House Property	15,000
To Donation	5,000	By Business Income	1,50,000
To Depreciation	10,000	By Sundry Receipts	17,500
To Bad debts reserve	15,000	By Rent of Buildings	20,000
To Advertisement exp (Cash)	30,000	By Commission	10,000



To Depreciation on Car	8,000	By Gift from Father	5,000
To Patents (acquired on 31.12.2019)	44,000	By Interest on Post office Saving Certificate	7,000
Charity	15,000		
To Insurance Premium	5,000		
To Bonus to the Properters	8,000		
To Drawings	5,000		
To Legal Expenses	15,000		
To Depreciation on Machine	7,000		
To Interest on Capital	3,000		
To Netprofit	1,17,000		
Total	2,80,300	Total	2,80,300

Additional Information:

1. Depreciation to allowed as per Income tax rules is Rs.5,000.
2. 50% of rent is in connection with the domestic purpose.
3. Car is used 25% for personal purposes.
4. Salary to staff includes Rs.25,000 given to his son for taking part in the business, which is unreasonable to extent of Rs.5,000
5. Half of the Fire insurance is on let out building.
6. Legal expenses include penalty paid for violation of import rules Rs.5,000.
7. Allowable Depreciation amount Rs.10,000.

Solution:**Income from Business Mr.Aravind for the P.Y. 2021 -2022**



Particulars		Amount
Net profit as per Profit and loss account (Debit Side)		1,17,000
Add : Not relevant to Business Expenses but Debited to Profit and Loss Account and Not Allowed Income Credited to Profit and Loss Account.		
1. Rent (50 % personal Use) (6,000 x 50 / 100 = 3000)	3,000	
2. Advance Income Tax	3,000	
3. Donation	5,000	
4. Excess Depreciation (P& L a/c Rs7000 – Allowable Rs.5000)	2,000	
5. Salary to his son	5,000	
6. Bad debts Reserve	15,000	
7. Advertisement (cash)	30,000	
8. Depreciation on car (25 % use a personal purpose) (8,000 x 25/100 = 2,000)	2,000	
9. Charity	15,000	
10. Patents (44,000 x 75/100 = 33,000)	33,000	
11. penalty for violation for import rules	5,000	
12. Fire Insurance Premium (5,000 x 50 /100 Personal)	2,500	
13. Bonus to propertor	8,000	
14. Drawings	5,000	
15. Interest on Capital	3,000	138,500
		2,50,500
Less : Relevant to Business Expenses but not Debited to Profit and Loss Account and Relevant to Business Income but not Credited to Profit and Loss Account.		
1. Dividend	15,000	
2. Income from House Property.	15,000	
3. Depreciation short on machinery (10,000 -7000 = 3,000)	3,000	



4. Rent of Building	20,000	
5. Gift from father	5,000	
6. Interest on Post office Saving Certificate	7,000	65,000
Business Income or Income from Business		1,84,500

Workings Note :

1. 50% of the rent related personal use. Hence, it is disallowed.
2. Advance Income tax and Donation is not allowed.
3. Excess depreciation charges in the Profit and loss account should be disallowed.
4. Income from dividend, donation and charity is not allowed.
5. Any expenses exceeding Rs.10,000 paid in cash is not allowed. Hence, it is added.
6. Depreciation on Patent is allowed up to 25%. Hence the remaining 75% is added.
7. Any penalty paid is not an allowable expense. Hence, it is added.
8. 50% if the fire insurance is for let out building. Hence, it is added.
9. Bonus to the proprietor, Interest on Capital and drawings are of personal nature. Hence, it is added.
10. Rent of Building, Gift from father, Interest on post office saving certificate is not related to the business income. Hence, it is deducted.
11. Depreciation charged in Profit and loss account is short of Rs.3,000 (Allowed Rs.10,000 but P&L Account debited Rs,7,000)

4.4 PROFORMA - CALCULATION OF INCOME FROM MEDICAL PROFESSION**Calculation of Income From Medical Profession only taken in to Medical Profession related Incomes and Expenses for previous Year**

Particulars	Amount
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I. Professional Receipts / Incomes		
1. Consultation fee	XXXX	
2. Visiting Fee	XXXX	
3. Sale of Medicine / Sale of medicine through medicals	XXXX	
4. Gifts and Presents / Gifts from patients	XXXX	
5. Operation Fees	XXXX	
6. Nursing Home Receipts	XXXX	
7. Surgery / Operation Theatre Fees etc	XXXX	XXXX
II. <u>Less</u>: Professional Payments / Expenses		
1. Dispensary Expenses	XXXX	
2. Cost of Medicine (Opening Stock + Purchases – Closing Stock)	XXXX	
3. Depreciation of Surgical Equipments @ 15%	XXXX	
4. Depreciation on X- ray / Scanning Machine @ 15%	XXXX	
5. Cost of Professional Books @ 40%	XXXX	
6. Motor Car Expenses	XXXX	
7. Depreciation on Motor car	XXXX	XXXX
Professional Income		XXXX

Illustration : 4

From the following Receipts and Payments on account of Dr.Arunachalam, compute his professional income for the P.Y.2021 -2022.

Receipts	Amount	Payments	Amount
To Balance b/d	6,000	By Salary to staff	1.80.000
To Consultation Fees	7,50,000	By Rent of Clinic	60,000
To Visiting Fees	60,000	By Purchase of Medicine	70,000



To Sale of Medicine	94,500	By Surgical Equipment	2,30,000
To Interest on deposits	55,500	By Purchase of Car	4,00,000
To Dividend on Investments	34,000	By Establishment Expenses	30,000
To Gift from Patients	50,000	By Electricity Charges	60,000
To Gift from Relatives	60,000	By Investment in Residential Property	32,00,000
To Dividend on shares	5,000	By Purchase of Books	10000
		By Motor car expenses	15,000
		By Purchase of Journal	15,000
		By Life insurance Premium	25,000
		By balance Cd	25000
Total	40,00,000	Total	40,00,000

Solution :

Calculation of Income from Profession Dr.A.Arunachalam P.Y. 2021-2022

Particulars		Amount
I. Professional Receipts / Incomes		
1.Consultation Fees	7,50,000	
2. Visiting Fees	60,000	
3. Sale of Medicine	94,500	
4. Gift from Patients	50,000	9,54,500
II. <u>Less</u> : Professional Payments / Expenses		
1. Salary to staff	1.80.000	
2. Rent of Clinic	60,000	
3. Purchase of Medicine	70,000	
4. Depreciation on surgical equipment = $2,30,000 \times 15 / 100$	34,500	



5. Purchase of Car = $4,00,000 \times 15 / 100 = 60,000$	60,000	
6. Establishment Expenses	30,000	
7. Electricity charges	60,000	
8. Purchase of Books ($10,000 \times 40 / 100 = 4,000$)	4,000	
9. Motor car expenses	15,000	
10. Purchase of Journal	15,000	5,28,500
Professional Income		4,26,000

Working Notes.

1. Purchase of surgical equipment and purchase of car is capital nature of expenses is not allowed. But depreciation is allowed to expenses @ 15% of Depreciation on Capital nature of expenses.

2. Depreciation on Book is allowed at 40%

PROFORMA – CALCULATION OF INCOME FROM AUDITING PROFESSION

Calculation of Income From Auditing Profession only taken in to Auditing Profession related Incomes and Expenses for previous Year

Particulars	Amount	
I. Professional Receipts / Incomes		
1. Auditing fee	XXXX	
2. Accountancy work fee	XXXX	
3. Financial Consultancy Fee	XXXX	
4. Gifts and Presents / Gifts from Clients	XXXX	
5. Investment Consultancy Fee	XXXX	XXXX



II. Less : Professional Payments / Expenses		
1. Office Expenses	XXXX	
2. Office Rent / Electricity Bill	XXXX	
3. Salaries to Office Staff	XXXX	
4. Stipends given to trainee / Apprentice	XXXX	
5. Institute Fee	XXXX	
6. Subscription for Journal and Books	XXXX	
7. Printing and Stationary Exp / Travelling Expenses	XXXX	XXXX
Professional Income		XXXX

**Illustration : 5**

From the following Receipts and Payments on account of Mr. Sundararajan, a chartered accountant, you are required to compute his professional income for the P.Y.2021 - 2022.

Receipts	Amount	Payments	Amount
To Balance b/d	12,000	By Office Expenses	75,000
To Auditing Fees	4,80,000	By Membership fees	25,000
To Income from other auditing work	70,000	By LIC Premium	10,000
To Examiners fees	8,000	By Income Tax	40,000
To Consultation Fees	30,000	By Personal Expenses	50,000
To Appellate Tribunal Appearance	15,000	By Motor Car	3,00,000
To Gift from Clients	10,000	By Motor car expenses	38,000
To Gift from Relatives	12,000	By Printing and Stationary	37,000
To Presents from clients	5,000	By Subscription to CA Institute	5,000
To Rent from House Property	35,000	By Staff Salary	48,000
		By Purchase of Books	6,000
		By Computer with software	60,000
		By balance Cd	88,000
Total	6,00,000	Total	6,00,000



Solution :

Calculation of Income from Profession CA.Sundararajan P.Y. 2021-2022

Particulars		Amount
I. Professional Receipts / Incomes		
1. Audit Fees	4,80,000	
2. Income from other audit works	70,000	
3. Examiners fees	8,000	
4. Consultation Fees	30,000	
5..Appellate Tribunal Appearance	15,000	
6. Gift from Clients	10,000	
7. Presents from clients	5,000	6,18,000
II. <u>Less</u> : Professional Payments / Expenses		
1. Office Expenses	75,000	
2. Membership fees	25,000	
3. Motor Car (3,00,000 x 15)	45,000	
4. Motor car expenses	38,000	



5. Printing and Stationary	37,000	
6. Subscription to CA Institute	5,000	
7. Staff Salary	48,000	
8. Purchase of Books (6,000 x 40 /100)	2,400	
9. Computer with software. (60,000 x 40 /100)	24,000	
		2,80,400
Professional Income		3,37,600

Working Notes.

1. Purchase of Motor car and Computer with software is a capital expenditure. It is not allowable expenses. However, depreciation @15% on Rs.3,00000 and Rs.60,000.

2. Depreciation on books is 40%. Hence, it $6000 \times 40 / 100 = \text{Rs.}2,400$.

4.6. PROFORMA - CALCULATION OF INCOME FROM LEGALP**Calculation of Income from Auditing Profession only taken in to Auditing Profession related Incomes and Expenses for previous Year**

Particulars		Amount
I. Professional Receipts / Incomes		
1. Legal fee	xxxx	
2. Special Commission Fee	xxxx	



3. Gifts and Presents / Gifts from Clients	xxxx	
4. Legal Opinion fee	xxxx	
5. Legal Advice Fee	xxxx	XXXX
II. Less : Professional Payments / Expenses		
1. Rent of Chamber / Office Expenses	xxxx	
2. Office Rent / Electricity Bill	xxxx	
3. Salaries to Office Staff	xxxx	
4. Purchase of Stamp paper / court fee stamp	xxxx	
5. Telephone Charges	xxxx	
6. Travelling Expenses	xxxx	
7. Depreciation on Type writer	xxxx	XXXX
Professional Income		XXXX

Illustration : 6

From the following Receipts and Payments on account of Mr. Sundar, a Lawyer. you are required to compute his professional income for the P.Y.2021 - 2022.

Receipts	Amount	Payments	Amount
To Balance b/d	5,000	By Office Expenses	6,000
To Legal Fees	4,00,000	By Membership fees	5,000
To Income from other legal consultancy work	70,000	By LIC Premium	10,000
To Gift from Clients	10,000	By Wealth Tax	40,000



To Consultation Fees	30,000	By Personal Expenses	10,000
To Special commission fee	15,000	By Motor Car	2,00,000
To Gift from Clients	10,000	By Motor car expenses	4,000
To Gift from Relatives	12,000	By Rent of Chamber	6,000
To Presents from clients	5,000	By Books	4,000
To Rent from House Property	35,000	By Staff Salary	48,000
To Interest on Bank Deposit	5,000	By Purchase of Law Books	6,000
		By Computer with software	60,000
		By Gift to Daughters	7,000
		By loss on sale of shares	10,000
		By balance C/D	1,81,000
Total	5,97,000	Total	5,97,000

Solution :

**Calculation of Income from Profession Mr.Sundar P.Y.
2021-2022**

Particulars	Amount
I. Professional Receipts / Incomes	



1. Legal Fees	4,00,000	
2. Income from other legal consultancy work	70,000	
3. Gift from Clients	10,000	
4. Consultation Fees	30,000	
5. Special commission fee	15,000	
6. Gift from Clients	10,000	
7. Presents from clients	5,000	5,40,000
II. <u>Less</u> : Professional Payments / Expenses		
1. Office Expenses	6,000	
2. Membership fees	5,000	
3. Motor Car (2,00,000 x 15 / 100)	30,000	
4. Motor car expenses	4,000	
5. Rent of Chamber	6,000	
6. Books (4,000 x 40 / 100 = 1600)	1,600	
7. Staff Salary	48,000	
8. Purchase of Law Books (6,000 x 40 / 100 = 1600)	2,400	
9..Computer with software. (60,000 x 15 / 100)	7,500	
		1,10,500
Professional Income		4,39,500

Working Notes.

1. Purchase of Motor car and Computer with software is a capital



expenditure. It is not allowable expenses. However, depreciation @15% and Depreciation on books is 40%.

TAX ON LONG-TERM CAPITAL GAINS

Introduction

Gain arising on transfer of capital asset is charged to tax under the head “Capital Gains”. Income from capital gains is classified as “Short Term Capital Gains” and “Long Term Capital Gains”. In this part you can gain knowledge about the provisions relating to tax on Long Term Capital Gains.

Meaning of Capital Gains

Profits or gains arising from transfer of a capital asset are called “Capital Gains” and are charged to tax under the head “Capital Gains”.

Meaning of Capital Asset

Capital asset is defined to include:

- (a) Any kind of property held by an assessee, whether or not connected with business or profession of the assessee.
- (b) Any securities held by a FII which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992.
- (c). Any ULIP to which exemption under section 10(10D) does not apply on account of the applicability of the fourth & fifth proviso thereof.

However, the following items are excluded from the definition of “capital asset”:

- (i) any stock-in-trade (other than securities referred to in (b) above),



consumable stores or raw materials held for the purposes of his business or profession ;

(ii) personal effects, that is, movable property (including wearing apparel and furniture) held for personal use by the taxpayer or any member of his family dependent on him, but excludes—

- (a) jewellery;
- (b) archaeological collections;
- (c) drawings;
- (d) paintings;
- (e) sculptures; or
- (f) any work of art.

“Jewellery”
includes—

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

(iii) Agricultural Land in India, not being a land situated:

- a. Within jurisdiction of municipality, notified area committee, town area committee, cantonment board and which has a population of not less than



10,000;

- b. Within range of following distance measured aerielly from the local limits of any municipality or cantonment board:
- i. not being more than 2 KMs, if population of such area is more than 10,000 but not exceeding 1 lakh;
 - ii. not being more than 6 KMs , if population of such area is more than 1 lakh but not exceeding 10 lakhs; or
 - iii. not being more than 8 KMs , if population of such area is more than 10 lakhs. Population is to be considered according to the figures of last preceding census of which relevant figures have been published before the first day of the year.
- (iv) 6 1/2 per cent Gold Bonds, 1977 or 7 per cent Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government;
- (v) Special Bearer Bonds, 1991;
- (vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme, 2016.

Following points should be kept in mind:

The property being capital asset may or may not be connected with the business or profession of the taxpayer. *E.g.* Bus used to carry passenger by a person engaged in the business of passenger transport will be his capital asset.

Any securities held by a Foreign Institutional Investor which has invested



in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 will always be treated as capital asset, hence, such securities cannot be treated as stock-in-trade.

Illustration

Mr. Kumar purchased a residential house in January, 2020 for Rs. 84,00,000. He sold the house in April, 2023 for Rs. 90,00,000. In this case residential house is a capital asset of Mr. Kumar and, hence, the gain of Rs. 6,00,000 arising on account of sale of residential house will be charged to tax under the head “Capital Gains”.

Illustration

Mr. Kapoor is a property dealer. He purchased a flat for resale. The flat was purchased in January, 2020 for Rs. 84,00,000 and sold in April, 2023 for Rs. 90,00,000. In this case Mr. Kapoor is dealing in properties in his normal business. Hence, flat purchased by him would form part of stock-in-trade of the business. . In other words, for Mr. Kapoor flat is not a capital asset and, hence, gain of Rs. 6,00,000 arising on account of sale of flat will be charged to tax as business income and not as capital gain.

Meaning of long-term capital asset and short-term capital asset

For the purpose of taxation, capital assets are classified into two categories as given below :

<i>Short-Term Capital Asset</i>	<i>Long-Term Capital Asset</i>
---------------------------------	--------------------------------



<p>Any capital asset held by the taxpayer for a period of not more than 36 months immediately preceding the date of its transfer will be treated as short-term capital asset.</p> <p>However, in respect of certain assets like shares (equity or preference) which are listed in a recognised stock exchange in India (listing of shares is not mandatory if transfer of such shares took place on or before July 10, 2014), units of equity oriented mutual funds, listed securities like debentures and Government securities, Units of UTI and Zero Coupon Bonds, the period of holding to be considered is 12 months instead of 36 months</p> <p>Note:</p> <p>Period of holding to be considered as 24 months instead of 36 months in case of unlisted shares of a company and immovable property being land or building or both.</p>	<p>Any capital asset held by the taxpayer for a period of more than 36 months immediately preceding the date of its transfer will be treated as long-term capital asset.</p> <p>However, in respect of certain assets like shares (equity or preference) which are listed in a recognised stock exchange in India (listing of shares is not mandatory if transfer of such shares took place on or before July 10, 2014), units of equity oriented mutual funds, listed securities like debentures and Government securities, Units of UTI and Zero Coupon Bonds, the period of holding to be considered is 12 months instead of 36 months</p> <p>Note:</p> <p>Period of holding to be considered as 24 months instead of 36 months in case of unlisted shares of a company and immovable property being land or building or both.</p>
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Illustration

Mr. Kumar is a salaried employee. In the month of April, 2015 he purchased a piece of land and sold the same in December, 2023. In this case, land is a capital asset for Mr. Kumar. He purchased land in April, 2014 and sold in December, 2023 i.e. after holding it for a period of more than 24 months. Hence, land will be treated as long-term capital asset.

Illustration

Mr. Raj is a salaried employee. In the month of April, 2022, he purchased a piece of land and sold the same in December, 2023. In this case land is a capital asset for Mr. Raj. He purchased land in April, 2022 and sold it in December, 2023, i.e., after holding it for a period of less than 24 months. Hence, land will be treated as short-term capital asset.

Illustration

Mr. Vipul is a salaried employee. In the month of July, 2018, he purchase a piece of land and sold the same in January 2024. In this case land is a capital asset for Mr. Vipul and it was sold in the Assessment Year 2024-25. He purchased land in July, 2018 and sold it in January 2024, i.e. after holding it for a period of more than 24 months. Hence land will be treated as long-term capital asset.

Illustration

Mr. Raj is a salaried employee. In the month of April, 2022 he purchased equity shares of SBI Ltd. (listed in BSE) and sold the same in December,



2023. In this case shares are capital assets for Mr. Raj. He purchased shares in April, 2022 and sold them in December, 2023, i.e., after holding them for a period of more than 12 months. Hence, shares will be treated as long-term capital assets.

Illustration

Mr. Kumar is a salaried employee. In the month of April, 2023 he purchased equity shares of SBI Ltd. (listed in BSE) and sold the same in January, 2024. In this case shares are capital assets for Mr. Kumar. He purchased shares in April, 2022 and sold them in January, 2024, i.e., after holding them for a period of less than 12 months. Hence, shares will be treated as short-term capital assets.

Illustration

Mr. Kumar is a salaried employee. In the month of April, 2022 he purchased **un-listed** shares of XYZ Ltd. and sold the same in January, 2024. In this case shares are capital assets for Mr. Raj and to determine nature of capital gain, period of holding would be considered as 24 month as shares are unlisted. He purchased shares in April, 2022 and sold them in January, 2024, i.e., after holding them for a period of less than 24 months. Hence, shares will be treated as Short Term Capital Assets.

Illustration

Mr. Raj is a salaried employee. In the month of April, 2014 he purchased **un-listed** shares of XYZ Ltd. and sold the same in December, 2023. In this case shares are capital assets for Mr. Raj and to determine nature of capital gain,



period of holding would be considered as 24 month as shares are unlisted. He purchased shares in April, 2014 and sold them in December 2023, i.e., after holding them for a period of more than 24 months. Hence, shares will be treated as Long Term Capital Assets.

Illustration

Mr. Vikas is a salaried employee. In the month of September, 2018 he purchased unlisted shares of ABC Ltd. and sold the same in May 2023. In this case, shares are sold in assessment year 2024-25. Hence, period of holding for unlisted shares to be considered as 24 months instead of 36 months.

Mr. Vikas purchased shares in September 2018 and sold them May 2023, i.e. after holding them for a period of 24 months or more. Hence, shares will be treated as Long Term Capital Assets.

Meaning of short-term capital gain and long-term capital gain

Gain arising on transfer of short-term capital asset is termed as short-term capital gain and gain arising on transfer of long-term capital asset is termed as long-term capital gain. However, there are few exceptions to this rule like gain on depreciable asset is always taxed as short-term capital gain.

Illustration

In April, 2023 Mr. Raja sold his residential house property which was purchased in May, 2003. Capital gain on such sale amounted to Rs. 8,40,000. In this case the house property is a long-term capital asset and, hence, gain of Rs. 8,40,000 will be charged to tax as long-term capital gain.



Illustration

In April, 2023 Mr. Rahul sold his residential house property which was purchased in May, 2021. Capital gain on such sale amounted to Rs. 8,40,000. In this case the house property is a short-term capital asset and, hence, gain of Rs. 8,40,000 will be charged to tax as short-term capital gain.

Reason for bifurcation of capital gains into long-term and short-term gains

:-

The taxability of capital gains depends on the nature of gain, i.e., whether short-term or long-term. Hence, to determine the taxability, capital gains are classified into short-term capital gain and long-term capital gain. In other words, the tax rates for long-term capital gain and short-term capital gain are different.

Computation of long-term capital gains

Long-term capital gain arising on account of transfer of long-term capital asset will be computed as follows :

<i>Particulars</i>	<i>Rs.</i>
Full value of consideration (<i>i.e.</i> , Sales consideration of asset)	XXXXX
<i>Less:</i> Expenditure incurred wholly and exclusively in connection with transfer of capital asset (E.g., brokerage, commission, advertisement expenses, etc.).	<u>(XXXXX)</u>
Net sale consideration	XXXXX



<i>Less: Indexed cost of acquisition (*)</i>	(XXXXX)
<i>Less: Indexed cost of improvement if any (*)</i>	<u>(XXXXX)</u>
<i>Long-Term Capital Gains</i>	XXXXX

(*) Indexation is a process by which the cost of acquisition is adjusted against inflationary rise in the value of asset. For this purpose, Central Government has notified cost inflation index. The benefit of indexation is available only to long-term capital assets. For computation of indexed cost of acquisition following factors are to be considered:

- Year of acquisition/improvement
- Year of transfer
- Cost inflation index of the year of acquisition/improvement
- Cost inflation index of the year of transfer

Indexed cost of acquisition is computed with the help of following formula :

Cost of acquisition × Cost inflation index of the year of transfer of capital asset

Cost inflation index of the year of acquisition

= not in short term

Indexed cost of improvement is computed with the help of following formula :

Cost of improvement × Cost inflation index of the year of transfer of capital



asset = not in short term

Cost inflation index of the year of improvement

The Central Government has notified the following Cost Inflation Indexes:-

Sl. No.	Financial Year	Cost Inflation Index
(1)	(2)	(3)
1	2001-02	100
2	2002-03	105
3	2003-04	109
4	2004-05	113
5	2005-06	117
6	2006-07	122
7	2007-08	129
8	2008-09	137
9	2009-10	148
10	2010-11	167
11	2011-12	184
12	2012-13	200
13	2013-14	220
14	2014-15	240
15	2015-16	254



16	2016-17	264
17	2017-18	272
18	2018-19	280
19	2019-20	289
20	2020-21	301
21	2021-22	317
22	2022-23	331
23.	2023-24(provisional)	348

Illustration

Mr. Raja purchased a piece of land in May, 2006 for Rs. 84,000 and sold the same in April, 2022 for Rs. 10,10,000 (brokerage Rs. 10,000). What will be the taxable capital gain in the hands of Mr. Raja?

Computation of capital gain will be as follows :

<i>Particulars</i>	<i>Rs.</i>
Full value of consideration (<i>i.e.</i> , Sales consideration of asset)	10,10,000
<i>Less:</i> Expenditure incurred wholly and exclusively in connection with transfer of capital asset (brokerage)	<u>10,000</u>
Net sale consideration	10,00,000
<i>Less:</i> Indexed cost of acquisition (*)	2,27,902
<i>Less:</i> Indexed cost of improvement, if any	<u>Nil</u>



<i>Long-Term Capital Gains</i>	7,72,098
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(*) The cost inflation index notified for the year 2006-07 is 122 and for the year 2022-23 is 331. Hence, the indexed cost of acquisition, i.e., the inflated cost of acquisition will be computed as follows:

Cost of acquisition × Cost inflation index of the year of transfer of capital asset

Cost inflation index of the year of acquisition

$$\text{Rs. } 84,000 \times 331 = \text{Rs. } 2,27,902$$

12

2

Tax on long-term capital gain

Generally, long-term capital gains are charged to tax @ 20% (plus surcharge and cess as applicable), but in certain special cases, the gain may be (at the option of the taxpayer) charged to tax @ 10% (plus surcharge and cess as applicable). The benefit of charging long-term capital gain @ 10% is available only in following cases:

- 1) Long-term capital gains arising from sale of listed securities and it exceeds Rs. 1,00,000 (Section 112A);
- 2) Long-term capital gains arising from transfer of any of the following asset:
 - a) Any security (*) which is listed in a recognised stock exchange in



India;

- b) Any unit of UTI or mutual fund (whether listed or not) (\$); and
- c) Zero coupon bonds

(*) Securities for this purpose means “securities” as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956. This definition generally includes shares, scrips, stocks, bonds, debentures, debenture stocks or other marketable securities of a like nature in or of any incorporated company or other body corporate, Government securities, such other instruments as may be declared by the Central Government to be securities and rights or interest in securities.

(\$) This option is available only in respect of units sold on or before 10-7-2014.

Long-term capital gains arising from sale of listed securities

Section 112A provides that capital gains arising from transfer of a long term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust shall be taxed at the rate of 10 per cent of such capital gains exceeding Rs. 1,00,000.

This concessional rate of 10 per cent will be applicable if:

- a) in a case of an equity share in a company, securities transaction tax has been paid on both acquisition and transfer of such capital asset; and
- b) in a case a unit of an equity oriented fund or a unit of a business trust, STT has been paid on transfer of such capital asset.

The cost of acquisitions of a listed equity share acquired by the taxpayer before February 1, 2018, shall be deemed to be the higher of following:



- a) The actual cost of acquisition of such asset; or
- b) Lower of following:
 - (i) Fair market value of such shares as on January 31, 2018; or
 - (ii) Actual sales consideration accruing on its transfer.

The Fair market value of listed equity share shall mean its highest price quoted on the stock exchange as on January 31, 2018. However, if there is no trading in such shares on January 31, 2018, the highest price of such share on a date immediately preceding January 31, 2018 on which trading happens in that share shall be deemed as its fair market value.

In case of units which are not listed on recognized stock exchange, the net asset value of such units as on January 31, 2018 shall be deemed to be its FMV.

In a case where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on 31-1-2018 but listed on the date of transfer, the cost of unlisted shares as increased by cost inflation index for the financial year 2017-18 shall be deemed to be its FMV.

Long-term capital gains arising from transfer of specified asset

A taxpayer who has earned long-term capital gains from transfer of any listed security or any unit of UTI or mutual fund (whether listed or not), not being covered under Section 112A, and Zero coupon bonds shall have the following two options:

- a. Avail of the benefit of indexation; the capital gains so computed will be charged to tax at normal rate of 20% (plus surcharge and cess as



applicable).

- b. Do not avail of the benefit of indexation; the capital gain so computed is charged to tax @ 10% (plus surcharge and cess as applicable).

The selection of the option is to be done by computing the tax liability under both the options, and the option with lower tax liability is to be selected.

Illustration

Mr. Janak is a salaried employee. In the month of January, 2016 he purchased 100 shares of X Ltd. @ Rs. 1,400 per share from Bombay Stock Exchange. These shares were sold through BSE in April, 2023 @ Rs. 2,600 per share. The highest price of X Ltd. share quoted on the stock exchange on January 31, 2018 was Rs. 1,800 per share. What will be the nature of capital gain in this case?

**

Shares were purchased in January, 2016 and were sold in April, 2023, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain (LTCG).

In the given case, shares are sold after holding them for a period of more than 12 months, shares are sold through recognised stock exchange and the transaction is liable to STT. Therefore, section 112A is applicable in this case.

The cost of acquisition of X Ltd. shares shall be higher of:

- a) Cost of acquisition i.e., 1,40,000 ($1,400 \times 100$);



b) Lower of:

- a. Highest price quoted as on 31-1-2018 i.e., 1,80,000 ($1,800 \times 100$);
- b. Sales consideration i.e., 2,60,000 ($2,600 \times 100$)

Thus, the cost of acquisition of shares shall be Rs. 1,80,000. Accordingly, Long-term capital gains in hands of Mr. Janak would be Rs. 80,000 (i.e., $2,60,000 - 1,80,000$). Since long-term capital gains doesn't exceed Rs. 1,00,000, nothing is taxable in hands of Mr. Janak.

Illustration

Mr. Saurabh is a salaried employee. In the month of July, 2017 he purchased 100 shares of XYZ Ltd. @ Rs. 2,000 per share from Bombay Stock Exchange. These shares were sold through NSE in June, 2023 @ Rs. 4,900 per share. The highest price of XYX Ltd. share quoted on the stock exchange on January 31, 2018 was Rs. 3,800 per share. What will be the nature of capital gain in this case?

**

Shares were purchased in July, 2017 and were sold in June, 2023, i.e., sold after holding them for a period of more than 12 months and, hence, the gain will be long-term capital gain (LTCG).

In the given case, shares are sold after holding them for a period of more than 12 months, shares are sold through recognised stock exchange and the transaction is liable to STT. Therefore, section 112A is applicable in this case.

The cost of acquisition of X Ltd. shares shall be higher of:



- a) Cost of acquisition i.e., 2,00,000 ($2,000 \times 100$);
- b) Lower of:
- (i) Highest quoted price as on 31-1-218 i.e., 3,80,000 ($3,800 \times 100$);
 - (ii) Sales consideration i.e., 4,90,000 ($4,900 \times 100$)

Thus from above, the cost of acquisition of shares shall be Rs. 3,80,000. Accordingly, Long-term capital gains taxable in hands of Mr. Saurabh would be Rs. 1,10,000 (i.e., $4,90,000 - 3,80,000$). Since the long-term capital gains exceeds Rs. 1,00,000, hence it will be covered under section 112A. Mr, Saurabh would be liable to pay at the rate of 10% on Rs. 10,000 i.e., gains exceeding Rs. 1,00,000.

Illustration

Mr. Kumar (a non resident) purchased equity shares (listed) of Shyamal Ltd. in December 1995 for Rs. 28,100. These shares are sold (outside recognised stock exchange) in April, 2022 for Rs. 5,00,000. He does not have any other taxable income in India. What will be his tax liability.

**

In this situation, Mr. Kumar has following two options:

<i>Particulars</i>	<i>Option 1 (Avail indexation)</i>	<i>Option 2 (Do not avail indexation)</i>
Full value of consideration	5,00,000	5,00,000
Less: Indexed cost of acquisition (Rs.28,100 \times 331/100)	93,011	-----



Less: Cost of acquisition	-----	<u>28,100</u>
<i>Taxable Gain</i>	4,06,989	4,71,900
Tax @ 20% on Rs. 4,06,989	81,398	-----
Tax @ 10% on Rs. 4,71,900	-----	47,190

From the above computation, it is clear that Mr. Kumar should exercise option 2, since in this situation the tax liability (excluding cess as applicable) comes to Rs. 47,190 which is less than tax liability (excluding cess as applicable) under option 1 i.e. Rs. 81,398.

Illustration

Mr. Kumar (a non-resident) purchased a piece of land in December, 2006 for Rs. 28,100 and sold the same, in April, 2022 for Rs. 5,00,000. Can he claim the option of not availing of the indexation and paying tax @ 10% on the capital gain?

**

In this situation, the asset transferred is land and hence the options discussed in preceding illustration are not available and the gain will be computed after availing of the indexation and the resulting gain will be charged to tax @ 20% (plus surcharge and cess as applicable). The computation in this case will be as follows :

<i>Particulars</i>	<i>(Rs.)</i>
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Full value of consideration	5,00,000
<i>Less:</i> Indexed cost of acquisition (Rs. 28,100 × 331/122)	76,239
<i>Less:</i> Indexed cost of improvement	<u>Nil</u>
Long term capital gain	4,23,761
Tax @ 20% on Rs. 4,23,761	84,752
<i>Add:</i> Health & education cess @ 4%	<u>3,390</u>
Net tax payable	88,142

Adjustment of LTCG against the basic exemption limit

Basic exemption limit means the level of income up to which a person is not required to pay any tax. The basic exemption limit applicable in case of an individual for the financial year 2022-23 is as follows :

- For resident individual of the age of 80 years or above, the exemption limit is Rs.5,00,000.
- For resident individual of the age of 60 years or above but below 80 years, the exemption limit is Rs. 3,00,000.
- For resident individual of the age of below 60 years, the exemption limit is Rs.2,50,000.
- For non-resident individual, irrespective of the age of the individual, the exemption limit is Rs. 2,50,000.
- For HUF, the exemption limit is Rs. 2,50,000.



Illustration: Basic exemption limit

Mr. Kapoor (resident and age 25 years) is a salaried employee earning a salary of Rs. 1,84,000 per annum. Apart from salary income, he has earned interest on fixed deposit of Rs. 6,000. He does not have any other income. What will be his tax liability for the year 2022-23?

**

For resident individual of age of below 60 years, the basic exemption limit is Rs. 2,50,000. In this case the taxable income of Mr. Kapoor is Rs. 1,90,000 (Rs. 1,84,000 + Rs. 6,000), which is below the basic exemption limit of Rs. 2,50,000, hence, his tax liability will be nil.

Illustration: Basic exemption limit

Mr. Viren (resident and age 62 years) is a businessman. His taxable income for the year 2022-23 is Rs. 2,25,200. He does not have any other income. What will be his tax liability for the year 2022-23?

**

For resident individual of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000. In this case, the taxable income of Mr. Viren is Rs. 2,25,200, which is below the basic exemption limit of Rs. 3,00,000, hence, his tax liability will be nil.

Illustration: Basic exemption limit

Mrs. Raja (resident and age 82 years) is a doctor. Her taxable income for the year 2022- 23 is Rs. 4,84,000. She does not have any other income. What will be her tax liability for the year 2022-23?



**

For resident individual of the age of 80 years and above, the basic exemption limit is Rs. 5,00,000. In this case, the taxable income of Mrs. Raja is Rs. 4,84,000, which is below the basic exemption limit of Rs. 5,00,000, hence, her tax liability will be nil.

Illustration: Basic exemption limit

Mr. Raj (a non-resident and age 82 years) is a retired person. He is residing in Canada. He owns a house in Mumbai which is given on rent. The taxable rental income for the year 2022-23 amounts to Rs. 1,84,000. What will be his tax liability for the year 2022-23?

**

For non-resident individual, irrespective of the age, the basic exemption limit is Rs. 2,50,000. In this case the taxable income of Mr. Raj is Rs. 1,84,000, which is below the basic exemption limit of Rs. 2,50,000, hence, his tax liability will be nil.

Adjustment of LTCG against the basic exemption limit

In the preceding illustrations we observed that if the income is below the basic exemption limit, then there will be no tax liability. Now a question arises that can an individual adjust the basic exemption limit against long-term capital gain? The answer will depend on the residential status of the individual (i.e., resident or non-resident). The provisions in this regard are as follows :

Only a resident individual/HUF can adjust the exemption limit against LTCG. Thus, a non-resident individual and non-resident HUF cannot adjust the exemption limit against LTCG.



A resident individual can adjust the LTCG but such adjustment is possible only after making adjustment of other income. In other words, first income other than LTCG is to be adjusted against the exemption limit and then the remaining limit (if any) can be adjusted against LTCG.

Illustration

Mr. Kapoor (age 67 years and resident) is a retired person. He purchased a piece of land in December, 2013 and sold the same in April, 2022. Taxable long-term capital gain on such sale amounted to Rs. 1,84,000. Apart from gain on sale of land, he is not having any other income. What will be his tax liability for the year 2022-23?

*

For resident individual of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000. Further, a resident individual can adjust the basic exemption limit against LTCG. In this case, LTCG of Rs. 1,84,000 can be adjusted against the basic exemption limit. In other words, Mr. Kapoor can adjust the LTCG on sale of land against the basic exemption limit.

Considering the above discussion, the tax liability of Mr. Kapoor for the year 2022-23 will be nil.

Illustration

Mr. Kapoor (age 67 years and non-resident) is a retired person. He purchased a piece of land (at Delhi) in December, 2013 and sold the same in April, 2022. Taxable long-term capital gain on such sale amounted to Rs. 1,84,000. Apart



from gain on sale of land, he is not having any other income. What will be his tax liability for the year 2022-23?

*

For non-resident individual of any age, the basic exemption limit is Rs. 2,50,000. Further, a non-resident individual cannot adjust the basic exemption limit against LTCG. Hence, in this case the exemption limit of Rs. 2,50,000 cannot be adjusted against LTCG. In other words, Mr. Kapoor cannot adjust the LTCG on sale of land against the basic exemption limit. Thus, LTCG of Rs. 1,84,000 will be charged to tax @ 20% (plus health & education cess @ 4%). Thus, the tax liability will come to Rs. 38,272.

Illustration

Mr. Kapoor (age 67 years and resident) is a retired person earning a monthly pension of Rs. 5,000. He purchased gold in December, 2012 and sold the same in April, 2022. Taxable LTCG amounted to Rs. 3,70,000. Apart from pension income and gain on sale of gold he is not having any other income. What will be his tax liability for the year 2022- 23?

**

For resident individual of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000. Further, a resident individual can adjust the basic exemption limit against LTCG. However, such adjustment is possible only after adjusting income other than LTCG. In this case, he is having pension income of Rs. 60,000 (Rs. 5,000 × 12) and LTCG on gold of Rs. 3,70,000. Thus, first we have to adjust the pension income against the



exemption limit and the balance limit will be adjusted against LTCG.

The basic exemption limit in this case is Rs. 3,00,000, after adjustment of pension income of Rs. 60,000 from the exemption limit of Rs. 3,00,000 the balance limit available will come to Rs. 2,40,000. The balance of Rs. 2,40,000 will be adjusted against LTCG.

Total LTCG on gold is Rs. 3,70,000 and the available limit is Rs. 2,40,000, hence, the balance LTCG left after adjustment of Rs. 2,40,000 will come to Rs. 1,30,000. The gain of Rs. 1,30,000 will be charged to tax @ 20% (plus health & education cess @ 4%). Thus, the tax liability before cess will come to Rs. 26,000 and after deducting rebate of Rs. 12,500 as per section 87A, he would be liable to pay tax of Rs. 14,040 (including health & education cess @ 4%).

Illustration

Mr. Gagan (age 67 years and non-resident) is a retired person earning a monthly pension of Rs. 5,000 from Indian employer. He purchased a piece of land in Delhi in December, 2012 and sold the same in April, 2022. Taxable LTCG amounted to Rs. 2,20,000. Apart from pension income and gain on sale of land he is not having any other income. What will be his tax liability for the year 2022-23?

*

For non-resident individual, irrespective of the age, the basic exemption limit is Rs. 2,50,000. Further, a non-resident individual cannot adjust the basic



exemption limit against LTCG covered under section 112. In other words, Mr. Gagan can adjust the pension income against the basic exemption limit but the remaining exemption limit cannot be adjusted against LTCG on sale of land.

The basic exemption limit in this case is Rs. 2,50,000, and the same will be adjusted against pension income of Rs. 60,000. The balance limit of Rs. 1,90,000 (i.e., Rs. 2,50,000 less Rs. 60,000) cannot be adjusted against LTCG. Hence, in this case Mr. Gagan has to pay tax @ 20% (plus health & education cess @ 4%) on LTCG of Rs. 2,20,000. Thus, the tax liability will come to Rs. 45,760.

Deductions under sections 80C to 80U and LTCG

No deduction under sections 80C to 80U is allowed from long-term capital gains.

Illustration

Mr. Kapoor (age 57 years and resident) is a retired person. He purchased a piece of land in December, 2012 and sold the same in April, 2022. Taxable LTCG on such sale amounted to Rs. 6,00,000. Apart from gain on sale of land he is not having any income. He deposited Rs. 1,00,000 in Public Provident Fund (PPF) and Rs. 50,000 in NSC. He wants to claim deduction under section 80C on account of Rs. 1,50,000 deposited in PPF and NSC. Can he do so?

**

Deduction under sections 80C to 80U cannot be claimed from long-term capital gains. Hence, Mr. Kapoor cannot claim deduction under section 80C of Rs. 1,50,000 from LTCG of Rs. 4,00,000. The taxable income of Mr.



Kapoor will be computed as follows :

<i>Particulars</i>	<i>Rs.</i>
Long-Term Capital Gains	6,00,000
<i>Gross Total Income</i>	6,00,000
<i>Less:</i> Deduction under sections 80C to 80U	<u>Nil</u>
<i>Total Income or Taxable Income</i>	6,00,000

He can claim basic exemption of Rs. 2,50,000 (being resident individual) and has to pay LTCG on remaining Rs. 3,50,000 @ 20% (+HEC). Thus, his tax liability before cess will come to Rs. 70,000 and he would be liable to pay tax of Rs. 72,800 (including cess @ 4%).

INCOME FROM OTHER SOURCES

Proforma for computation of “Income from Other Sources”

	Particulars	Amt
(i)	Dividend Income [Refer fig at Page 4.485]	xxx
(ii)	Casual Income (winnings from lotteries, crossword puzzles, races including horse races, card games and other games, gambling, betting etc.)	xxx
	Consideration received in excess of FMV of shares of a closely held	



(iii)	company, where such shares are issued at a premium [Section 56(2)(viib)]	xxx	
(iv)	Interest received on compensation/ enhanced compensation deemed to be income in the year of receipt [Section 56(2)(viii)] Advance forfeited due to failure of negotiations for transfer of a capital asset [Section 56(2)(ix)]	xxx	
(v)		xxx	
(vi)	Sum of money or property received by any person [Section 56(2)(x)] Compensation or other payment, due to or received by any person, in connection with termination of his employment or the modification of the terms and conditions relating thereto [Section 56(2)(xi)]	xxx	
(vii)		xxx	
(viii)	The following income, if not chargeable under the head “Profits and gains of business or profession”		
	(a) Any sum received by an employer from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees	xxx	
	(b) Interest on securities	xxx	
	(c) Income from letting out on hire of machinery, plant or furniture	xxx	
	(d) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting	xxx	



	(e) Any sum received under a Keyman insurance policy including bonus on such policy (if not chargeable to tax under the head “Salaries” also)	xxx	xxx
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(ix)	Any income chargeable to tax under the Act, but not falling under any other head of income	xxx
(x)	Deemed income u/s 59 – Remission or cessation of a trading liability or receipt of any amount in respect of loss or expenditure allowed as deduction in an earlier PY	xxx
		xxx
Less: Deductions allowable [Section 57]		
(a)	In case of dividends (other than dividends u/s 115-O) or interest on securities - Any reasonable sum paid by way of commission or remuneration to a banker or any other person	xxx
(b)	Income consists of recovery from employees as contribution to any PF, superannuation fund etc. - Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va)	xxx
(c)	Income from letting on hire of machinery, plant and furniture, with or without building - current repairs to the machinery, plant, furniture or building	xxx
(d)	- insurance premium	xxx
(e)	- depreciation/unabsorbed depreciation	
(f)	Family Pension – 33 1/3% of such income or `	xxx



15,000, whichever is less	
Interest on compensation/enhanced compensation received – 50% of such interest	XXX
Any other expenditure not in the nature of capital expenditure incurred wholly and exclusively for earning such income	
Income from other Sources	XXX



Deductions not allowable [Section 58]	
(a)	Any personal expense of the assessee.
(b)	Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
(c)	Any payment chargeable to tax under the head “Salaries”, if it is payable outside India unless tax has been paid thereon or deducted at source therefrom.
(d)	30% of sum payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid on or before the due date of return specified in section 139(1).
(e)	Any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.
(f)	Any expenditure in respect of which a payment or aggregate payments exceeding ` 10,000 is made to a person in a day otherwise than by account payee cheque/bank draft or ECS through bank account or through such other prescribed electronic mode.



Tax on Income from Other Sources

Income	Tax rate and conditions
Casual Income	<p>@30% of such winnings (further increased by surcharge, if applicable, and health and education cess@4%)</p> <ul style="list-style-type: none">➤ No expenditure or allowance can be allowed from such income.➤ Deduction under Chapter VI-A is not allowable from such income.➤ Adjustment of unexhausted basic exemption limit is also not permitted against such income.➤ Set-off of losses is not permissible against such income.



Income	Tax rate and conditions
<p>Aggregate Dividend received by a specified assessee, resident in India, in excess of ` 10 lakhs</p> <p>“Specified assessee” – a person other than domestic company, a fund/ institution/ trust/any university/other educational institution/any hospital/other medical institution¹ or a charitable or religious trust or institution²</p>	<p>@10% of dividend in excess of ` 10 lakhs (further increased by surcharge, if applicable, and health and education cess@4%)</p> <ul style="list-style-type: none">➤ No deduction is allowable in respect of any expenditure or allowance against such income.➤ Set-off of losses is not permissible against such income.
<p>Unexplained cash credits/ investments/ money, bullion, jewellery etc./ expenditure, etc. [referred to in section 68 and sections 69 to 69D]</p>	<p>@60% of such income plus surcharge @25% of tax (Effective rate of tax is 78%, including health and education cess@4%)</p> <ul style="list-style-type: none">➤ No deduction is allowable in respect of any expenditure or allowance against such income.➤ Set-off of losses is not permissible against such income.



Other Income	Normal rates of tax
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Income from other sources

INTRODUCTION

Any income, profits or gains includible in the total income of an assessee, which cannot be included under any of the preceding heads of income, is chargeable under the head 'Income from other sources'. Thus, this head is the residuary head of income and brings within its scope all the taxable income, profits or gains of an assessee which fall outside the scope of any other head. Therefore, when any income, profit or gain does not fall precisely under any of the other specific heads but is chargeable under the provisions of the Act, it would be charged under this head.

INCOMES CHARGEABLE UNDER THIS HEAD [SECTION 56]

(i) **The income chargeable only under the head 'Income from other sources'**

(1) **Dividend income [Section 56(2)(i)]**

The term 'dividend' as used in the Act has a wider scope and meaning than under the general law.

Dividend [covered by sections 2(22)(a) to (e)]:

According to section 2(22), the following receipts are deemed to be dividend:

(a) **Distribution of accumulated profits, entailing the release of company's assets** - Any distribution of accumulated profits,



whether capitalised or not, by a company to its shareholders is dividend if it entails the release of all or any part of its assets. For example, if accumulated profits are distributed in cash, it is dividend in the hands of the shareholders. Where accumulated profits are distributed in kind, for example by delivery of shares etc. entailing the release of company's assets, the market value of such shares on the date of such distribution is deemed as dividend in the hands of the shareholder.

(b) Distribution of debentures, deposit certificates to shareholders and bonus shares to preference shareholders -

Any distribution to its shareholders by a company of debentures, debenture stock or deposit certificate in any form, whether with or without interest, and any distribution of bonus shares to preference shareholders to the extent to which the company possesses accumulated profits, whether capitalised or not, will be deemed as dividend.

The market value of such bonus shares is deemed as dividend in the hands of the preference shareholder.

In the case of debentures, debenture stock etc., their value is to be taken at the market rate and if there is no market rate they should be valued according to accepted principles of valuation.

Note: Bonus shares given to equity shareholders are not treated as dividend.

(c) Distribution on liquidation - Any distribution made to the shareholders of a company on its liquidation, to the extent to



which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not, is deemed to be dividend income.

Note: Any distribution made out of the profits of the company after the date of the liquidation cannot amount to dividend. It is a repayment towards capital.

- (d) Distribution on reduction of capital** - Any distribution to its shareholders by a company on the reduction of its capital to the extent to which the company possessed accumulated profits, whether capitalised or not, shall be deemed to be dividend.
- (e) Advance or loan by a closely held company to its shareholder**
 - Any payment by a company in which the public are not substantially interested, of any sum by way of advance or loan to any shareholder who is the beneficial owner of 10% or more of the equity capital of the company will be deemed to be dividend to the extent of the accumulated profits. If the loan is not covered by the accumulated profits, it is not deemed to be dividend.

Advance or loan by a closely held company to a specified concern

- Any payment by a company in which the public are not substantially interested, to any concern (i.e. HUF/ Firm/ AOP/ BOI/ Company) in which a shareholder, having the beneficial ownership of at least 10% of the equity shares is a member or a partner and in which he has a substantial interest (i.e. at least 20% share of the income of the concern) will be deemed to be



dividend.

Also, any payments by such a closely held company on behalf of, or for the individual benefit of any such shareholder will also be deemed to be dividend. However, in both cases the ceiling limit of dividend is to the extent of accumulated profits.

Exceptions: The following payments or loan given would not be deemed as dividend:

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

Other exceptions

Apart from the exceptions cited above, the following also do not constitute "dividend" -

- (iii) Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956³;
- (iv) any distribution of shares on demerger by the resulting



companies to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).

Meaning of “accumulated profits”

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

Accumulated profits in point (c) include all profits of the company up to the date of liquidation whether capitalised or not. But where liquidation is consequent to the compulsory acquisition of an undertaking by the Government or by any corporation owned or controlled by the Government, the accumulated profits do not include any profits of the company prior to the 3 successive previous years immediately preceding the previous year in which such acquisition took place.

In the case of an amalgamated company, the accumulated profits, whether capitalized or not, of the amalgamating company on the date of amalgamation shall be included in the accumulated profits, whether capitalized or not or loss, as the case may be, of the amalgamated company.

Basis of charge of dividend

Any income by way of dividends, referred to under section 115-O, is excluded from the total income of the shareholder [Section 10(34)]. Under section 115-O, any dividend declared, distributed or paid by a domestic



company, whether out of current or accumulated profits, shall be charged to additional income-tax at a flat rate of 15% in addition to normal income-tax chargeable on the income of the company. This is known as corporate dividend tax. However, Corporate dividend tax @30% is leviable on deemed dividend under section 2(22)(e).

Dividends received from a company, other than a domestic company, is still liable to tax in the hands of the shareholder. For example, dividend received from a foreign company is liable to tax in the hands of the shareholder.

It may, however, be noted that the exemption available under section 10(34) would not be allowable in respect of dividend income chargeable to tax in accordance with the provisions of section 115BBDA, even if the dividend distribution tax is paid by the domestic company on such amount of dividend.

ILLUSTRATION 1

Rahul holding 28% of equity shares in a company, took a loan of ₹ 5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹ 4,00,000. The company is engaged in some manufacturing activity.

- (i) Is the amount of loan taxable as deemed dividend, if the company is a company in which the public are substantially interested?
- (ii) What would be your answer, if the lending company is a private limited company (i.e. a company in which the public are not substantially interested)?



SOLUTION

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend under section 2(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend.
- (ii) However, if the loan is taken from a private company (i.e. a company in which the public are not substantially interested), which is a manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company.

The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend would be limited to the accumulated profit i.e., Rs.4,00,000 and not the amount of loan which is Rs.5,00,000.

Tax on certain dividends received from domestic companies

**(Section 115BBDA)**

(i) Any income by way of aggregate dividend in excess of Rs.10 lakh shall be chargeable to tax in the case of specified assessee who is resident in India, at the rate of 10% [further, increased by surcharge, if applicable, and health and education cess @4%].

(ii) Meaning of certain terms

Term	Meaning
Specified assessee	person other than a <ul style="list-style-type: none">➤ domestic company➤ fund or institution or trust or any university or other educational institution or any hospital or other medical institution⁴➤ a trust or institution⁵
Dividend	Includes dividend referred under section 2(22)(a) to (d) but shall not include sub-clause (e) thereof.

(iii) Further, the taxation of dividend income in excess ` 10 lakh shall be on gross basis i.e., no deduction in respect of any expenditure or allowance or set-off of loss shall be allowed to the assessee in computing the income by way of dividends.

(iv) Accordingly, exemption available under section 10(34), in respect of dividend received by a shareholder from a domestic company would not apply to income by way of dividend chargeable to tax under section 115BBDA.



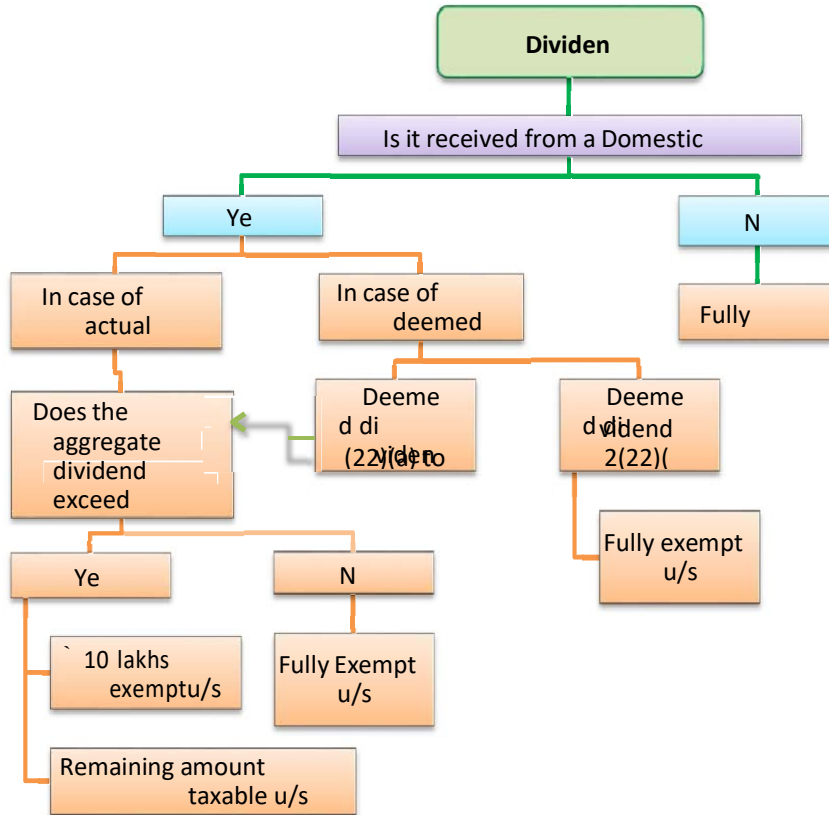
ILLUSTRATION 2

A Ltd., a domestic company, declared dividend of Rs. 170 lakh for the F.Y. 2018- 19 and distributed the same on 10.7.2019. Mr. X, holding 10% shares in A Ltd., receives dividend of Rs. 17 lakh in July, 2019. Mr. Y, holding 5% shares in A Ltd., receives dividend of Rs. 8.50 lakh. Discuss the tax implications in the hands of Mr. X and Mr. Y, assuming that Mr. X and Mr. Y have not received dividend from any other domestic company during the year.

SOLUTION

- (i) The dividend of Rs. 170 lakh declared and distributed in the P.Y. 2019-20 is subject to dividend distribution tax under section 115-O in the hands of A Ltd.
- (ii) In the hands of Mr. X, dividend received upto Rs. 10 lakh would be exempt under section 10(34). Rs. 7 lakh, being dividend received in excess of Rs. 10 lakh, would be taxable @ 10% as per section 115BBDA. Such dividend would not be exempt under section 10(34). Therefore, tax payable by Mr. X on dividend of Rs. 7 lakh under section 115BBDA would be Rs. 72,800 [i.e., 10% of ₹7 lakh + health and education cess @ 4%].
- (iii) In the hands of Mr. Y, the entire dividend of Rs. 8.50 lakh received would be exempt under section 10(34), since only dividend received in excess of Rs. 10 lakh would be taxable under section 115BBDA.

Chargeability of Dividend in the hands of the shareholder





(2) Casual Income [Section 56(2)(ib)]

Casual income means income in the nature of winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, gambling, betting etc. Such winnings are chargeable totax at a flat rate of 30% under section 115BB.

(3) Consideration received in excess of FMV of shares issued by a closely held company to be treated as income of such company, where shares are issued at a premium [Section 56(2)(viib)]

(i) Section 56(2)(viib) brings to tax the consideration received from a resident person by a company, other than a company in which publicare substantially interested, which is in excess of the fair market value (FMV) of shares⁶.

(ii) Such excess is to be treated as the income of a closely held company taxable under section 56(2) under the head “Income from Other Sources”, in cases where consideration received for issue of shares exceeds the face value of shares i.e. where shares are issued at a premium.

(iii) Fair market value of the shares shall be the higher of, the value as may be –

(a) determined in accordance with the prescribed method; or

(b) substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets on the date of issue of shares.



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

Examples:

Co.	No. of shares	Face value of shares (Rs.)	FMV of shares (₹)	Issue price of shares (Rs.)	Applicability of section 56(2)(viib)
A (P) Ltd.	10,000	100	120	130	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium (i.e., issue price exceeds the face value of shares). The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Rs.1,00,000 [10,000 × Rs.10 (Rs.130 – Rs. 120)] shall be treated as income in the hands of A (P) Ltd.



B (P) Ltd.	20,000	100	120	110	The provisions of section 56(2)(viib) are attracted since the shares are issued at a premium. However, no sum shall be chargeable to tax in the hands of B (P) Ltd. under the said section as the shares are issued at a price less than the FMV of shares.
C (P) Ltd.	30,000	100	90	98	Section 56(2)(viib) is not attracted since the shares are issued at a discount, though the issue price is greater than the FMV.
D (P) Ltd.	40,000	100	90	110	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium. The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Therefore, ₹ 8,00,000 [$40,000 \times (110 - 90)$] shall be treated as income in the



					hands of D (P) Ltd.
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(4) Interest received on compensation/enhanced compensation deemed to be income in the year of receipt and taxable under the head “Income from Other Sources” [Sections 56(2)(viii)]

- (i) As per section 145(1), income chargeable under the head “Profits and gains of business or profession” or “Income from other sources”, shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.
- (ii) Section 145B(1) provides that notwithstanding anything contained in section 145(1), the interest received by an assessee on compensation or on enhanced compensation shall be deemed to be his income for the year in which it is received, irrespective of the method of accounting followed by the assessee.
- (iii) Section 56(2)(viii) provides that income by way of interest received on compensation or on enhanced compensation *referred to in section 145B(1)* shall be assessed as “Income from other sources” in the year in which it is received.



(5) Advance forfeited due to failure of negotiations for transfer of a capital asset to be taxable as “Income from other sources” [Section 56(2)(ix)]

- (i) Prior to A.Y. 2015-16, any advance retained or received in respect of a negotiation for transfer which failed to materialise is reduced from the cost of acquisition of the asset or the written down value or the fair market value of the asset, at the time of its transfer to compute the capital gains arising therefrom as per section 51. In case the asset transferred is a long-term capital asset, indexation benefit would be on the cost so reduced.
- (ii) With effect from A.Y. 2015-16, section 56(2)(ix) provides for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. Such sum shall be chargeable to income-tax under the head ‘Income from other sources’, if such sum is forfeited and the negotiations do not result in transfer of such capital asset.
- (iii) In order to avoid double taxation of the advance received and retained, section 51 has been amended to provide that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year, in accordance with section 56(2)(ix), such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fairmarket value, as the case may be, in computing the cost of acquisition.



(iv) It may be noted that advance received and forfeited upto 31.3.2014 has to be reduced from cost of acquisition while computing capital gains, since such advance would not have been subject to tax under section 56(2)(ix). Only the advance received and forfeited on or after 1.4.2014 would be subject to tax under section 56(2)(ix). Hence, such advance would not be reduced from the cost of acquisition for computing capital gains.

(6) Any sum of money or value of property received without consideration or for inadequate consideration to be subject to tax in the hands of the recipient [Section 56(2)(x)]

(i) In order to prevent the practice of receiving sum of money or the property without consideration or for inadequate consideration, section 56(2)(x) brings to tax any sum of money or the value of any property received by any person without consideration or the value of any property received for inadequate consideration.

(ii) **Sum of Money:** If any sum of money is received without consideration and the aggregate value of which exceeds ` 50,000, the whole of the aggregate value of such sum is chargeable to tax.

(iii) Immovable property [Land or building or both]:

I. If an immovable property is received

(a) **Without consideration:** The stamp duty value of



such property would be taxed as the income of the recipient if it exceeds ` 50,000.

- (b) **For Inadequate consideration:** If consideration is less than the stamp duty value of the property and the difference between the stamp duty value and consideration is more than the higher of –
- (i) Rs. 50,000 and
 - (ii) 5% of consideration,



the difference between the stamp duty value and the consideration shall be chargeable to tax in the hands of the assessee as “Income from other sources”.

- II. Value to be considered where the date of agreement is different from date of registration:** Taking into consideration the possible time gap between the date of agreement and the date of registration, the stamp duty value may be taken as on the date of agreement instead of the date of registration, if the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, provided whole or part of the consideration has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system (ECS) through a bank account *or through such prescribed electronic mode* on or before the date of agreement.
- III. If the stamp duty value of immovable property is disputed by the assessee,** the Assessing Officer may refer the valuation of such property to a Valuation Officer. If such value is less than the stamp duty value, the same would be taken for determining the value of such property, for computation of income under this head in the hands of



the buyer.

(iv) Movable Property [Property, other than immovable property]:

If movable property is received

- (a) **Without consideration:** The aggregate fair market value of such property on the date of receipt would be taxed as the income of the recipient, if it exceeds ₹ 50,000.
- (b) **For inadequate consideration:** If the difference between the aggregate fair market value and such consideration exceeds ₹ 50,000, such difference would be taxed as the income of the recipient.

(v) Applicability of section 56(2)(x): The provisions of section 56(2)(x) would apply only to property which is the nature of a capital asset of the recipient and not stock-in-trade, raw material or consumable stores of any business of the recipient. Therefore, only transfer of a capital asset, without consideration or for inadequate consideration would attract the provisions of section 56(2)(x).

(vi) The table below summarizes the scheme of taxability of gifts –

	Nature of asset	Taxable value
--	-----------------	---------------



1	Money	The whole amount if the same exceeds Rs. 50,000.
2	Movable property	(i) Without consideration: The aggregate fair market value of the property, if it exceeds Rs. 50,000.
		(ii) Inadequate consideration: The difference between the aggregate fair market value and the consideration, if such difference exceeds Rs. 50,000.
3	Immovable property	(i) Without consideration: The stamp value of the property, if it exceeds Rs. 50,000.
		(ii) Inadequate consideration: The difference between the stamp duty value and the consideration, if such difference is more than the higher of Rs. 50,000 and 5% of consideration.

(vii) Non-applicability of section 56(2)(x): However, any sum of money or value of property received, in the following circumstances would be outside the ambit of section 56(2)(x) -

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or



- (e) from any local authority; or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution; or
- (g) from or by any trust or institution registered; or
- (h) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution.
- (i) by way of transaction not regarded as transfer under section 47(i)/ (iv)/ (v)/ (vi)/(vib)/(vid)/(vii).

In order to facilitate the transaction of money or property between a wholly owned subsidiary company and its holding company, transfer of money or property between a holding company and its wholly owned Indian subsidiary company or between a subsidiary company and its 100% Indian holding company, shall not be subject to tax by virtue of the provisions contained in section 56(2)(x).

- (j) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (k) *from such class of persons and subject to such conditions, as may be prescribed.*

(viii) Meaning of certain terms:



Term	Meaning
Property	A capital asset of the assessee, namely,- (a) immovable property being land or building or both, (b) shares and securities, (c) jewellery, (d) archaeological collections, (e) drawings, (f) paintings,
	(g) sculptures, (h) any work of art or (i) bullion.
Relative	(a) In case of an individual – (i) spouse of the individual; (ii) brother or sister of the individual; (iii) brother or sister of the spouse of the individual; (iv) brother or sister of either of the parents of the individual; (v) any lineal ascendant or descendant of the individual; (vi) any lineal ascendant or descendant of the spouse of the individual; (vii) spouse of any of the persons referred in (i) to (vi) above.



(b) In case of Hindu Undivided Family, any member thereof.

ILLUSTRATION 3

Mr. A, a dealer in shares, received the following without consideration during the

P.Y. 2019-20 from his friend Mr. B, -

- (1) Cash gift of ` 75,000 on his anniversary, 15th April, 2019.
- (2) Bullion, the fair market value of which was ` 60,000, on his birthday, 19th June, 2019.
- (3) A plot of land at Faridabad on 1st July, 2019, the stamp value of which is ` 5lakh on that date. Mr. B had purchased the land in April, 2009.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ ` 400 each on 19th June, 2019, the fair market value of



which was ₹ 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2019.

Further, on 1st November, 2019, Mr. A took possession of property (building) booked by him two years back at ₹ 20 lakh. The stamp duty value of the property as on 1st November, 2019 was ₹ 32 lakh and on the date of booking was ₹ 23 lakh. He had paid ₹ 1 lakh by account payee cheque as down payment on the date of booking.

On 1st March, 2020, he sold the plot of land at Faridabad for ₹ 7 lakh.

Compute the income of Mr. A chargeable under the head “Income from other sources” and “Capital Gains” for A.Y. 2020-21.

SOLUTION

Computation of “Income from other sources” of Mr. A for the A.Y. 2020-21

	Particulars	Rs.
(1)	Cash gift is taxable under section 56(2)(x), since it exceeds Rs.50,000	75,000
(2)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds Rs. 50,000	60,000
(3)	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(x)	5,00,000
(4)	Difference of Rs.2 lakh in the value of shares of X Ltd. purchased	-



	from Mr. C, a dealer in shares, is not taxable as it represents the	
	stock-in-trade of Mr. A. Since Mr. A is a dealer in shares and it	
	has been mentioned that the shares were subsequently sold in the	
	course of his business, such shares represent the stock-in-trade of Mr.	
	A.	
(5)	Difference between the stamp duty value of Rs.23 lakh on the date of booking and the actual consideration of Rs.20 lakh paid is taxable under section 56(2)(x) since the difference exceeds Rs. 1,00,000, being the higher of Rs. 50,000 and 5% of consideration	3,00,000
Income from Other Sources		9,35,000

Computation of “Capital Gains” of Mr. A for the A.Y.2020-21

Particulars	Rs.
Sale Consideration	7,00,000
<i>Less:</i> Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as per section 49(4)]	5,00,000
Short-term capital gains	2,00,000

Note – The resultant capital gains will be short-term capital gains since for calculating the period of holding, the period of holding of previous owner is not to be considered.



ILLUSTRATION 4

Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961 -

- (i) Akhil HUF received Rs. 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.
- (ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is Rs. 9,00,000.
- (iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was Rs.100 per share. He also received jewellery worth Rs. 45,000 (FMV) from his nephew on the same day.
- (iv) Kishan HUF gifted a car to son of Karta for achieving good marks in XII board examination. The fair market value of the car is Rs. 5,25,000.

**SOLUTION**

	Taxable /Non- taxable	Amount liable to tax(Rs.)	Reason
(i)	Taxable	75,000	Sum of money exceeding Rs.50,000 received without consideration from a non-relative is taxable under section 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non- taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be included in the hands of Nitisha under 64(2).
(iii)	Taxable	55,000	As per provisions of section 56(2)(x), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds Rs.50,000, the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (Rs. 10,000) and jewellery (Rs. 45,000) exceeds Rs. 50,000. Hence, the entire amount of Rs. 55,000



			shall be taxable.
(iv)	Non-taxable	Nil	Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.

ILLUSTRATION 5

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts, for Rs. 90 lakh on 1.1.2020, when the stamp duty value was Rs. 150 lakh. The agreement was, however, entered into on 1.9.2019 when the stamp duty value was Rs. 140 lakh. Mr. Hari had received a down payment of Rs.15 lakh by a crossed cheque from Rajesh on the date of agreement. Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for Rs. 75 lakh on 12th July, 2018.

Would your answer be different if Hari was a share broker instead of a property dealer?

SOLUTION

Case 1: Tax implications if Mr. Hari is a property dealer

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr.
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	Rajesh
<p>In the hands of Hari, the provisions of section 43CA would be attracted, since the building represents his stock-in-trade and he has transferred the same for a consideration less than the stamp duty value; and the stamp duty value exceeds 105% of consideration.</p> <p>Under section 43CA, the option to adopt the stamp duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through such other prescribed electronic mode on or before the date of agreement. In this case, since the down payment of Rs.15 lakh is received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.</p> <p>Therefore, Rs. 75 lakh, being the difference between the stamp duty</p>	<p>Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds RS. 4,50,000, being the higher of Rs. 50,000 and 5% of consideration. Therefore, Rs.60 lakh, being the difference between the stamp duty value of the property on the date of registration (i.e., Rs. 150 lakh) and the actual consideration (i.e., Rs. 90 lakh) would be taxable under section 6(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through such other prescribed</p>



value on the date of transfer i.e., ` 150 lakh, and the purchase price i.e., ` 75 lakh, would be chargeable as business income in the hands of Mr. Hari, since stamp duty value exceeds 105% of the consideration	electronic mode.
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Case 2: Tax implications if Mr. Hari is a stock broker

In the hands of the seller, Mr. Hari	In the hands of the buyer, Mr. Rajesh
<p>In case Mr. Hari is a stock broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari, since building is transferred for a consideration less than the stamp duty value; and the stamp duty value exceeds 105% of consideration.</p> <p>Thus, Rs. 75 lakh, being the difference between the stamp duty value on the date of registration (i.e., Rs. 150 lakh) and the purchase price (i.e., Rs. 75 lakh) would be chargeable as short-term capital gains.</p> <p>It may be noted that under section 50C, the option to adopt the stamp</p>	<p>There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker.</p> <p>Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration and the difference between the consideration and stamp duty value exceeds Rs.4,50,000, being the higher of Rs.50,000 and 5% of consideration. Therefore, RS. 60 lakh, being the difference between the stamp duty value of the property on the date of registration (i.e., Rs.150 lakh) and the actual consideration</p>



duty value on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account or through such other prescribed electronic mode on or before the date of agreement. In this case, since the down payment of ` 15 lakhs has been received on the date of agreement by crossed cheque and not account payee cheque, the option cannot be exercised.	(i.e., Rs. 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh, since the payment on the date of agreement is made by crossed cheque and not account payee cheque/draft or ECS or through such other prescribed electronic mode.
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(7) Compensation or any other payment received in connection with termination of his employment [Section 56(2)(xi)]

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

(ii) Income chargeable under the head “Income from other sources” only if not chargeable under the head “Profits and gains of business or profession” -

(1) Any sum received by an employer-assessee from his employees as contributions to any provident fund, superannuation fund or any



other fund for the welfare of the employees

- (2) Income from letting out on hire, machinery, plant or furniture.
- (3) Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting.
- (4) Interest on securities

However, the following interest income arising to certain persons would be exempt under section 10(15):

- (i) Income by way of interest, premium on redemption or other payment on notified securities, bonds, annuity certificates or other savings certificates is exempt subject to such conditions and limits as may be specified in the notification.

It may be noted that interest on Post Office Savings Bank Account which was so far fully exempt would henceforth be exempt from tax for any assessment year only to the extent of:

- (1) Rs. 3,500 in case of an individual account.
 - (2) Rs. 7,000 in case of a joint account.
- (ii) Interest on securities held by the Issue Department of Central Bank of Ceylon now known as Central Bank of Sri Lanka constituted under the Ceylon Monetary Law Act, 1949.
 - (iii) Interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the RBI, with any scheduled bank.



- (iv) Interest payable to the Nordic Investment Bank, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on 25.11.86.
- (v) Interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework agreement for financial co- operation entered into by the Central Government with the Bank on 25.11.1993.
- (vi) Interest payable —
 - (a) by a Scheduled Bank to a non-resident or to a not-ordinarily resident in India on deposits in foreign currency where the acceptance of such deposits by the bank is approved by RBI.
 - (b) by public sector companies on certain specified bonds and debentures subject to the conditions which the Central Government may specify by notification, including the condition that the holder of such bonds or debentures registers his name and holding with that company;

Accordingly, the Central Government has specified tax free bonds issued by India Infrastructure Company Ltd. and tax free, secured, redeemable, non-convertible Bonds of the Indian Railway Finance Corporation Ltd. (IRFCL), National Highways Authority of India (NHAI), Rural Electrification Corporation Ltd. (RECL), Housing and Urban Development



Corporation Ltd. (HUDCL), Power Finance Corporation (PFC), Jawaharlal Nehru Port Trust, Dredging Corporation of India Limited, Ennore Port Limited and The Indian Renewable Energy Development Agency Limited, the interest from which would be exempt under this section.

- (c) by Government of India on deposit made by an employee of the Central or State Government or a public sector company in accordance with the scheme as may be notified of the moneys due to him on account of his retirement while on superannuation or otherwise. It is significant that this scheme is not applicable to non-Government employees.

The term 'industrial undertaking' means any undertaking which is engaged in:

- (i) the manufacture or processing of goods; or
- (ii) the manufacture of computer software or recording of programmes on any disc, tape, perforated media or other information device; or
- (iii) the business of generation or distribution of electricity or any other form of power; or
- (iv) the business of providing telecommunication services; or
- (v) mining; or
- (vi) construction of ships, or
- (vii) the business of ship-breaking; or



(viii) the operation of ships or aircrafts or construction or operation of rail systems.

For the purposes of the clause, “interest” shall not include interest paid on delayed payment of loan or default if which is more than 2% p.a. over the rate of interest payable in terms of such loan. Interest would include hedging transaction charges on account of currency fluctuation.

- (vii) **Bhopal Gas Victims** - Section 10(15)(v) provides exemption in respect of interest on securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank’s Account No. SL/DH 048. Recently, in terms of an order of the Supreme Court to finance the construction of a hospital at Bhopal to serve the victims of the gas leak, the shares of the Union Carbide Indian Ltd., have been sold. The scope of the above exemption has been extended to interest on deposits for the benefit of the victims of the Bhopal Gas Leak disaster. Such deposits can be held in such account with the RBI or with a public sector bank as the Central Government may notify in the Official Gazette.
- (viii) Interest on Gold Deposit Bond issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetization Scheme, 2015 notified by the Central Government.
- (ix) Interest on bonds, issued by –
- (a) a local authority; or



(b) a State Pooled Finance Entity

and specified by the Central Government by notification in the Official Gazette.

“State Pooled Finance Entity” means such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development.

Accordingly, the Central Government has specified the “Tax-free Pooled Finance Development Bonds” under Pooled Finance Development Fund Scheme of Government of India, interest from which would be exempt under section 10(15).

(x) interest income received by a non-resident/not-ordinarily resident in India from a deposit made on or after 1.4.2005 in an Offshore Banking Unit referred to in section 2(u) of the SEZ Act, 2005 i.e. a branch of a bank located in a SEZ and which has obtained permission under section 23(1)(a) of the Banking Regulation Act, 1949.

(xi) interest income receivable by a non-resident from a unit located in IFSC in respect of moneys borrowed by it on or after 1.9.2019

(iii) Keyman Insurance Policy

Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy is chargeable under the head “Income from other sources” if such income is not chargeable under the head



“Profits and gains if business or profession” or under the head “Salaries” i.e. if such sum is received by any person other than the employer who took the policy and the employee in whose name the policy was taken.

(iv) Residual Income:

Any income chargeable to tax under the Act, but not falling under any other head of income shall be chargeable to tax under the head “Income from other sources”

e.g. Salary received by an MPs/MLAs will not be chargeable to income-tax under the head ‘Salary’ but will be chargeable as “Income from other sources” under section 56.

BOND WASHING TRANSACTIONS

AND

DIVIDEND STRIPPING [SECTION 94]

- (i) A bond-washing transaction is a transaction where securities are sold some time before the due date of interest and reacquired after the due date is over. This practice is adopted by persons in the higher income group to avoid tax by transferring the securities to their relatives/friends in the lower income group just before the due date of payment of interest. In such a case, interest would be taxable in the hands of the transferee, who is the legal owner of securities. In order to discourage such practice, section 94(1) provides that where the owner of a security transfers the security just before the due date of interest and buys back the same immediately after the due date and interest is received by the



transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands.

- (ii) In order to prevent the practice of sale of securities-cum-interest, section 94(2) provides that if an assessee who has beneficial interest in securities sells such securities in such a manner that either no income is received or income received is less than the sum he would have received if such interest had accrued from day to day, then, income from such securities for the whole year would be deemed to be the income of the assessee.
- (iii) Section 94(7) provides that where
- (a) any person buys or acquires securities within a period of and three months prior to the record date
 - (b) such person sells or transfers –
 - (1) such securities within a period of or three months after such date, or
 - (2) such unit within a period of nine months after such date and
 - (c) the dividend or income on such securities or unit received or receivable by such person is exempted,
- then, the loss, if any, arising there from shall be ignored for the purposes of computing his income chargeable to tax. Such loss should not exceed the amount of dividend or income received or receivable on such securities or unit.

APPLICABLE RATE OF TAX IN RESPECT OF CASUAL INCOME

[SECTION 115BB]



- (i) This section provides that income by way of winnings from lotteries, crossword puzzles, races including horse races or card games and other games of any sort or from gambling or betting of any form would be taxed at a flat rate of 30% plus surcharge, if applicable, plus health and education cess @ 4%.
- (ii) No expenditure or allowance can be allowed from such income.
- (iii) Deduction under Chapter VI-A is not allowable from such income.
- (iv) Adjustment of unexhausted basic exemption limit is also not permitted against such income.



DEDUCTIONS ALLOWABLE [SECTION 57]

The income chargeable under the head “Income from other sources” shall be computed after making the following deductions:

- (i) **In the case of dividends (other than dividends referred to in section 115-O) or interest on securities:** Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee.
- (ii) **Income consists of recovery from employees as contribution to any provident fund etc. in terms of section 2(24)(x):** A deduction will be allowed in accordance with the provisions of section 36(1)(va) i.e., to the extent the contribution is remitted before the due date under the respective Acts.
- (iii) **Where the income to be charged under this head is from letting on hire of machinery, plant and furniture, with or without building:** The following items of deductions are allowable in the computation of such income:
 - (a) the amount paid on account of any current repairs to the machinery, plant, furniture or building.
 - (b) the amount of any premium paid in respect of insurance against risk of damage or destruction of the machinery or plant, furniture or building.
 - (c) the normal depreciation allowance in respect of the machinery, plant or furniture, due thereon.
- (iv) **In the case of income in the nature of family pension:** A deduction



of a sum equal to $33\frac{1}{3}$ per cent of such income or ` 15,000, whichever is less, is allowable.

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

- (v) **Any other expenditure not being in the nature of capital expenditure** laid out or expended wholly and exclusively for the purpose of making or earning such income.
- (vi) **In case of income by way of compensation/ enhanced compensation received chargeable to tax under section 56(2)(viii):** Deduction of 50% of such income. No deduction would be allowable under any other clause of section 57 in respect of such income.

ILLUSTRATION 6

Interest on enhanced compensation received by Mr. G during the previous year 2019-20 is Rs. 5,00,000. Out of this interest, Rs. 1,50,000 relates to the previous year 2016-17, Rs. 1,65,000 relates to previous year 2017-18 and Rs. 1,85,000 relates to previous year 2018-19. Discuss the tax implication, if any, of such interest income for A.Y.2020-21.

SOLUTION

The entire interest of ` 5,00,000 would be taxable in the year of receipt, namely, P.Y. 2019-20.

Particulars	Rs.
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,00,000



<i>Less:</i> Deduction under section 57(iv) @50%	2,50,000
Interest chargeable under the head “Income from other sources”	2,50,000

DEDUCTIONS NOT ALLOWABLE [SECTION 58]

No deduction shall be made in computing the “Income from other sources” of an assessee in respect of the following items of expenses:

(i) In the case of any assessee:

- (1) any personal expense of the assessee;
- (2) any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
- (3) any payment chargeable to tax under the head “Salaries”, if it is payable outside India unless tax has been paid thereon or deducted at source.

(ii) Any expenditure in respect of which a payment is made to a related

person: In addition to these disallowances, section 58(2) specifically provides that the disallowance of any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV. and disallowance of payment or aggregate of payments exceeding

₹10,000 made to a person during a day otherwise than by account payee cheque or draft or ECS through bank account *or through such other*



prescribed electronic mode covered by section 40A will be applicable to the computation of income under the head 'Income from other sources' as well.

- (iii) **Disallowance of 30% of expenditure:** 30% of expenditure shall not be allowed, in respect of a sum which is payable to a resident and on which tax is deductible at source, if
- such tax has not been deducted or;
 - such tax after deduction has not been paid on or before the due date of return specified in section 139(1).
- (iv) **No deduction in respect of any expenditure incurred in connection with casual income:** No deduction in respect of any expenditure or allowance in connection with income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever shall be allowed in computing the said income.

The prohibition will not, however, apply in respect of the income of an assessee, being the owner of race horses, from the activity of owning and maintaining such horses. In respect of the activity of owning and maintaining race horses, expenses incurred shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward in accordance with the provisions of section 74A.

DEEMED INCOME CHARGEABLE TO TAX [SECTION 59]

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



been made in respect of a loss, expenditure or liability and subsequently any amount is received or benefit is derived in respect of such expenditure incurred or loss or trading liability allowed as deduction, then it shall be deemed as income in the year in which the amount is received or the benefit is accrued.

METHOD OF ACCOUNTING [SECTION 145]

Income chargeable under the head “Income from other sources” has to be computed in accordance with the cash or mercantile system of accounting regularly employed by the assessee.

EXERCISE

Question 1

Examine under which heads the following incomes are taxable:

- (i) Rental income in case property held as stock-in-trade for 3 years
- (ii) Dividend on shares in case of a dealer in shares
- (iii) Salary received by a partner from his partnership firm
- (iv) Rental income of machinery
- (v) Winnings from lotteries by a person having the same as business activity
- (vi) Salaries payable to a Member of Parliament
- (vii) Receipts without consideration
- (viii) In case of retirement, interest on employee’s contribution if provident fund is unrecognized.
- (ix) Rental income in case of a person engaged in the business of letting



out of properties.

Answer

	Particulars	Head of Income
(i)	Rental income in case property held as stock-in trade for 3 years	Income from house property
(ii)	Dividend on shares in case of a dealer in shares	Income from other sources
(iii)	Salary by partner from his partnership firm	Profits gains of business or and profession
(iv)	Rental income of machinery (See Note below)	Profits and gains of business or from other profession/Income sources
(v)	Winnings from lotteries by a person having the same as business activity	Income from other sources
(vi)	Salaries payable to a Member of Parliament	Income from other sources
(vii)	Receipts without consideration	Income from other sources
(viii)	In case of retirement, interest on employee's contribution if	Income from other sources



	provident fund is unrecognized	
(xi)	Rental income in case of a person engaged in the business of letting out of properties	Profits and gains from business or profession

Note - As per section 56(2)(ii), rental income of machinery would be chargeable to tax under the head “Income from Other Sources”, if the same is not chargeable to income-tax under the head “Profits and gains of business or profession”.

Question 2

Examine whether the following are chargeable to tax and the amount liable to tax :

- (i) A sum of ` 1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.
- (ii) Interest on enhanced compensation of ` 96,000 received on 12-3-2020 for acquisition of urban land, of which 40% relates to P.Y.2018-19.

Answer

S.No.	Taxable /Not Taxable	Answer Amount liable to tax (Rs.)	Reason
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(i)	Taxable	1,20,000	The exemption from applicability of section 56(2)(x) would be available if, <i>inter alia</i> , gift is received from a relative or gift is received on the occasion of marriage of the individual himself. In this case, since gift is received by Mr. Raj from a non- relative on the occasion of marriage of his son, it would be taxable in his hands under section 56(2)(x).
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(ii)	Taxable	48,000	As per section 145B(1), interest received by the assessee on enhanced compensation shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee. Interest of Rs. 96,000 on enhanced compensation is chargeable to tax in the year of receipt i.e. P.Y. 2019-20 under section 56(2)(viii) after providing deduction of 50% under section 57(iv). Therefore, Rs. 48,000 is chargeable to tax under the head "Income from other sources".
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Question 3

On 10.10.2019, Mr. Govind (a bank employee) received Rs. 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2013-14.

Out of this interest, Rs. 1,50,000 relates to the financial year 2014-15; Rs.1,65,000 to the financial year 2015-16; and Rs. 1,85,000 to the financial year 2016-17. He incurred Rs. 50,000 by way of legal expenses to receive the interest on such enhanced compensation.

How much of interest on enhanced compensation would be chargeable to tax for the assessment year 2020-21?

Answer

Section 145B provides that interest received by the assessee on enhanced compensation



shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 56(2)(viii) states that such income shall be taxable as 'Income from other sources'.

50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income.

Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.

Computation of interest on enhanced compensation taxable as "Income from other sources" for the A.Y 2020-21:

Particulars	Rs.
Interest on enhanced compensation taxable under section 56(2)(viii)	5,00,000
<i>Less:</i> Deduction under section 57(iv) (50% x 5,00,000)	2,50,000
Taxable interest on enhanced compensation	2,50,000

Question 4

The following details have been furnished by Mrs. Hemali pertaining to the yearended 31.3.2020:

- (i) Cash gift of Rs.51,000 received from her friend on the occasion of her "Shastiapha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.
- (ii) On the above occasion, a diamond necklace worth Rs. 2 lacs was presented by her sister living in Dubai.
- (iii) When she celebrated her daughter's wedding on 21.2.2020, her friend assigned



in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was Rs. 52,000.

Compute the income, if any, assessable as income from other sources.

Answer

- (i) Any sum of money received by an individual on the occasion of the marriage of the individual is exempt. This provision is, however, not applicable to a cash gift received during a wedding function celebrated on completion of 60 years of age.

The gift of ₹ 51,000 received from a non-relative is, therefore, chargeable to tax under section 56(2)(x) in the hands of Mrs. Hemali, since the same exceeds ₹ 50,000.

- (ii) The provisions of section 56(2)(x) are not attracted in respect of any sum of money or property received from a relative. Thus, the gift of diamond necklace received from her sister is not taxable under section 56(2)(x), even though jewellery falls within the definition of “property”.

- (iii) To be exempt from applicability of section 56(2)(x), the property should be received on the occasion of the marriage of the individual, not that of the individual's son or daughter. Therefore, this exemption provision is not attracted in this case.

Any sum of money received without consideration by an individual is chargeable to tax under section 56(2)(x), if the aggregate value exceeds Rs. 50,000 in a year. “Sum of money” has, however, not been defined under section 56(2)(x).

Therefore, there are two possible views in respect of the value of fixed deposit assigned in favour of Mrs. Hemali –

- (1) The first view is that fixed deposit does not fall within the meaning of “sum



of money” and therefore, the provisions of section 56(2)(x) are not attracted. It may be noted that fixed deposit is also not included in the definition of “property”.

- (2) However, another possible view is that fixed deposit assigned in favour of Mrs. Hemali falls within the meaning of “sum of money” received.

Income assessable as “Income from other sources”

If the first view is taken, the total amount chargeable to tax as “Income from other sources” would be Rs. 51,000, being cash gift received from a friend on her Shastiapha Poorthi.

As per the second view, the provisions of section 56(2)(x) would also be attracted in respect of the fixed deposit assigned and the “Income from other sources” of Mrs. Hemali would be Rs.1,03,000 (Rs.51,000 + Rs.52,000).

Question 5

Examine the following transactions in the context of Income-tax Act, 1961:

- (i) Mr. B transferred 500 shares of R (P) Ltd. to M/s. B Co. (P) Ltd. on 10.10.2019 for ` 3,00,000 when the market price was ` 5,00,000. The indexed cost of acquisition of shares for Mr. B was computed at ` 4,45,000. The transfer was not subjected to securities transaction tax.

Determine the income chargeable to tax in the hands of Mr. B and M/s. B Co.

(P) Ltd. because of the above said transaction.

- (ii) Mr. Chezian is employed in a company with taxable salary income of Rs. 5,00,000. He received a cash gift of Rs. 1,00,000 from Atma Charitable Trust (registered under section 12AA) in December 2019 for meeting his medical expenses.

Is the cash gift so received from the trust chargeable to tax in the hands of Mr. Chezian?

**Answer**

- (i) Any movable property received for inadequate consideration by any person is chargeable to tax under section 56(2)(x), if the difference between aggregate Fair Market Value of the property and consideration exceeds Rs. 50,000.

Thus, share received by M/s B. Co. (P) Ltd. from Mr B for inadequate consideration is chargeable to tax under section 56(2)(x) to the extent of Rs. 2,00,000.

As per section 50CA, since, the consideration is less than the fair market value of unquoted shares of R (P) Ltd., fair market value of shares of the company would be deemed to be the full value of consideration. It is presumed that the shares of R (P) Ltd are unquoted shares.

The full value of consideration (Rs. 5,00,000) less the indexed cost of acquisition (Rs. 4,55,000) would result in a long term capital gains of `55,000 in the hands of Mr. B.

- (ii) The provisions of section 56(2)(x) would not apply to any sum of money or any property received from any trust or institution registered under section 12AA. Therefore, the cash gift of Rs. 1 lakh received from Atma Charitable Trust, being a trust registered under section 12AA, for meeting medical expenses would not be chargeable to tax under section 56(2)(x) in the hands of Mr. Chezian.

LET US RECAPITULATE

Where any income, profits or gains includible in the total income of an assessee, cannot be included under any of the other heads, it would be chargeable under the head 'Income from other sources'. Hence, this head is the residuary head of income [Section 56(1)]

Specific Incomes Chargeable under this head [Section 56(2)]

**(1) Dividend Income**

(2) Casual income (winnings from lotteries, cross word puzzles, races including horse races, card games and other games, gambling, betting etc.). Such winnings are chargeable to tax at a flat rate of 30% under section 115BB and no expenditure or deduction under Chapter VIA can be allowed from such income. No loss can be set-off against such income and even the unexhausted basic exemption limit cannot be exhausted against such income.

(3) Sum of money or property received by any person [Section 56(2)(x)]

	Nature of asset	Particulars	Taxable value
1	Money	Without consideration	The whole amount, if the same exceeds ` 50,000.
2	Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds ` 50,000.
3	Movable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ` 50,000.
4	Immovable property	Without consideration	The stamp value of the property, if it exceeds Rs.50,000.
5	Immovable property	Inadequate consideration	The difference between the stamp duty value and the consideration, if such difference exceeds the higher of Rs.50,000 and 5% of consideration.

**Receipts exempted from the applicability of section 56(2)(x)**

Any sum of money or value of property received -

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or
- (e) from any local authority; or
- (f) from any fund or university or other educational institution or hospital or other medical institution or any trust or institution; or
- (g) from or by any registered trust or institution
- (h) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution.
- (i) by way of transaction not regarded as transfer under specified clauses of section 47
- (j) from an individual by a trust created or established solely for the benefit of relative of the individual.
- (k) *from such class of persons and subject to such conditions, as may be prescribed.*

(4) Other receipts chargeable under this head

Section	Provision
56(2)(viib)	Consideration received in excess of FMV of shares issued by a closely held company to any person, being a resident, to be treated as income of such company, where shares are issued at a premium
56(2)(viii)	Interest received on compensation/enhanced compensation



	deemed to be income in the year of receipt and taxable under the head “Income from Other Sources”.
56(2)(ix)	Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if such sum is forfeited and the negotiations do not result in transfer of such asset.
56(2)(xi)	Compensation or other payment, due to or received by any person, by whatever name called, in connection with termination of his employment or the modification of the terms and conditions relating thereto.

Deductions allowable [Section 57]

S. No.	Particulars	Deduction
1.	In case of dividends (other than dividends u/s 115-O) or interest on securities	Any reasonable sum paid by way of commission or remuneration to a banker or any other person.
2.	Income consists of recovery from employees as contribution to any PF, superannuation fund etc.	Amount of contribution remitted before the due date under the respective Acts, in accordance with the provisions of section 36(1)(va)
3.	Income from letting on hire of machinery, plant and	current repairs to the machinery, plant, furniture or building, insurance

	furniture, with or without building	premium, depreciation/ unabsorbed depreciation
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4.	Family Pension	Sum equal to - 33 1/3% of such income or - ₹ 15,000, whichever is less
5.	Interest on compensation/ enhanced compensation received	50% of such interest income

Deductions not allowable [Section 58]

S. No.	Deductions not allowable
1.	Any personal expense of the assessee
2.	Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
3.	Any payment chargeable to tax under the head “Salaries”, if it is payable outside India unless tax has been paid thereon or deducted at source.
4.	Any expenditure in respect of which a payment is made to a related person, to the extent the same is considered excessive or unreasonable by the Assessing Officer, having regard to the FMV.
5.	Any expenditure in respect of which a payment or aggregate payments exceeding Rs.10,000 is made to a person in a day otherwise than by account payee cheque or draft or ECS through bank account or through such other prescribed electronic mode.
6.	Any expenditure or allowance in connection with income by way of earnings from lotteries, cross word puzzles, races including horse races, card games and other games of any sort



	or from gambling or betting of any form or nature
7.	30% of expenditure in respect of sum which is payable to a resident on which tax is deductible at source, if such tax has not been deducted or after deduction has not been paid on or before the due date of return specified in section 139(1)



UNIT – V**INCOME FROM OTHER PERSONS INCLUDED IN ASSESSEES TOTAL
INCOME (CLUBBING OF INCOME)****Meaning of Clubbing of Income**

Clubbing of income means including of any other person in assessee's total income.

The Income Tax act has specified certain cases where income of one person is statutorily required to be included in the income of another person if some conditions are satisfied. This inclusion is known as “ Clubbing of Income”.

For example: if a husband diverts some part of his income to his wife to reduce his tax burden. Then such transferred income of a wife is added & taxed as income of husband only & not his wife.

A.CLUBBING OF INCOME FOR TRANSFER OF INCOME**WITHOUT TRANSFER OF ASSETS. (SEC.60)**

Section 60 is applicable if the following conditions are satisfied-

- The Taxpayer owns an assets.
- The ownership of assets is not transferred by him.
- The income from the assets is transferred to any person under a settlement, or agreement.

If the above conditions are satisfied, the income from the assets would be taxable in the hands of the transferor.

Example – Mr. Bachan confers the right to receive rent in respect of his house property to his friend Mr.Khan, without transferring the house itself to him.

In this case, the rent received by Mr.Khan will be clubbed with the income of Mr.Bachan.



B. CLUBBING OF INCOME FOR REVOCABLE TRANSFER OF ASSETS (SEC. 61)

Revocable transfer means the transferor of assets assumes a right to re-acquire asset or income from such an asset, either whole or in parts at any time in future, during the lifetime of transferee. It also includes a transfer which gives a right to re-assume power of the income from asset or asset during the lifetime of transferee.

If the following conditions are satisfied section 61 will become applicable.

- An asset is transferred under a “Revocable Transfer”.
- The Transfer for this purpose includes any settlement or agreement.

Then any income from such an asset is taxable in the hands of the transferor.

EXCEPTION TO SECTION – 61

- Where the income arises to any person by virtue of transfer by way to trust which is not revocable during the life time of the beneficiary, & in case of any other transfer which is not revocable during the life time of the transferee
- Where the income arises to any person by virtue of transfer made before 01.04.1961 which is not revocable for the period of 6 years or more.

C. CLUBBING OF INCOME OF SPOUSE (SECTION 64 (1) (II))

The following incomes of spouse of an individual shall be included in the total income of the Individual.

Remuneration from a concern in which spouse has substantial Interest –

Concern – Concern could be any form of business or professional concern. It could be a sole proprietor, partnership, company etc.

Substantial Interest – An individual is deemed to have substantial interest, if he/she beneficially holds equity shares carrying not less than 20% voting power or is entitled to



not less than 20% profits at any time during the previous year.

If the following conditions are fulfilled this section (64 (1) (ii)) becomes applicable

- If spouse of an individual gets any salary, commission, fees etc (remuneration) from a concern.
- The Individual has a substantial interest in such a concern.
- The remuneration paid to the spouse is not due to technical or professional knowledge of the spouse.
- Then such remuneration shall be considered as income of the individual & not for the spouse.

Example – Mr.X has a substantial interest in A ltd. & Mrs.X is employed by A ltd. Without any technical or professional qualification, in this case salary income of Mrs. X shall be taxable in the hands of Mr.X.

When both husband & wife have substantial Interest

Where both the husband & wife have substantial interest in a concern & both are in receipt of the remuneration from such concern , both the remuneration will be included in the total income of husband or wife whose total income excluding such remuneration is greater.

D. INCOME FROM ASSET TRANSFERRED TO SPOUSE (Section 64 (1) (IV))

Income from assets transferred to spouse becomes taxable under provision 64(1)(iv) as per following conditions –

- The taxpayer is an individual.
- He / She has transferred (directly/indirectly) an asset (other than a house property). The asset is transferred to his/ her spouse.
- The asset is transferred without adequate consideration. Moreover there is no agreement to live apart.

If the above conditions are satisfied any income from such asset shall be deemed to be the income of the taxpayer who has transferred the asset.



Example - Mr. B transfer 500 debentures of IFCI to his wife without adequate consideration. Interest Income on these debentures will be included in the Income of Mr.

When section 64 (1) (iv) is not applicable

- If assets are transferred before marriage
- If assets are transferred for adequate consideration
- If on the date of accrual of income, transferee is not spouse of the transferor.
- If assets are transferred in connection with an agreement to live apart.
- If property is acquired by the spouse out of pin money (i. e an allowance given to the wife by her husband for her dress & usual household expenses.)

E. CLUBBING FROM INCOME FROM ASSETS TRANSFERRED TO SON'S WIFE (SECTION 64 (1) (VI))

Income from assets transferred to son's wife attract the provisions of section 64(1)(vi) as per conditions below –

- The taxpayer is an individual.
- He / She has transferred an asset after May 31, 1973.
- The asset is transferred to son's wife.

In the case of such individuals, the income from the asset is included in the income of the taxpayer who has transferred the asset.

Example – Mr. A transfers without any consideration fixed deposit of Rs. 1,50,000 with a bank to his daughter - in-law on May 5, 2019. She earns interest income of Rs. 12,500 from such fixed deposit during the year 2019-20 . So, In the given case such income shall be included with the income of Mr. A.

F. CLUBBING OF INCOME FROM ASSETS TRANSFERRED TO A PERSON FROM THE BENEFIT OF SPOUSE (SECTION 64 (1) (VII))



Income from the assets transferred to a person for the benefit of spouse attract the provisions of section 64(1)(VII) on clubbing of income. If

- The taxpayer is an individual.
- He / She has transferred an asset to a person or an association of persons. Asset is transferred for the benefit of spouse.
- The Transfer of asset is without adequate consideration.

In case of such individuals income from such an asset is taxable in the hands of the taxpayer who has transferred the asset.

Example – Mr. M transfers 6% debentures of Rs. 2,80,000 of Co. Ltd. to Mr. S without adequate consideration on the condition that interest from such debenture will be utilized for benefits of Mrs. M

In such case, interest income will be included in the total income of Mr. M

G. CLUBBING OF INCOME FROM ASSET TRANSFERRED TO A PERSON FOR THE BENEFIT OF SON'S WIFE (SECTION 64 (1) (VIII))

Income from the assets transferred to a person for the benefit of son's wife attract the provisions of section 64(1)(VII) on clubbing of income. If

- The taxpayer is an individual.
- He / She has transferred an asset after May 31, 1973.
- He / She has transferred an asset to a person or an association of persons. Asset is transferred for the benefit of son's wife.
- The Transfer of asset is without adequate consideration

In case of such individuals income from such an asset is included in the income of the person who has transferred the asset.

H. CLUBBING OF INCOME OF MINOR CHILD (SECTION 64 (1 A))

All income which arises or accrues to the minor child shall be clubbed in the income of his parents, whose total income (excluding minor's income) is greater. However, in case



parents are separated, the income of minor child will be included in the income of that parent who maintains the minor child in the relevant previous year.

Exemption to parent [sec. 10(32)]

An individual shall be entitled to exemption of Rs.1,500 p.a. in respect of each minor child if the income of such minor as included u/s 64(1A) exceeds that amount. However if the income of any minor child is less than Rs. 1,500 p. the aforesaid exemption shall be restricted to the income so included in the total income of the individual.

When Section 64 (1A) is not applicable

In case of income of minor child from following sources, the income of minor child is not clubbed with the income of his parent.

- Income of minor child on account of any manual work.
- Income of minor child on account of any activity involving application of his skills, talent or specialized knowledge & experience.
- Income of minor child suffering from any disability specified u/s 80U.

SET OFF AND CARRY FORWARD OF LOSSES

SET OFF:

- Set off refers to adjustment of the loss of current year with the profit of the current year.
- It consists of
 - Inter source adjustments.
 - Inter head adjustments.



CARRY FORWARD:

- It means to take the excess losses of the current year to the next years and then adjust with the profits of those coming years.



SECTION 70: INTER SOURCE ADJUSTMENT

Loss from one source of income can be adjusted against another source of income, both the sources being under the same head.

Example 1: Loss from one house property can be set off against another property.

Example 2: Loss from one business can be set off against another business.

Exceptions:

- A. Long term capital loss cannot be set off against short term loss.
- B. Loss in speculation business cannot be set off against normal business loss.
- C. Loss from owning and maintenance of horse races business can only be set off against that activity.
- D. A loss in any specified business under sec 35 AD can be set off only against specified business.

SECTION 71: INTER HEAD ADJUSTMENT

Loss under one head of income can be adjusted against another head of income.

Exceptions:

- A. Loss under the **PGBP** cannot be set off against under the head **Salaries**.
- B. Loss from **capital gains** cannot be set off against **any other** heads.
- C. The **maximum loss from house property** which can be set off against any income from any other head is **Rs. 2,00,000/-**
- D. Speculation losses, specified business losses, horse racing losses **cannot** be set off against any other heads.

SPECIAL CASES:



-
- **Losses from House Property:**
 - Can be carry forward up to next 8 assessment years from the assessment year inwhich the loss was incurred
 - Can be adjusted only against Income from house property
 - Can be carried forward even if the return of income for the loss year is belatedly filed.
 - Can be carried forward up to 8 assessment years

 - **Speculative Business Loss:**
 - Can be carry forward up to next 4 assessment years from the assessment year inwhich the loss was incurred
 - Can be adjusted only against Income from speculative business
 - Cannot be carried forward if the return is not filed within the original due date.
 - Not necessary to continue the business at the time of set off in future years

 - **Specified Business Loss under 35AD:**
 - No time limit to carry forward the losses from the specified business under 35AD
 - Not necessary to continue the business at the time of set off in future years
 - Cannot be carried forward if the return is not filed within the original due date.
 - Can be adjusted only against Income from specified business under 35AD.

 - **Capital losses:**



-
- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
 - Long-term capital losses can be adjusted only against long-term capital gains.
 - Short-term capital losses can be set off against long-term capital gains as well as short-term capital gains
 - Cannot be carried forward if the return is not filed within the original due date
- **Losses from owning and maintaining race-horses:**
 - Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
 - Cannot be carried forward if the return is not filed within the original due date
 - Can only be set off against income from owning and maintaining race-horses.
- **Losses from normal business:**
 - Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
 - Can be adjusted only against income from business or profession
 - Not necessary to continue the business at the time of set off in future years
 - Cannot be carried forward if the return is not filed within the original due date.
- **Unabsorbed depreciation:**
 - Unabsorbed Depreciation is that amount of unutilized depreciation which the assessee will not be able to claim as an expense due to lack of sufficient profit in P&L Account.



- Such unabsorbed depreciation can be set off against any heads of income and the remaining balance can be carried off till for any number of periods.

DEDUCTIONS FROM GROSS TOTAL INCOME

► Exemptions vs. Deductions

The various items of income which are mentioned in Section 10 are not included in the computation of total income.

Whereas, items which are allowed as deductions are included in the computation of total income, but they ultimately get deducted from the total income to arrive at the total taxable income of an assessee.

► General Provisions

A. Section 80A (1)

According to Section 80A (1), while computing the total income of an assessee, the deductions specified in Section 80C to 80U shall be allowed from the Gross Total Income of the assessee.

B. Section 80A (2)

The aggregate amount of deduction specified in this section shall not exceed the Gross Total Income of the assessee in any case.

C. Section 80A (3)

In case of AOP/BOI, if there is any deduction chargeable under Section



80G/80GGC/80-IA/80-IB/80-IC/80-ID/80-IE, no such deduction will then be made while computing the total income of the AOP/BOI in relation to their share in the income of the AOP/BOI.

DEDUCTIONS IN RESPECT OF PAYMENTS-

► Deductions in respect of investments in specified assets [Section 80C]

A. Deductions in respect of Investments/Contributions

Under this Section, deduction can be claimed up to ₹ 1,50,000 from gross total income on savings in specified modes of investments. This deduction is only for individuals and HUF.

Following are the investments that are eligible for deduction under this section-

1. Premium paid in respect of life insurance policy

Any premium paid on life insurance policy of spouse, parents, child (minor or major) and any member, in case of HUF is eligible for deduction under Section 80C. Insurance policies may include life insurance policy and endowment policy.

2. Premium paid in respect of a contract for deferred annuity

Any premium paid to keep in effect a contract for deferred annuity on the life of the assessee and/or his or her child, spouse given that the contract does not contain any provision for exercise of an option by the insured to receive cash on the payment of the annuity.

The contract of deferred annuity can be with any person.

3. Any sum deducted from the salary payable of a government employee for securing a deferred annuity

Any sum deducted by or on behalf of government from the salary of a government employee for the purpose of securing a deferred annuity or making



provisions for his spouse or children. The sum deducted should not exceed one fifth of his/her income

4. Contribution to SPF/PPF/RPF

Contributions to any provident fund under Provident Fund Act, 1925 and any recognised provident fund is eligible for deduction under Section 80C. Any other contribution to provident funds setup by the government under Public Provident Fund Scheme, 1968 also qualifies for the same deduction.

5. Contribution to approved superannuation fund.

6. Any sum paid/deposited in Sukanya Samriddhi Account.

7. Subscription to National Savings Certificate VIII.

8. Contribution to unit linked insurance plan 1971.

9. Contribution to unit linked insurance plan of LIC mutual fund.

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 any other educational institutions 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.

20. Subscription to notified bonds issued by NABARD.

21. Investment in five-year Post-Office time deposit.

22. Deposits in Senior Citizen Savings Schemes Rules, 2004.



B. Termination of insurance policy or unit linked insurance plan or transfer of house property or withdrawal of deposit

Where in any previous year an assessee;

- a. Terminates his/her contract of insurance by giving notice which would affect or where the contract ends to be in force.
- b. Terminates his/her involvement in any Unit Linked Insurance Plan by giving notice that would affect or where he stops to participate because of failure to pay any contribution.
- c. Transferring the house property before the expiry of five years from the end of the financial year in which possession of the property is acquired by him, or receives back, whether by way of refund or by any sum.

Then, no such deduction would be allowed to the assessee in respect of any sum paid during that previous year.

► Deduction in respect of contribution to certain pension funds [Section 80CCC]

In case of an assessee in the previous year has paid or deposited any amount out of his income which is chargeable to tax to keep in force any annuity plan of LIC or any other insurer for receiving pension from the fund set up by them, he/she shall be allowed a deduction in the computation of his total income.

The maximum amount of deduction permissible is Rs. 1,50,000. However, the amount of deduction mentioned here is **clubbed with 80C and 80CCD (1)**.

• Deduction in respect of contribution to pension scheme notified by the Central Government [80CCD]

Contribution made towards notified pension schemes by Central Government i.e. New pension scheme (NPS) are allowed deduction under Section



80CCD on individual.

According to the **Restructured Defined Contribution Pension System** people entering newly into government service on or after 1 January, 2004 should contribute 10% of their salary to pension account monthly. Equivalent amount is also contributed by government to such account. Benefits of this account is also available to individuals employed by other individuals or self employed individuals.

Section 80CCD(1) provides a deduction on the amount paid or deposited being 10% of his/her salary in the pension account. The deduction for self-employed individual would be 20% of his/her Gross Total Income.

Section 80CCD(1B) provides for additional deduction up to Rs. 50,000 for the amount that they deposit in the National Pension Scheme.

Section 80CCD(2) provides for additional deduction for their contribution to employee's pension account upto 10% of their salary.

► **Limit on deduction under Sections 80C, 80CCC & 80CCD(1) [Section 80CCE]**

Under the Section 80C, 80CCC, 80CCD(1) the maximum amount of deduction is restricted to Rs. 1,50,000. Also, the additional deduction provided in Sec 80CCD(1B) and 80CCD(2) would be beyond the limit of Rs. 1,50,000.

► **Deduction in respect of investment made under an equity savings scheme [Section 80CCG]**

Under this Section deduction is available to resident individuals whose Gross Total Income is up to 12 lakhs and upon the fulfilment of the following conditions-

A. Should be a retail investor under the requirements of the scheme



notified.

B. Investment should be made in listed equity shares or listed units of equity-oriented fund.

C. Minimum lock in period should be 3 years from the date of acquisition

The deduction upon the fulfilment of the above conditions would be least of the following-

- a. 50% of the amount is invested in equity shares; or
- b. Rs. 25,000 for 3 Assessment Years.

If an assessee after claiming the deduction fails to comply with any of the above conditions in the previous year then the amount of claim would be deemed to be income and accordingly be charged for tax.

The Rajiv Gandhi equity savings scheme has been discontinued from 1 April 2017 so no deduction would be available from AY 2018-19.



But if an assessee has invested any amount before AY 2017-18 then he/she shall be allowed deduction until AY 2019-20.

► **Deduction in respect of medical insurance premium [Section 80D]**

○ **Individuals**

- Deduction up to Rs. 25,000 for payment of premium to keep in force any health insurance policy of self, spouse and children or contribution made Central Government health scheme, or such other health scheme as notified by Central Government.
- Further deduction up to Rs. 25,000 is allowed when payments are made to keep in force any health insurance policy of parents and in respect of health check-ups of parents.
- The deduction of Rs. 25,000 can extend up to Rs. 30,000 if any person mentioned is of age 60 years & above and 80 years & above at any time during the relevant previous year.
- Again, if payments are made in the following situations and ways, then only the claims under Section 80D can be made-
 - ➔ By any mode (**including cash**) on account of any sum paid for health check-ups;
 - ➔ By any mode (**other than cash**) in all cases.

○ **HUF**

- Premium paid on the health insurance of any member of the family is allowed as deduction under Section 80D.
- Maximum deduction under this section in Rs. 25,000 and in case the member is senior citizen then the amount would be Rs. 30,000.
- Any amount paid on medical expenditure of such member who is very senior citizen i.e. 80 years or more would be allowed a deduction Rs. 30,000 given no



amount has been paid on the health insurance of the person.

o **Other conditions**

- The premium should be paid out of the income chargeable to tax in any mode other than cash, in the previous year.
- The insurance should be in accordance with the schemes made by, GIC of India and approved by Central Government; or any other insurer approved by IRDA.

► **Deduction in respect of maintenance including medical treatment of a dependent disabled [Section 80DD]**

The deduction under this section applies to individual or HUF being acitizen of India.

Deduction can relate to-

- Any amount incurred for medical treatment, training or rehabilitation of a dependent being a person with disability, or
- Any amount paid/deposited under any scheme framed by LIC or any other insurer/administrator/specified co. as referred in UTI Act, 2002, for the maintenance of a person with disability being dependent on the assessee.

The deduction allowed is Rs. 75,000 and in case of severe disability i.e. person with 80% or more is Rs. 1,25,000.

If the dependent with disability dies before the individual in whose subscription was made, then the amount paid or deposited would be chargeable in the hands of assessee under that particular scheme in the PY in which the amount is received by the assessee.

► **Deduction in respect of medical treatment etc. [Section80DDB]**

○ **Eligibility of the assessee**



Under this section deductions are allowed to any individual or HUF in respect of medical treatment of self or a dependent being a resident of India, who is suffering from a specified disease.

○ **Amount of deduction**

➔ **For individuals and HUF below age 60**

Least of the following is available as deduction with respect to any expenses made towards treatment of specific disease for himself or any of his dependents.

- Amount actually paid; or
- Rs. 40,000.

For HUF, such a deduction is available to any of the HUF members.

➔ **For senior citizen or an individual of age 60 or more**

Amount paid at any time during the relevant PY in respect of a senior citizen or for himself, then least of the following will be allowed as deduction-

- Amount actually paid; or
- Rs. 60,000

➔ **For very senior citizen or an individual of age 80 or more**

Amount paid at any time during the relevant PY in respect of a very senior citizen or for himself, then least of the following will be allowed as deduction-

- Amount actually paid; or
- Rs. 80,000

In case, the sum of money is received from any insurance company under any insurance policy on health of the dependent or any sum reimbursed from an employer than such insurance or reimbursement received shall be excluded from the deduction.

○ **Condition for the allowance of such claim**

Unless the assessee obtains the prescription for such medical treatment, no such deduction shall be allowed.



- **Deduction in respect of interest loan taken higher education [Section 80E]**

- **Eligibility and conditions**

Deduction under Section 80E is allowed to an individual in respect of any interest on loan taken for the purpose of his/her or for his/her relatives paid by him in the previous year out of his income chargeable to tax. The loan must be taken from any financial institution or approved charitable institution.

- **Deduction period**

Deduction is allowed in computing the total income. The earlier of the following would be considered-

- The initial AY and seven AY immediately succeeding the initial AY; or
- Until the interest is in full by the assessee

- **Financial institution** – it means

- A banking company under Banking Regulation Act, 1949
- Any other institution as specified by Central Government in the official gazette.

- **Deduction for interest on loan borrowed for acquisition of self-occupied house property by an individual [Section 80EE]**

The Section 80EE stipulates deduction for interest paid on loan borrowed for acquiring self-occupied house by an individual until the complete repayment of the loan is not done. The maximum deduction available under this section is Rs. 50,000. However, this amount is over and above the limit mentioned in Section 24 on this behalf.

Conditions to be fulfilled to claim such deduction are-

- ➔ Assessee should not possess any residential house on the date of sanctioning of the loan,
- ➔ Value of the house should be Rs. 50 lakhs or more,
- ➔ The loan should get sanctioned during FY 2016-17, and
- ➔ Sanctioned loan should be Rs. 35 lakhs or more.



- **Deduction in respect of donation to certain funds, charitable institutions etc. [Section 80G]**

Deductions are available in respect of donations to certain funds, charitable institutions etc.

These deductions are divided into 4 categories which are follows-

- 1. Donations qualifying for 100% deductions, without any qualifying limit**

- ➔ National Sports Fund

- ➔ National Cultural Fund

- ➔ Fund for Technology Development and Application

- ➔ National Children's Fund

- ➔ Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund with respect to any State or Union Territory

- ➔ The Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund, Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996

- ➔ The Maharashtra Chief Minister's Relief Fund during

October 1, 1993 and October 6, 1993

- ➔ Chief Minister's Earthquake Relief Fund, Maharashtra

- ➔ Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat



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- ➔ Any trust, institution or fund to which Section 80G(5C) applies for providing relief to the victims of earthquake in Gujarat (contribution made during January 26, 2001 and September 30, 2001) or
 - ➔ Prime Minister's Armenia Earthquake Relief Fund
 - ➔ Africa (Public Contributions — India) Fund
 - ➔ Swachh Bharat Kosh (applicable from financial year 2014-15)
 - ➔ Clean Ganga Fund (applicable from financial year 2014- 15)
 - ➔ National Fund for Control of Drug Abuse (applicable from financial year 2015-16)
 - ➔ National Defence Fund set up by the Central Government
 - ➔ Prime Minister's National Relief Fund
 - ➔ National Foundation for Communal Harmony
 - ➔ An approved university/educational institution of National eminence
 - ➔ Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district
 - ➔ Fund set up by a State Government for the medical relief to the poor
 - ➔ National Illness Assistance Fund
 - ➔ National Blood Transfusion Council or to any State Blood Transfusion Council
 - ➔ National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities



2. Donations qualifying for 50% deductions, without any qualifying limit

- ➔ The Jawaharlal Nehru Memorial Fund
- ➔ Prime Minister's Drought Relief Fund
- ➔ Indira Gandhi Memorial Trust
- ➔ Rajiv Gandhi Foundation

3. Donations qualifying for 100% deductions, subject to a qualifying limit of 10% of adjusted Gross Total Income

- ➔ Government or any approved local authority, institution or association to be utilized for the purpose of promoting family planning.
- ➔ Donation by a Company to the Indian Olympic Association or to any other notified association or institution established in India for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India.

4. Donations qualifying for 50% deductions, subject to a qualifying limit of 10% of adjusted Gross Total Income

- ➔ Any Institution or Fund established in India for charitable purposes fulfilling prescribed conditions.
- ➔ The Government or any local authority for utilisation for any charitable purpose other than the purpose of promoting family planning.
- ➔ 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.



➔ Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

➔ 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.

Adjusted Gross Total Income means Gross total income less the following-

1. amount of deduction under Section 80C to 80U excluding 80G
2. any income chargeable to tax
3. Long Term Capital Gains under Section 112 Short Term Capital Gains under Section 111A.

Other conditions that needs to satisfy are-

1. If deduction is claimed and received on any amount under this section than no other deduction on the same can be claimed for the same or any other AY under any provisions of the act.
2. Donations in kind are shall not qualify for deduction.
3. Donations exceeding Rs. 2000 shall not qualify for such deduction unless paid by any mode other than cash.
4. The deduction under this section can be claimed whether it has any relation with the business or not.

• **Deduction in respect of rent paid [Section 80GG]**

This section provides deduction on the amount of rent paid by the assessee upon the fulfilment of the following conditions-

- A. The assessee should not be receiving any HRA exempt under Section 10(13A).
- B. The rent paid on any accommodation should exceed 10% of his total income after all the deductions mentioned in Chapter VI A except 80GG.
- C. The accommodation should be occupied by the assessee for his/her own



residence.

D. The assessee or his spouse/children or the HUF of which he might be a member should not own any residence at



the place where he/she is carrying the business & profession or employment or perform duties.

• **Deduction in respect of donations for scientific research and rural development [Section 80GGA]**

Under Section 80GGA deduction is available for donations for scientific research and rural development for an assessee not having income under “Profits and Gains from business and profession”.

The following donations are qualified for deduction-

1. Any payment made in the PY towards research institutions or college/university for scientific research as the main objective from such donations.
2. Any sum paid towards an association or any institution for taking up rural development programme as main objective as approved by the prescribed authority or to an institution or association for training of persons for taking up any rural development programme.
3. Any sum paid to research associations, university for taking up research in social sciences or statistics.
4. Such Research Association, University, College or institution must be approved under section 35(1)(iii).
5. Any fund paid rural development fund set up and notified under Section 35CCA.

However, restrictions are provided while claiming the deduction as follows-

1. If deductions under this section is already claimed on any amount than no other deductions can be claimed under any provisions of the act on such amount.



2. No deduction shall be made for any amount exceeding Rs. 10,000 unless the amount is paid by any mode other than cash.

- **Deduction in respect of contributions given by companies to political parties [Section 80GGB]**

Deduction under Section 80GGB is available for contributions made towards political parties or electoral trusts by companies in the previous year.

However, no deduction shall be allowed in case of payment made by cash.

The meaning of **Contribution** for this purpose is same as given by Companies Act, 1956-

1. Any donation or subscription or payment made towards a person by a company for carrying on any activities which are probably to affect the support of public for a political party shall also be defined to be a contribution for a political purpose;
2. The expenditure incurred by a company on advertisement in any publication by/on behalf of a political party or for its advantage shall also be considered as a contribution to the political party or a contribution for a political purpose to the person publishing it.

- **Deduction in respect of contributions given by any person to political party [Section 80GGC]**

- ➔ The Section 80GGC provides deduction for any sum contributed towards a political party or an electoral trust in the previous year by any person. However, no such deduction would be allowed for any sum contributed by way of cash.
- ➔ This deduction will not be available to a local authority and an artificial juridical person, wholly or partly funded by the Government.
- ➔ **Political party in such case** means a political party registered under section 29A of the **Representation of the People Act, 1951**.



- **Deduction in respect of royalty income, etc., of authors of certain books other than textbooks [Section 80QQB]**

➔ Under this section a deduction up to Rs. 3,00,000 is allowed to individuals resident in India for income derived being an author. The deduction shall be the income derived as author or Rs. 3,00,000, whichever is less. This income can be a lumpsum of money or interest in the copy right of the book.

➔ However, this deduction will not be available for royalty income from school textbooks, guides, commentaries, newspapers, journals, pamphlets and other publications of same kind.

➔ For calculating the deduction under this section, the amount of eligible income, before allowing expenses attributable to such income, should 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 for all rights of the author in the book.

- **Deduction in respect of interest on deposits in savings accounts [Section 80TTA]**

Under this section interest on deposits in savings account paid by an individual or HUF out of income, shall avail a deduction up to Rs 10,000 while calculating the total income of the assessee.

The deduction shall be allowed in case the saving account is maintained with-

➔ A banking company under Banking Regulation Act, 1949;

➔ A co-operative society involved in carrying on the business of banking; or



➔ A post office.

However, if interest paid on such account is held by or on behalf of a firm, an AOP/BOI, then no such deduction would be allowed.

- **Deduction in respect of interest on deposits earned by Senior citizens [Section 80TTB]**

The Government of India in the budget of 2018-19 has chosen to introduce a good number of benefits for senior citizens. One such important amendment in Budget 2018 (for senior citizens) is the introduction of a new section – Section 80 TTB.

Section 80TTB is a provision whereby a taxpayer who is a resident senior citizen, aged 60 years and above at any time during a Financial Year (FY), can claim a specified amount as a deduction from his gross total income for that FY. This section is applicable w.e.f. 1 April 2018.

- **Quantum of deductions available**

A deduction of lower than Rs 50,000 or an amount from a specified income is allowed from the gross total income. Specified income is any of the following income in aggregate:

- Interest on **bank deposits** (savings or fixed);
- Interest on **deposits** held in a co-operative society engaged in the business of banking, including a co-operative land mortgage bank or a co-operative land development bank;
or
- Interest on **post office deposits**
- **Exceptions to Section 80TTB**

If the specified deposits are held by or on behalf of a partnership firm, an association of



persons (AOP) or a body of individuals (BOI), Section 80TTB deduction is not available for the partner of such a firm or for any member of such an AOP or BOI, while computing their total income.

- **Section 80TTA vs 80TTB**

Section 80TTA provides deductions similar to Section 80TTB. However, it provides deductions of interest only on savings account held in a bank, co-operative bank or a post office, from the gross total income of the individual taxpayer or a Hindu Undivided Family upto Rs 10,000.

With the introduction of Section 80TTB exclusively for senior citizens, deductions under Section 80TTA is not available to senior citizens.

Difference between Section 80TTA and Section 80TTB

Particulars	Section 80TTA	Section 80TTB
Applicability	Applicable to individuals and HUF except for senior citizens	Applicable to senior citizens
Specified income	Interest on savings account only	Interest on all kinds of deposits
Quantum of deduction	Upto Rs 10,000	Upto Rs 50,000

- **Deduction in case of a person with disability [Section 80U]**

➔ Section 80U provides the criteria for being disable under income tax rules in accordance with the rules laid down by Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.



- ➔ This Section is applicable to resident individuals who is certified by medical authority to be a person with disability at any time during the previous year.
- ➔ A deduction of Rs. 75,000 for a person with disability and Rs. 1,25,000 for a person with severe disability i.e. having disability over 80%, is allowed.
- ➔ Benefit of this deduction also extends to person suffering from autism, cerebral palsy and multiple disorders.
- ➔ The assessee claiming this deduction shall furnish a copy of certificate issued by medical authority in the form and manner as prescribed by the appropriate authority along with the return of income for the assessment year for which the deduction is claimed.
- ➔ In case the person needs reassessment, the assessee have to obtain a fresh certificate from the appropriate medical authority, after the expiry of the original certificate to keep in force the claiming of deduction under this section.

- **Deduction in respect of employment of new employees[Section 80JJAA]**

A. Quantum of deduction available under this section

A deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the previous year is allowed for 3 assessment years including the assessment year relevant to the previous year in which the employment is provided.

B. Conditions need to be fulfilled

1. The business should be formed by splitting up or reconstruction of an existing business.
2. The business is not acquired by the assessee by way of transfer or as a result of any reorganisation of business.
3. Along with return of income, the report of accountant is to be provided.

C. Meaning of certain terms



➔ **Additional employee cost**

Total remunerations paid or payable to additional employees employed during the previous year.

↳ **In case of an existing business**

Nil, if

- ✓ There is no increase in the number of employees than the total number of employees employed on the last day of the preceding year.
- ✓ remunerations are paid by an account payee cheque account payee bank draft or through of electronic clearing system by a bank account

↳ **In the first year of a new business**

The remunerations paid or payable to employees employed during the previous year shall be considered as the additional employee cost.

➔ **Additional employee**

An employee who has been employed during the previous year and whose employment has resulted increase in the total number of employees employed by the employer on the last day of the preceding year

except,

- ↳ An employee whose total remunerations are more than Rs. 25,000 per month; or
- ↳ An employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme.
- ↳ An employee who is employed for a period of less than 240 days in the previous year and an employee employed for a period of less than 150 days during the previous year, in case of an assessee engaged in the business of manufacturing of apparel; or



↳ An employee who has no contribution toward RPF in the recognised provident fund.

➔ **Emoluments/Remunerations**

Any sum paid or payable to an employee in lieu of his employment, excluding

↳ For the benefit of the employee, any contribution paid or payable by the employer to any pension fund or provident fund or any other fund under any law; and

↳ lump-sum payments such as gratuity, leave encashment, voluntary retrenchment benefits, commutation of pension etc. paid or payable to an employee at the time of termination of his service/superannuation/voluntary retirement.

1. MEANING OF TOTAL INCOME

The Total Income of an individual is arrived at after making deductions under Chapter VI-A from the Gross Total Income. As we have learnt earlier, Gross Total Income is the aggregate of the income computed under the 5 heads of income, after giving effect to the provisions for clubbing of income and set-off and carry forward & set-off of losses.

2. INCOME TO BE CONSIDERED WHILE COMPUTING TOTAL INCOME OF INDIVIDUALS

Capacity in which income is earned by an individual	Treatment of income earned in each capacity
In his personal capacity	Income from salaries, Income from house property, Profits and gains of business or profession, Capital gains and Income from



	(under the 5 heads of income)	other sources.
	As a partner of a firm	<p>(i) Salary, bonus etc. received by a partner is taxable as his business income.</p> <p>(ii) Interest on capital and loans to the firm is taxable as business income of the partner. The income mentioned in (i) and (ii) above are taxable to the extent they are allowed as deduction to the firm.</p> <p>(iii) Share of profit in the firm is exempt in the hands of the partner.</p>
	As a member of HUF	<p>(i) Share of income of HUF is exempt in the hands of the member</p> <p>(ii) Income from an impartible estate of HUF is taxable in the hands of the holder of the estate who is the eldest member of the HUF</p> <p>(iii) Income from self-acquired property converted into joint family property.</p>
	Income of other persons included in	(i) Transferee's income, where there is a transfer of income without transfer of assets



	the income of the individual	(ii) Income arising to transferee from a revocable transfer of an asset. In cases (i) and (ii), income is includible in the hands of the transferor. (iii) Income of spouse as mentioned in section 64(1) (iv) Income from assets transferred otherwise than for adequate consideration to son's wife or to any person for the benefit of son's wife. (v) Income of minor child as mentioned in section 64(1A)
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3. COMPUTATION OF TOTAL INCOME AND TAX LIABILITY OF INDIVIDUALS

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. The procedure for computation of total income for the purpose of levy of income-tax is detailed hereunder –

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.

- ◆ In case of an individual, the number of days of his stay in India during the relevant previous year and/or the earlier previous years would determine his residential status.



- ◆ An individual/HUF can be either a –
 - Resident and ordinarily resident
 - Resident but not ordinarily resident
 - Non-resident
- ◆ Persons, other than an individual and HUF, can be either resident or non-resident.
- ◆ An Indian company is resident in India.
- ◆ A company, not being an Indian Company and having its place of effective management in India in a particular year, would be resident in India for that year.
 - ◆ The determining factor for every other assessee is the place where the control and management of its affairs are situated during that year i.e., whether in India or outside India.
 - ◆ The residential status of a person determines the scope of his taxable income.

For example, income which accrues outside India and is received outside India is taxable in the hands of a resident and ordinarily resident but is not taxable in the case of a non-resident.

Step 2 – Classification of income under different heads

- ◆ There are five heads of income, namely, -
 - Salaries,
 - Income from house property,
 - Profits and gains of business or profession



- Capital Gains
- Income from other sources
- ◆ The income of a person should be identified and grouped under the respective head of income.
- ◆ Each head of income has a charging section (for example, section 15 for salaries, section 22 for income from house property).
- ◆ Deeming provisions are also contained under certain heads, by which specific items are sought to be taxed under those heads.

For example, if bad debts allowed as deduction in an earlier year is recovered in a subsequent year, then the amount recovered would be deemed as business income of the person in the year of recovery.

The charging section and the deeming provisions would help you to determine the scope of income chargeable under a particular head.

Step 3 – Computation of income under each head

- ◆ Income is to be computed in accordance with the provisions governing a particular head of income.
- ◆ Assess the income under each head by -
 - applying the charging and deeming provisions,
 - excluding items of income relating to that head in respect of which specific exemptions are provided in section 10.

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 Gross Total Income.

Also, some incomes are partially exempt from income-tax e.g.



House Rent Allowance, Education Allowance. These incomes are excluded while computing income under the relevant head only to the extent of the limits specified in the Act.

- allowing the permissible deductions under that head, and
For example, while calculating income from house property, municipal taxes and interest on loan are allowed as deduction. Similarly, deductions and allowances are prescribed under other heads of income.

- disallowing the non-permissible deductions.
For example, while computing income under the head “Profits and gains from business or profession” expenditure of personal nature and expenditure which is in the nature of offence are not allowable as deduction. Hence, such expenditure, if any, debited to profits and loss account, has to be added back while computing income under this head.

Likewise, while computing net consideration for capital gains, brokerage is a permissible deduction from gross sale consideration but securities transaction tax paid is not permissible.

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

- ◆ An individual in a higher tax bracket may have a tendency to divert his income to another person who is not subject to tax or who is in a lower tax bracket.

For example, an individual may make a fixed deposit in the name of his minor son, so that income from such deposit would accrue to his son, who does not have any other income.



- ◆ In order to prevent evasion of income-tax by such means, clubbing provisions have been incorporated in the Income-tax Act, 1961, 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 to such persons for the purpose of computing tax liability.
- ◆ For example, income of a minor child (say, interest income) is includible in the hands of the parent whose total income is higher before including minor's income. Such interest income will be included in the hands of the parent under the head "Income from other sources" after providing for deduction of up to ₹ 1,500 under section 10(32).
- ◆ However, if a minor child earns income on account of his or her special skills or talent, like music or dance, then such income is not includible in the hands of the parent.

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

An individual may have different sources of income under the same head of income. He might have profit from one source and loss from the other. For instance, an individual may have profit from his let-out house property and loss from his self-occupied property. This loss can be set-off against the profits of the let-out property to arrive at the net income chargeable under the head "Income from house property".

- ◆ **Inter-source set-off of losses**

- A person may have income from one source and loss from another source under the same head of income. For instance, a person may have profit from wholesale trade of merchandise and loss from the business of plying vehicles.



The loss of one business can be set-off against the profits of another business to arrive at the net income under the head “Profits and gains of business or profession”.

- Set-off of loss from one source against income from another source within the same head of income is permissible, subject to certain exceptions, like long-term capital loss cannot be set-off against short-term capital gains though short-term capital loss can be set-off against long-term capital gains.

◆ **Inter-head set-off of losses**

- Likewise, set-off of loss from one head (say, loss from house property) against income from another head (say, Salaries) is also permissible, subject to certain exceptions, like business loss cannot be set-off against salary income.
- Also, Loss under the head 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 losses**

- Unabsorbed losses of the current year can be carried forward to the next year for set-off only against the respective head of income.
- Here again, if there are any restrictions relating to inter-source set-off, the same will apply, like long-term capital loss which is carried forward can be set-off only against long-term capital gains and not short-term capital gains of a later year.
- The maximum number of years up to which any particular loss can be carried forward is also provided under the Act.



For example, business loss can be carried forward for a maximum of 8 assessment years to be set-off against business income.

Step 6 – Computation of Gross Total Income

- ◆ The income computed under each head, after giving effect to the clubbing provisions and provisions for set-off and carry forward and set-off of losses, have to be aggregated to arrive at the gross total income.
- ◆ The process of computing GTI is depicted hereunder -
Add income computed under each head → Apply clubbing provisions → Apply the provisions for set-off and carry forward of losses

Step 7 – Deductions from Gross Total Income

Certain deductions are allowable from gross total income to arrive at the total income. These deductions contained in Chapter VI-A can be classified as –

- ◆ **Deduction in respect of certain payments, for example,**

Section	Nature of Payment/Deposit
80C	Payment of life insurance premium, tuition fees of children, deposit in public provident fund, repayment of housing loan etc.
80D	Medical insurance premium paid by an individual/HUF for the specified persons/ contribution to CGHS etc.
80E	Payment of interest on educational loan taken for self or relative



◆ **Deduction in respect of certain incomes, for example,**

Section	Nature of Income
80QQB	Royalty income of authors of certain books other than text books
80RRB	Royalty on patents.

◆ **Deduction in respect of other incomes**

Section	Nature of Income
80TTA	Interest on savings account with a bank, co-op-society and postoffice.
80TTB	Interest on deposit with a bank, co-op-society and post office in case of senior citizens

◆ **Other Deductions**

Deduction under section 80U in case of a person with disability
These deductions are allowable subject to satisfaction of the conditions prescribed in the relevant sections. There are limits in respect of deduction under certain sections. The payments/incomes are allowable as deduction subject to such limits. For example, the maximum deduction under section 80RRB is ` 3 lakhs.

Step 8 – Total income

- ◆ The gross total income as reduced by the above deductions under Chapter VI-A is the total income.



Total income = GTI – Deductions under Chapter VI-A

- ◆ It should be rounded off to the nearest multiple of ` 10.
- ◆ Tax is calculated on the total income of the assessee.

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

- ◆ The rates of tax are specified in the Finance Act.
- ◆ For individuals, there is a slab rate and basic exemption limit. At present, the basic exemption limit is ` 2,50,000. This means that no tax is payable by individuals with total income of up to ` 2,50,000. The rates of tax and level of total income are as under –

	Level of total income	Rate of tax
(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
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- ◆ 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 assesseees would be as follows –

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

	Level of total income	Rate of tax
(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	₹ 10,000 plus 20% of the amount by which the total income exceeds ₹ 5,00,000



	₹ 10,00,000;	
(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

	Level of total income	Rate of tax
(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
(iv)	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

- ◆ Companies and firms are subject to a flat rate of tax, without any basic exemption limit.
- ◆ The rates of tax have to be applied on the total income to compute the tax liability.



- ◆ Rates of tax in respect of certain income are provided under the Income-tax Act, 1961 itself. For instance, the rates of tax for long term capital gains on certain assets, long-term capital gains on other assets, certain short-term capital gains and winnings from lotteries, crossword puzzles, races etc. are prescribed in sections 112, 112A, 111A and 115BB, respectively. The rates of tax are 20%, 10%, 15% and 30%, respectively, in the above cases. Under section 112A, long term capital gains exceeding ₹ 1,00,000 on transfer of equity shares of a company or unit of equity oriented fund or a unit of a business trust is taxable @10%.
- ◆ The special rates of tax have to be applied on the respective component of total income and the general slab rates have to be applied on the balance of total income after adjusting the basic exemption limit.
- ◆ The unexhausted basic exemption limit can, however, be adjusted against long-term capital gains taxable under section 112/112A and short-term capital gains taxable under section 111A.

**Step 10 – Rebate under section 87A (where total income ≤ ₹ 5,00,000)/
Surcharge (where total income > ₹ 50,00,000)**

Rebate under section 87A: In order to provide tax relief to the individual tax payers who are in the 5% tax slab, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not

exceed ₹ 5,00,000. The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of ₹ 12,500, whichever is less.



However, rebate under section 87A is not available in respect of tax payable @10% on long-term capital gains taxable under section 112A.

Surcharge: Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax. In case where the total income of an individual/HUF/AOPs/BOIs/Artificial Juridical Person is above ₹ 50 lakhs, the rate of surcharge applicable would be as indicated in column (2).

Total Income (1)	Surcharge (2)
> ₹ 50 lakhs ≤ ₹ 1 crore	10% of income-tax
> ₹ 1 crore ≤ ₹ 2 crore	15% of income-tax
> ₹ 2 crore ≤ ₹ 5 crore	25% of income-tax
> ₹ 5 crore	37% of income-tax

Step 11– Health and Education cess (HEC) on Income-tax

The income-tax is to be increased by health and education cess @4% on income-tax plus surcharge/ minus rebate under section 87A, wherever applicable. This cess is payable by all assesseees who are liable to pay income-tax irrespective of their level of total income.

Total Tax Liability of an individual	=	Tax on total income at applicable rates	+	Surcharge, at applicable rates, if total income > ₹ 50 lakhs,	+	HEC@4%
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			-	Rebate u/s 87A, if total income \leq ` 5 lakh		
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Step 12 – Alternate Minimum Tax (AMT)

Chapter XII-BA contains the special provisions for levy of alternate minimum tax in case of persons other than a company. Any person other than a company, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” or under section 10AA or investment-linked deduction under section 35AD would be subject to AMT [Section 115JEE(1)].

The provisions of AMT would, however, not be applicable to an individual, HUF, AOPs, BOIs, whether incorporated or not, or artificial juridical person, if the adjusted total income of such person does not exceed ` 20 lakh [Section 115JEE(2)].

Accordingly, where the regular income-tax payable by an individual for a previous year computed as per the provisions of the Income-tax Act, 1961 is less than the AMT payable for such previous year, the adjusted total income shall be deemed to be the total income of the person. Such person shall be liable to pay income-tax on the adjusted total income @ 18.5% [Section 115JC].

“**Adjusted total income**” would mean the total income before giving effect to Chapter XII-BA as increased by

- (i) the deductions claimed, if any, under section 10AA;
- (ii) the deduction claimed under section 35AD, as reduced by the depreciation allowable under section 32, as if no deduction under section



35AD was allowed in respect of the asset for which such deduction is claimed; and

- (iii) deduction under any section included in Chapter VI-A under the heading C- Deductions in respect of certain incomes [For Intermediate level, the relevant sections are 80JJAA, 80QQB & 80RRB].

Tax credit for AMT [Section 115JD]

Tax credit is the excess of AMT paid over the regular income-tax payable under the provisions of the Income-tax Act, 1961 for the year. Such tax credit shall be carried forward and set-off against income-tax payable in the later year to the extent of excess of regular income-tax payable under the provisions of the Act over the AMT payable in that year. The balance tax credit, if any, shall be carried forward to the next year for set-off in that year in a similar manner.

AMT credit can be **carried forward for set-off upto a maximum period of 15** assessment years succeeding the assessment year in which the credit becomes allowable.

Tax Credit allowable even if Adjusted Total Income does not exceed ` 20 lakh in the year of set-off [Section 115JEE(3)]

In case where the assessee has not claimed any deduction under section 10AA or section 35AD or deduction under section 80JJAA, 80QQB & 80RRB in any previous year and the adjusted total income of that year does not exceed ` 20 lakh, it would still be entitled to set-off his brought forward AMT credit in that year.



Step 13 – Credit for advance tax, TDS and TCS

- ◆ Tax is deductible at source at the time of payment of salary, rent, interest, fees for professional services, royalty etc.
- ◆ The payer has to deduct tax at source at the rates specified in the respective section, say, tax is deductible@10% in respect of royalty and fees for professional services.
- ◆ Such tax deducted at source has to be reduced by the payee to determine his net tax liability.
- ◆ Tax is collectible by the seller in case of certain goods at the rate specified in the respective section. Credit of such tax collection at source is allowable to determine the tax liability.
- ◆ The Income-tax Act, 1961 also requires payment of advance tax in instalments during the previous year itself on the basis of estimated income, if the tax payable, after reducing TDS/TCS, is ` 10,000 or more.
- ◆ Both Corporate and non-corporate assesseees are required to pay advance tax in four instalments, on or before 15th June, 15th September, 15th December and 15th March of the financial year.
- ◆ Assesseees opting for presumptive provisions under section 44AD or under section 44ADA can, however, pay the entire advance tax on or before 15th March of the financial year.
- ◆ From the total tax due, deduct the TDS, TCS and advance tax paid for the relevant assessment year.

Net Tax	=	Total tax	-	TDS	-	TCS	-	Advance tax paid
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Liability		liability						
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Step 14 - Tax Payable/Tax Refundable

After adjusting the advance tax and tax deducted 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. The assessee has to pay the amount of tax payable (called self-assessment tax) at the time of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.

Note: Students are advised to read the above steps carefully and follow the given procedure while solving problems on computation of total income and tax liability.

EXERCISE

Question 1

Miss Charlie, an American national, got married to Mr. Radhey of India in USA on 2.03.2019 and came to India for the first time on 16.03.2019. She left for USA on 19.9.2019. She returned to India again on 27.03.2020. While in India, she had purchased a show room in Mumbai on 22.04.2019, which was leased out to a company on a rent of ` 25,000 p.m. from 1.05.2019. She had taken loan from a bank for purchase of this show room on which bank had charged interest of

` 97,500 upto 31.03.2020. She had received the following gifts from her relatives and friends during 1.4.2019 to 31.3.2020:

- From parents of husband ` 51,000



- From married sister of husband

₹ 11,000

- From two very close friends of her husband, ₹ 1,51,000 and ₹ 21,000 ₹ 1,72,000

Determine her residential status and compute the total income chargeable to tax along with the amount of tax payable on such income for the Assessment Year 2020-21.

Answer

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.

If an 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.

Therefore, the residential status of Miss Charlie, an American National, for A.Y. 2020-21 has to be determined on the basis of her stay in India during the previous year relevant to A.Y. 2020-21 i.e. P.Y. 2019-20 and in the preceding four assessment years.

Her stay in India during the previous year 2019-20 and in the preceding four years are as under:



P.Y. 2019-20	
01.04.2019 to 19.09.2019	- 172 days
27.03.2020 to 31.03.2020	- <u>5 days</u>
Total	<u>177 days</u>
Four preceding previous years	
P.Y.2018-19 [1.4.2018 to 31.3.2019]	- 16 days
P.Y.2017-18 [1.4.2017 to 31.3.2018]	- Nil
P.Y.2016-17 [1.4.2016 to 31.3.2017]	- Nil
P.Y.2015-16 [1.4.2015 to 31.3.2016]	- <u>Nil</u>
Total	<u>16 days</u>

The total stay of the assessee during the previous year in India was less than 182 days and during the four years preceding this year was for 16 days. Therefore, due to non-fulfillment of any of the two conditions for a resident, she would be treated as non-resident for the Assessment Year 2020-21.

Computation of total income of Miss Charlie for the A.Y. 2020-21

Particulars	Rs.	Rs.
Income from house property		
Show room located in Mumbai remained on rent from 01.05.2019 to 31.03.2020 @ ₹ 25,000/- p.m.	2,75,000	
Gross Annual Value [₹ 25,000 x 11] (See Note 1 below)		
Less: Municipal taxes		Nil



Net Annual Value (NAV)		2,75,000	
Less: Deduction under section 24			
30% of NAV	82,500		
Interest on loan	97,500	1,80,000	95,000
Income from other sources			
Gifts received from non-relatives is chargeable to tax as per section 56(2)(x) if the aggregate value of such gifts exceeds ` 50,000.			
- ` 50,000 received from parents of husband would be exempt, since parents of husband fall within the definition of 'relative' and gifts from a relative are not chargeable to tax.		Nil	
- ` 11,000 received from married sister of husband is exempt, since sister-in-law falls within the definition of relative and gifts from a relative are not chargeable to tax.		Nil	
- Gift received from two friends of husband ` 1,51,000 and ` 21,000 aggregating to ` 1,72,000 is taxable under section 56(2)(x) since the aggregate of ` 1,72,000 exceeds ` 50,000. (See Note 2 below)		1,72,000	1,72,000
Total income			2,67,000

Computation of tax payable by Miss Charlie for the A.Y. 2020-21



Particulars	Rs.
Tax on total income of ` 2,67,000	850
Add: Health and Education cess@4%	34
Total tax payable	884
Total tax payable (rounded off)	880

Notes:

1. Actual rent received has been taken as the gross annual value in the absence of other information (i.e. Municipal value, fair rental value and standard rent) in the question.
2. If the aggregate value of taxable gifts received from non-relatives exceed Rs.50,000 during the year, the entire amount received (i.e. the aggregate value of taxable gifts received) is taxable. Therefore, the entire amount of
` 1,72,000 is taxable under section 56(2)(x).
3. Since Miss Charlie is a non-resident for the A.Y. 2020-21, rebate under section 87A would not be available to her, even though her total income does not exceed ` 5 lacs.

**Question 2**

Dr. Niranjana, a resident individual, aged 60 years is running a clinic. Her Income and Expenditure Account for the year ending March 31st, 2020 is as under:

Expenditure	Rs.	Income	Rs.
To Medicine consumed	35,38,400	By Consultation and medical charges	58,85,850
To Staff salary	13,80,000	By Income-tax refund (principal ` 5,000, interest ` 450)	5,450
To Clinic consumables	1,10,000	By Dividend from units of UTI	10,500
To Rent paid	90,000	By Winning from game show on T.V. (net of TDS of ` 15,000)	35,000
To Administrative expenses	2,55,000	By Rent	27,000
To Amount paid to scientific research association approved under section 35	1,50,000		
To Net profit	4,40,400		



	59,63,800		59,63,800
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- (i) Rent paid includes ₹ 30,000 paid by cheque towards rent for her residential house in Surat.
- (ii) Clinic equipments are:
- 1.4.2019 Opening W.D.V. - ₹ 5,00,000
- 7.12.2019 Acquired (cost) by cheque - ₹ 2,00,000
- (iii) Rent received relates to property situated at Surat. Gross Annual Value ₹ 27,000. The municipal tax of ₹ 2,000, paid in December, 2019, has been included in "administrative expenses".
- (iv) She received salary of ₹ 7,500 p.m. from "Full Cure Hospital" which has not been included in the "consultation and medical charges".
- (v) Dr. Niranjana availed a loan of ₹ 5,50,000 from a bank for higher education of her daughter. She repaid principal of ₹ 1,00,000, and interest thereon ₹ 55,000 during the year 2019-20.
- (vi) She paid ₹ 1,00,000 as tuition fee (not in the nature of development fees/ donation) to the university for full time education of her daughter.
- (vii) An amount of ₹ 28,000 has also been paid by cheque on 27th March, 2020 for her medical insurance premium.

From the above, compute the total income of Dr. Smt. Niranjana for the A.Y. 2020-21.

**Answer**

**Computation of total income and tax liability of
Dr. Niranjana for A.Y.
2020-21**

	Particulars	Rs.	Rs.	Rs.
I	Income from Salary			
	Basic Salary (₹ 7,500 x 12)		90,000	
	Less: Standard deduction under section 16(ia)		50,000	40,000
II	Income from house property			
	Gross Annual Value (GAV)		27,000	
	Less : Municipal taxes paid		2,000	
	Net Annual Value (NAV)		25,000	
	Less: Deduction u/s 24 @ 30% of ₹ 25,000		7,500	17,500
III	Income from profession			
	Net profit as per Income and Expenditure account		4,40,400	
	Less: Items of income to be treated separately			
	(i) Rent received	27,000		
	(ii) Dividend from units of UTI	10,500		



	(iii) Winning from game show on T.V. (netof TDS)	35,000		
IV	(iv) Income tax refund	5,450	77,950	
			3,62,450	
	Less: Allowable expenditure			
	Depreciation on Clinic equipments			
	on ` 5,00,000 @ 15%	75,000		
	on ` 2,00,000 @ 7.5%	15,000		
	(On equipments acquired during the year in December 2019, she is entitled to depreciation @ 50% of normal depreciation, since the same are put to use for less than 180 days during the year)			
	Additional deduction of 50% for amount paid to scientific research association (Since weighted deduction of 150% is available in respect of such payment)	75,000	1,65,000	
	Add: Items of expenditure not allowable while computing business income		1,97,450	
	(i) Rent for her residential accommodation included in Income and Expenditure A/c	30,000		
(ii) Municipal tax paid relating to residential house at Surat included in administrative expenses	2,000	32,000	2,29,450	



Income from other sources			
(a) Interest on income-tax refund		450	
(b) Dividend from UTI	10,500		
Less : Exempt under section 10(35)	10,500	Nil	
(c) Winnings from the game show on T.V. (` 35,000 + ` 15,000)		50,000	50,450
Gross Total Income			3,37,400
Less: Deductions under Chapter VI A:			
(a) Section 80C - Tuition fee paid to university for full time education of her daughter		1,00,000	
(b) Section 80D - Medical insurance premium (fully allowed since she is a senior citizen)		28,000	
(c) Section 80E - Interest on loan taken for higher education is deductible		55,000	1,83,000
Total income			1,54,400

Notes:

- (i) The principal amount received towards income-tax refund will be excluded from computation of total income. Interest received will be taxed under the head “Income from other sources”.
- (ii) Winnings from game show on T.V. should be grossed up for the chargeability under the head “Income from other sources” (` 35,000 + ` 15,000). Thereafter, while



computing tax liability, TDS of ₹ 15,000 should be deducted to arrive at the tax payable. Winnings from game show are subject to tax @30% as per section 115BB.

- (iii) Since Dr. Niranjana is staying in a rented premise in Surat itself, she would not be eligible for deduction u/s 80GG, as she owns a house in Surat which she has let out.

Question 3

Ms. Purvi, aged 55 years, is a Chartered Accountant in practice. She maintains her accounts on cash basis. Her Income and Expenditure account for the year ended March 31, 2020 reads as follows:

Expenditure	(Rs.)	Income	(Rs.)	(Rs.)
Salary to staff	15,50,000	Fees earned:		
Stipend to articled assistants	1,37,000	Audit	27,88,000	
		Taxation services	15,40,300	
Incentive to articled assistants	13,000	Consultancy	12,70,000	55,98,300
		Dividend on shares of Indian companies		10,524
Office rent	12,24,000	Income from UTI		7,600



Printing and stationery	12,22,000	Honorarium received from various institutions for valuation of answer papers	15,800
Meeting, seminar and Conference	31,600	Rent received from residential flat let out	85,600
Purchase of car (for official use)	80,000		
Repair, maintenance and petrol of car	4,000		
Travelling expenses	5,25,000		
Municipal tax paid in respect of house property	3,000		
Net Profit	9,28,224		
	57,17,824		57,17,824

Other Information:

- (i) Allowable rate of depreciation on motor car is 15%.
- (ii) Value of benefits received from clients during the course of profession is ₹ 10,500.



- (iii) Incentives to articled assistants represent amount paid to two articled assistants for passing IPCC Examination at first attempt.
- (iv) Repairs and maintenance of car include ₹ 2,000 for the period from 1-10-2019 to 30-09-2020.
- (v) Salary include ₹ 30,000 to a computer specialist in cash for assisting Ms. Purvi in one professional assignment.
- (vi) The travelling expenses include expenditure incurred on foreign tour of ₹ 32,000 which was within the RBI norms.
- (vii) Medical Insurance Premium on the health of dependent brother and major son dependent on her amounts to ₹ 5,000 and ₹ 10,000, respectively, paid in cash.
- (viii) She invested an amount of ₹ 10,000 in National Saving Certificate.

Compute the total income and tax payable of Ms. Purvi for the assessment year 2020-21.

Answer

Computation of total income and tax liability of Ms. Purvi for the A.Y. 2020-21

Particulars	Rs.	Rs.
Income from house property (See Working Note 1)		57,820
Profit and gains of business or profession (See Working Note 2)		9,20,200
Income from other sources (See Working Note 3)		15,800
Gross Total Income		9,93,820



Less: Deductions under Chapter VI-A (See Working Note 4)		10,000
Total Income		9,83,820
Tax on total income		
Upto ` 2,50,000	Nil	
` 2,50,001 – ` 5,00,000 @5%	12,500	
` 5,00,001 - ` 9,83,820 @20%	96,764	1,09,264
Add: Health and Education cess @ 4%		4,371
Total tax liability		1,13,635
Tax Payable		1,13,640

Working Notes:**(1) Income from House Property**

Particulars	Rs.	Rs.
Gross Annual Value under section 23(1)	85,600	
Less: Municipal taxes paid	3,000	
Net Annual Value (NAV)	82,600	
Less: Deduction under section 24 @ 30% of NAV	24,780	57,820

Note - Rent received has been taken as the Gross Annual Value in the absence of other information relating to Municipal Value, Fair Rent and Standard Rent.

(2) Income under the head “Profits & Gains of Business or Profession”

Particulars	Rs.	Rs.
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Net profit as per Income and Expenditure account		9,28,224
Add: Expenses debited but not allowable		
(i) Salary paid to computer specialist in cash disallowed under section 40A(3), since such cash payment exceeds ` 10,000	30,000	
(ii) Amount paid for purchase of car is not allowable under section 37(1) since it is a capital expenditure	80,000	
(ii) Municipal Taxes paid in respect of residential flatlet out	3,000	1,13,000
		10,41,224
Add: Value of benefit received from clients during the course of profession [taxable as business income under section 28(iv)]		10,500
		10,51,724
Less: Income credited but not taxable under this head:		
(i) Dividend on shares of Indian companies	10,524	
(ii) Income from UTI	7,600	
(iii) Honorarium for valuation of answer papers	15,800	
(iv) Rent received from letting out of residential flat	85,600	1,19,524
		9,32,200
Less: Depreciation on motor car @15% (See Note (i)below)		12,000
		9,20,200

**Notes :**

- (i) It has been assumed that the motor car was put to use for more than 180 days during the previous year and hence, full depreciation @ 15% has been provided for under section 32(1)(ii).

Note: Alternatively, the question can be solved by assuming that motor car has been put to use for less than 180 days and accordingly, only 50% of depreciation would be allowable as per the second proviso below section 32(1)(ii).

(ii) Incentive to articled assistants for passing IPCC examination in their first attempt is deductible under section 37(1).

(iii) Repairs and maintenance paid in advance for the period 1.4.2020 to 30.9.2020 i.e. for 6 months amounting to ₹ 1,000 is allowable since Ms. Purvi is following the cash system of accounting.

(iv) ₹ 32,000 expended on foreign tour is allowable as deduction assuming that it was incurred in connection with her professional work. Since it has already been debited to income and expenditure account, no further adjustment is required.

(3) Income from other sources

Particulars	Rs.	Rs.
Dividend on shares of Indian companies	10,524	
Less: Exempt under section 10(34)	10,524	Nil
Income from UTI	7,600	
Less: Exempt under section 10(35)	7,600	Nil



Honorarium for valuation of answer papers	15,800
	15,800

(4) Deduction under Chapter VI-A :

Particulars	Rs.
Deduction under section 80C (Investment in NSC)	10,000
Deduction under section 80D (See Notes (i) & (ii) below)	Nil
Total deduction under Chapter VI-A	10,000

Notes:

- (i) Premium paid to insure the health of brother is not eligible for deduction under section 80D, even though he is a dependent, since brother is not included in the definition of “family” under section 80D.
- (ii) Premium paid to insure the health of major son is not eligible for deduction, even though he is a dependent, since payment is made in cash.

PROVISIONS RELATING TO PAYMENT OF ADVANCE TAX

Liability to pay advance tax

As per section 208, every person whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance, in the form of “advance tax”. In this part you can gain knowledge on various provisions relating to payment of advance tax by a taxpayer.



Person not liable to pay advance tax

As discussed above, every person whose estimated tax liability for the year is Rs. 10,000 or more is liable to pay advance tax.

- However, a resident senior citizen (i.e., an individual of the age of 60 years or above during the relevant financial year) not having any income from business or profession is not liable to pay advance tax.

Illustration

Mr. Kumar is running a provision store. The turnover of the store for the financial year 2023-24 amounted to Rs. 1,84,00,000. He wants to declare income under section 44AD at 8% of the turnover. He does not have any other source of income. Will he be liable to pay advance tax?

**

Mr. Kumar satisfies the criteria of section 44AD in respect of provision store business and, hence, he can adopt the provisions of section 44AD and declare income at 8% of the turnover.

A taxpayer opting for the presumptive taxation scheme of section 44AD is also liable to pay advance tax in respect of business covered under section 44AD. Thus, if Mr. Kumar adopts the provisions of section 44AD, he is also liable to pay advance tax in respect of income generated from provision store business.

Illustration

Mr. Vipul (age 39 years) is running a medical store. The turnover of the store for the financial year 2023-24 amounted to Rs. 40,00,000. His accounts revealed a net profit of Rs. 2,60,000. Will he be liable to pay advance tax?

**

In this case, Mr. Vipul will be liable to pay advance tax in respect of income



generated from medical store business if his estimated tax liability for the financial year comes out Rs. 10,000 or more. The taxable income of Mr. Vipul is Rs. 2,60,000. Tax on Rs. 2,60,000 will be Rs. NIL, hence, Mr. Vipul is not liable to pay advance tax.

(*) The normal tax rates for the financial year 2023-24 applicable to an individual below the age of 60 years are as follows:

- Nil upto income of Rs. 2,50,000
- 5% for income above Rs. 2,50,000 but upto Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but upto Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

However in case of taxpayer, being an Individual resident in India, rebate under section 87A of Rs. 12,500 or 100% of tax, whichever is lower, would be provided if his total income does not exceed Rs. 5,00,000. In case taxpayer opts for new tax regime under section 115BAC, rebate under section 87A of Rs. 25,000 or 100% of tax, whichever is lower, would be provided if his total income doesn't exceed Rs. 7,00,000.

Apart from above, health and education cess @ 4% will be levied on the amount of tax.

Due dates for payment of advance tax

Advance tax is to be paid in different instalments. The due dates for payment of different instalments of advance tax are as follows:

Status	By 15th June	By 15th Sept.	By 15th Dec.	By 15th March
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All assesseees (other than the eligible assessee as referred to in Section 44AD or section 44ADA)	Minimum 15% of advance tax	Minimum 45% of advance tax	Minimum 75% of advance tax	Minimum 100% of advance tax
Taxpayers who opted for presumptive taxation scheme of section 44AD or section 44ADA	Nil	Nil	Nil	Minimum 100% of Advance tax

Note 1: Any tax paid till 31st March will be treated as advance tax.

Note 2: If the last day for payment of any instalment of advance tax is a day on which the banks are closed, then the taxpayer should pay the advance tax on the immediately following working day [Circular No. 676, dated 14-1-1994].

Illustration

Mr. Kumar is a doctor. Although MR. Kumar is in profession specified under Section 44AA(1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the financial year 2023-24 amounted to Rs. 1,00,000. By which dates he should pay advance tax and how much?

**

If the estimated tax liability of the taxpayer is Rs. 10,000 or more, then he has to



discharge his tax liability in the form of advance tax. Advance tax is to be paid in different installments. The due dates for payment of different instalments of advance tax are as follows:

Status	By 15 th June	By 15 th Sept.	By 15 th Dec.	By 15 th March
All assesseees (other than the eligible assessee as referred to in Section 44AD or section 44ADA)	Minimum 15% of advance tax	Minimum 45% of advance tax	Minimum 75% of advance tax	Minimum 100% of advance tax
Taxpayers who opted for presumptive taxation scheme of section 44AD or section 44ADA	Nil	Nil	Nil	Minimum 100% of Advance tax

Mr. Kumar being a doctor is in profession specified under section 44AA(1) but



he doesn't opt for the presumptive taxation scheme of section 44ADA. Hence, he has to pay advance tax in four installments as given hereunder:

- His first installment of advance tax will fall due on 15th June, 2023. He should pay 15% of his tax liability in advance, hence, he should pay Rs. 15,000 on account of advance tax by 15th June, 2023.
- His second installment of advance tax will fall due on 15th September, 2023. By 15th September, he should pay 45% of his liability in advance, i.e., Rs. 45,000. Assuming that he has already paid Rs. 15,000 as advance tax by 15th June, he should pay balance of Rs. 30,000 on account of advance tax by 15th September, 2023. Thus, total payment of advance tax till 15th September will amount to Rs. 45,000.
- His third installment of advance tax will fall due on 15th December, 2023. By 15th December, he should pay 75% of his liability in advance, i.e., Rs. 75,000. Assuming that he has already paid Rs. 45,000 as advance tax till 15th September, he should pay balance of Rs. 30,000 on account of advance tax by 15th December, 2023. Thus, total payment of advance tax till 15th December, 2023 will amount to Rs. 75,000.
- His fourth and final installment of advance tax will fall due on 15th March, 2024. By 15th March, he should pay 100% of his liability in advance, i.e., Rs. 1,00,000. Assuming that he has already paid Rs. 75,000 as advance tax till 15th December, he should pay balance of Rs. 25,000 on account of advance tax by 15th March, 2024. Thus, total payment of advance tax till 15th March, 2024 will amount to Rs. 1,00,000.

As per Rule 125 of the Income-tax Rules, 1962 a corporate taxpayer (i.e., a company) shall pay taxes through the electronic payment mode using the internet banking facility of the authorised banks.

Taxpayers other than a company, who are required to get their accounts audited, shall pay taxes through the electronic payment mode using the internet banking facility of



the authorised banks.

Any other taxpayer can pay tax either by electronic mode or by physical mode i.e. by depositing the challan at the receiving bank.

Payment of advance tax

Advance tax can be paid by the taxpayer either on his own account or in pursuance of an order of the Assessing Officer.

The taxpayer who is liable to pay advance tax is required to estimate his current income and pay advance tax on his own account. In such a case, he is not required to submit any estimate or statement of income to the tax authorities.

After making payment of first or second or third instalment of advance tax (as the case may be), if there is a change in the tax liability, then the taxpayer can revise the quantum of advance tax in the remaining instalment(s) and pay the tax as per revised estimates.

Tax can be computed on the current income (estimated by the taxpayer) at the rates in force during the financial year. From the tax so computed, tax deducted or collected at source will be deducted and the balance tax payable will be used to compute the advance tax liability. Also, relief of tax allowed under section 90 or section 90A or any deduction under section 91 or any tax credit allowed to be set off as per section 115JAA or section 115JD shall also be deducted while computing the advance tax liability.

Illustration

Mr. Raja is an architect. Although MR. Rana is in profession specified under Section 44AA(1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the year amounts to Rs. 1,00,000. He has paid advance tax of Rs. 15,000 by 15th June. In the month of August one of his clients paid fee of Rs. 1,80,000 after deducting tax at source of Rs. 20,000 (Such fees of Rs. 1,80,000 was considered at earlier occasion for estimating the tax liability of taxpayer). In this



case how much of advance tax he is required to pay in the remaining installments?

**

If the estimated tax liability of the taxpayer is Rs. 10,000 or more, then he has to discharge his tax liability in the form of advance tax. Advance tax is to be paid in different installments. The due dates for payment of different installments of advance tax in case of all assesseees (other than the eligible assesseees as referred to in section 44AD or section 44ADA) are as follows:

By 15 th June	By 15 th Sept.	By 15 Dec.	By 15 th March
15%	45%	75%	100%

Considering the above dates, Mr. Raja has to pay 15% of his estimated tax liability by 15th June. Hence, he has to pay Rs. 15,000 on account of advance tax by 15th June.

While computing the advance tax liability, the taxpayer can deduct the tax at source from his income. In this case, at the time of estimation of first installment there was no TDS credit with Mr. Raja. His estimated tax liability without TDS amounted to Rs. 1,00,000. In the month of August he received Rs. 1,80,000 after deduction of tax of Rs. 20,000, hence, he got a TDS credit of Rs. 20,000. His tax liability after granting of credit of TDS will come to Rs. 80,000. In second installment, i.e., by 15th September he should pay up to 45% of his revised tax liability. Thus, he should pay up to Rs. 36,000 (i.e., 45% of Rs. 80,000) by 15th September. He has already paid Rs. 15,000 by 15th June and, hence, he should pay balance of Rs. 21,000 by 15th September. In third installment, i.e., by 15th December he should pay 75% of his estimated tax liability. Thus, he should pay Rs. 60,000 (i.e., 75% of 80,000) by 15th December. He has already paid Rs. 36,000 till 15th September and, hence, he should pay balance of Rs. 24,000 by 15th December (i.e., Rs. 60,000 – Rs. 36,000). Finally in fourth and final installment, i.e., by 15th march he should pay 100% of his estimated tax liability. Thus he should pay Rs. 80000 by 15th March. He has already paid Rs. 60000 till 15th December and hence, he should pay Rs. 20000 by 15th March (i.e.,



Rs.80000-Rs.60000).

Illustration

Mr. Rana is an engineer. Although MR. Rana is in profession specified under Section 44AA(1) but he doesn't opt for the presumptive taxation scheme of Section 44ADA. His estimated tax liability for the year amounts to Rs. 2,00,000. He has paid advance tax of Rs. 30,000 by 15th June. In the month of August he got a contract from a multinational company. After incorporating the receipts of the new contract, his revised tax liability for the year amounts to Rs. 3,00,000. In this case, how much advance tax he is required to pay in each installment?

**

If the estimated tax liability of the taxpayer is Rs. 10,000 or more, then he has to discharge his tax liability in the form of advance tax. Advance tax is to be paid in different installments. The due dates for payment of different installments of advance tax in case of all assesseees (other than the eligible assesseees as referred to in section 44AD or section 44ADA) are as follows:

By 15 th June	By 15 th Sept.	By 15 Dec.	By 15 th March
15%	45%	75%	100%

Considering the above dates, Mr. Rana has to pay 15% of his estimated tax liability by 15th June. Hence, he has to pay Rs. 30,000 on account of advance tax by 15th June (in June he was not aware of the contract and, hence, Rs. 30,000 will be payable in first installment of advance tax liability).

After making payment of first/second installment of advance tax, if there is a change in the tax liability, the taxpayer can revise the quantum of advance tax in the remaining installment(s) and pay the tax as per revised estimate.

In this case, after payment of first installment, he got the contract from the multinational company and his revised estimated tax liability came to Rs. 3,00,000, hence, he has to pay advance tax considering the revised liability of Rs. 3,00,000.



In second installment, i.e., by 15th September, he should pay up to 45% of his revised liability. Thus, he should pay up to Rs. 1,35,000 (i.e., 45% of Rs. 3,00,000) by 15th September. He has already paid Rs. 30,000 by 15th June and, hence, he should pay balance of Rs. 1,05,000 by 15th September.

In third installment, i.e., by 15th December he should pay 75% of his estimated tax liability. Thus, he should pay up to Rs. 2,25,000 (i.e., 75% of 3,00,000) by 15th December. He has already paid Rs. 1,35,000 till 15th September and, hence, he should pay balance of Rs. 90,000 by 15th December (i.e., Rs. 2,25,000 – Rs. 1,35,000).

In Fourth and final installment, i.e., by 15th March he should pay 100% of his estimated tax liability. Thus, he should pay up to Rs. 3,00,000 by 15th March. He has already paid Rs. 2,25,000 till 15th December and, hence, he should pay balance of Rs. 75,000 by 15th March (i.e., Rs. 3,00,000 – Rs. 2,25,000).

Payment of advance tax in pursuance of an order of the Assessing Officer

If taxpayer fails to pay advance tax (or advance tax paid is lower than the required amount) and he has already been assessed by way of regular assessment in respect of the total income of any previous year, then the Assessing Officer may pass an order under section 210(3) requiring him to pay advance tax on his current year's income (specifying the amount of instalments in which tax should be paid). Such an order may be passed during the financial year, but not later than the last day of February.

On receipt of the notice from the Assessing Officer to pay advance tax, if the taxpayer's estimate is lower than the estimate of the Assessing Officer, then the taxpayer can submit his own estimate of current income/advance tax and pay tax accordingly. In such a case, he has to send intimation in Form No. 28A to the Assessing Officer.

Alternatively, if the advance tax on current income as per own estimate of the taxpayer is likely to be higher than the amount estimated by the Assessing Officer, the taxpayer shall pay such higher amount as advance tax in accordance with his own



calculation. In such a case, no intimation to the Assessing Officer is required.

The Assessing Officer can revise his order issued to the taxpayer to pay advance tax (as discussed above) under section 210(4). Such revision can be done, if subsequent to the passing of an order to pay advance tax but before 1st March of the relevant financial year a return of income in respect of any later year has been furnished by the taxpayer or any assessment for any later year has been completed at a higher figure. On receipt of such order, the procedure to be followed by the taxpayer will be same as discussed earlier.

Illustration

Compute the amount of advance tax to be paid by Mr. Kapoor (age 35 years) from the following details provided by him (for the year 2023-24):

- Taxable business income Rs. 10,84,000.
- Interest on debenture Rs. 9,000 (after deduction of tax at source of Rs. 1,000).
- Investment in NSC during the year Rs. 80,000.
- He has paid tuition fees of his son of Rs. 1333.

**

Computation of taxable income and tax liability of Mr. Kapoor for the year 2023-24 :

Particulars	Rs.
<u>Profits and gains of business or profession</u>	10,84,000
Taxable business income	
<u>Income from other source</u>	<u>10,000</u>
Debenture interest (Rs. 9,000 net interest + TDS of Rs. 1,000)	
Gross total income	10,94,000
Less: Deduction under section 80C (NSC and tuition fees)	81,333
Total Income (i.e. Taxable Income)	10,12,667
Tax on Rs. 10,12,667 (*)	1,16,300



Less: Rebate under section 87A (lower of 100% of tax or Rs. 12,500)	Nil
Tax liability after rebate under section 87A	1,16,300
Add: Health and Education cess @ 4%	4,652
Tax liability before TDS	1,20,952
Less: Tax deducted at source	1,000
Tax liability after TDS	1,19,952



(*) The normal tax rates for the financial year 2023-24 applicable to an individual below the age of 60 years are as follows:

- Nil up to income of Rs. 2,50,000
- % for income above Rs. 2,50,000 but up to Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but up to Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

Apart from above, health and education cess at 4% will be levied on the amount of tax. As per section 208, every person whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance, in the form of “advance tax”. In this case, the tax

liability amounts to Rs. 1,19,952 and, hence, Mr. Kapoor is liable to pay advance tax.

The due dates for payment of different installments of advance tax in case of all assesseees (other than the eligible assesseees as referred to in Section 44AD) are as follows:

By 15 th June	By 15 th Sept.	By 15 Dec.	By 15 th March
15%	45%	75%	100%

Considering the above due dates, the advance tax to be paid by Mr. Kapoor on different dates will be as follows:

His first installment of advance tax will fall due on 15th June, 2023. His estimated tax liability for the year is Rs. 1,19,952 (for easy computation, liability is rounded off to Rs. 1,19,950). By 15th June, he should pay 15% of his liability in advance, hence, he should pay Rs. 17,993 on account of advance tax by 15th June, 2023.

His second installment of advance tax will fall due on 15th September, 2023. His



estimated tax liability for the year is Rs. 1,19,952 which is rounded off to Rs. 1,19,950. By 15th September he should pay 45% of his tax liability in advance, i.e., Rs. 53,978. Assuming that he has already paid Rs. 17,993 as advance tax by 15th June, he should pay balance of Rs. 35,985 on account of advance tax by 15th September, 2023. Thus, total payment of advance tax till 15th September will amount to Rs. 53,978.

His third installment of advance tax will fall due on 15th December, 2023. His estimated tax liability for the year is Rs. 1,19,952 which is rounded off to Rs. 1,19,950. By 15th December, he should pay 75% of his liability in advance, i.e., Rs. 89,963. Assuming that he has already paid Rs. 53,978 as advance tax by 15th September, he should pay balance of Rs. 35,985 on account of advance tax by 15th December, 2023. Thus, total payment of advance tax till 15th December will amount to Rs. 89,963.

His fourth and final installment of advance tax will fall due on 15th March, 2024. His estimated tax liability for the year is Rs. 1,19,952 which is rounded off to Rs. 1,19,950. By 15th March, he should pay 100% of his liability in advance, i.e., Rs. 1,19,950. Assuming that he has already paid Rs. 89,963 as advance tax by 15th December, he should pay balance of Rs. 29,988 on account of advance tax by 15th March, 2024. Thus, total payment of advance tax till 15th March will amount to Rs. 1,19,950.

RETURN OF INCOME

It is mandatory for every taxpayer to communicate the details of his income to the Income- tax Department. These details are to be furnished in the prescribed form known as return of income. In this part, you can gain knowledge about the various provisions relating to return of income.

Person required to file the return of income

The provisions relating to filing of return of income depend upon the status of the



taxpayer. The position in this regard is given below:

In the case of companies:

Every person, being a company, has to file its return of income compulsorily, irrespective of its income being profit or loss. In other words, it is mandatory for every company to file the return of income irrespective of its income or loss.

In the case of partnership firms:

Every person, being a partnership firm (including Limited Liability Partnership), has to file its return of income compulsorily, irrespective of its income being profit or loss. In other words, it is mandatory for every partnership firm to file the return of income irrespective of its income or loss.

In the case of an Individual/HUF/AOP/BOI/Artificial Juridical Person:

Every individual/HUF/AOP/BOI/artificial juridical person has to file the return of income if his total income (including income of any other person in respect of which he is assessable) without giving effect to the provisions of section 10(38), 10A, 10B, 10BA 54, 54B, 54D, 54EC, 54F, 54G, 54GA, or 54GB or Chapter VIA (i.e., deduction under section 80C to 80U), exceeds the maximum amount which is not chargeable to tax i.e. exceeds the exemption limit.

In the case of charitable or religious trusts:

Every person in receipt of income derived from property held under charitable or religious trusts/legal obligations or in receipt of income being voluntary contributions referred to in section 2(24)(iia), has to file the return of income if its total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount not chargeable to income-tax.

In the case of political parties:

The Chief Executive Officer of every political party has to file the return of income of the party if the total income of the party without giving effect to the provisions of section 13A exceeds the maximum amount not chargeable to income-tax.



In the case of certain associations:

Following entities are liable to file the return of income if their total income without giving effect to the provisions of section 10 exceeds the maximum amount not chargeable to tax:

- Research association referred to in section 10(21)
- News agency referred to in section 10(22B)
- Association or institution referred to in section 10(23A)
- Person referred to in clause (23AAA) of section 10.
- Institution referred to in section 10(23B)
- Fund/institution/trust/university/other educational institution/any hospital/medical institution referred to in sub-clause (iiiac), (iiiab), (iiiad), (iiiiae), (iv), (v), (vi) or (via) of section 10(23C)
- Mutual Fund referred to in clause (23D) of section 10
- Securitisation trust referred to in clause (23DA) of section 10
- Investor Protection Fund referred to in clause (23EC) or clause (23ED) of section 10.
- Core Settlement Guarantee Fund referred to in clause (23EE) of section 10
- Venture capital company or venture capital fund referred to in clause (23FB) of section 10;
- Trade union/association referred to in sub-clause (a) or (b) of section 10(24)
- Board or Authority referred to in clause (29A) of section 10.
- Body/authority/Board/Trust/Commission referred to in section 10(46)
- Infrastructure debt fund referred to in section 10(47)

In the case of certain university, college or other institution:

Every university, college or other institution referred to in clause (ii) and clause (iii) of section 35(1), which is not required to furnish return of income or loss



under any other provision of the Act, shall furnish the return of income every year, irrespective of income (or) loss.

In the case of Business Trust

Every business trust, which is not required to furnish return of income or loss under any other provision of the Act, shall furnish the return of income every year, irrespective of income (or) loss.

In case of investment fund referred to in section 115UB

Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions, shall furnish the return of income in respect of its income or loss every year irrespective of income (or) loss

In the case of persons holding assets located outside India:

A person, being a resident in India (other than not ordinarily resident), who is not required to furnish a return under any of the above and who 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 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,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed. However, above discussed provision will not apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above.

(*) "Beneficial owner" in respect of an asset means an individual who has provided,



directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

(*) "Beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

Mandatory filing of return in certain cases

With effect from Assessment Year 2020-21, it is mandatory for every person (other than a company or a firm), who is not required to furnish return of income under any other provision of section 139(1), to file return of income if during the previous year he:

1. Has deposited an amount (or aggregate of amount) in excess of Rs. 1 crore in one or more current account maintained with a bank or a co-operative bank.
2. Has incurred aggregate expenditure in excess of Rs. 2 lakh for himself or any other person for travel to a foreign country.
3. Has incurred aggregate expenditure in excess of Rs. 1 lakh towards payment of electricity bill.
4. Fulfils such other conditions as may be prescribed.

The CBDT vide notification No. 37/2022, dated 21-04-2022, has notified additional conditions under the seventh proviso to section 139(1) whereby return filing is made mandatory. These additional conditions are as follows:

- 1) If total sales, turnover or gross receipt of the business exceeds Rs. 60 lakh during the previous year; or
- 2) If total gross receipt of profession exceeds Rs. 10 lakh during the previous year; or
- 3) If the total of tax deducted and collected in case of a person during the previous year is Rs. 25,000 or more. The threshold limit shall be Rs. 50,000 in case of a resident individual of the age of 60 years or more; or



- 4) If the aggregate deposit in one or more savings bank accounts of the person is Rs. 50 lakhs or more during the previous year.

Due date of filing of return of income

Sr. No.	Status of the taxpayer	Due date
1	Any company other than a company who is required to furnish a report in Form No. 3CEB under section 92E (i.e. other than covered in 2 below)	October 31 of the assessment year
2	Any person (may be corporate/non-corporate) who is required to furnish a report in Form No. 3CEB under section 92E	November 30 of the assessment year
3	Any person (other than a company) whose accounts are to be audited under the Income-tax Law or under any other law	October 31 of the assessment year
4	A working partner of a firm whose accounts are required to be audited under this Act or under any other law.	October 31 of the assessment year
5	Any other assessee	July 31 of the assessment year

Illustration

Miss Saroj is a salaried employee. Her taxable salary income for the year 2022-23 is Rs. 8,40,000 (she does not have any other income). What will be the due date of filing the return of income for the financial year 2022-23?

**



In this case, Miss Saroj will be covered in Sr. No. 5 of the table discussed earlier and hence the due date for filing the return of income of the year 2022-23 will be 31st July, 2023.

Illustration

Mr. Rupen is a doctor. Gross receipts for the year 2022-23 came to Rs. 18,40,000. He opts for the presumptive taxation scheme of section 44ADA. What will be the due date for filing of return of income by Mr. Rupen for the financial year 2022-23?

**

The gross receipts for the year are less than Rs. 50,00,000 and Mr. Rupen has opted for the presumptive taxation scheme of section 44ADA. Hence Mr. Rupen will not be liable to get his accounts audited i.e. he is not covered by audit. He will be covered in Sr. No. 5 of the table discussed earlier and, hence, the due date for filing the return of

The turnover for the year is less than Rs. 2,00,00,000 and hence Mr. Rahul will not be liable to

income of the year 2022-23 will be 31st July, 2023.

Illustration

Mr. Rahul is running a garments factory. Turnover of his business for the year 2022-23 amounted to Rs. 1,84,00,000. He opts for the presumptive taxation scheme of section 44AD. What will be the due date for filing of return of income by Mr. Rahul for the financial year 2022-23?

**

get his accounts audited i.e. he is not covered by audit as he opts for the presumptive taxation scheme of section 44AD. Mr. Rahul will be covered in Sr. No. 5 of the table discussed earlier and, hence, the due date of filing the return of income of the year 2022-23 will be 31st July, 2023.

Illustration



Mr. Kaushal is a partner in Essem Trading Company. The turnover of the firm for the financial year 2022-23 amounted to Rs. 2,84,00,000. Apart from remuneration, interest and share of profit from the firm, Mr. Kaushal is not having any other source of income. What will be the due date for filing the return of income by the partnership firm and by Mr. Kaushal for the financial year 2022-23?

**

The turnover of the firm exceeds Rs. 2,00,00,000 and, hence, the firm will not be eligible for presumptive taxation scheme under section 44AD. Further, the firm shall be liable to get its accounts audited under section 44AB. Thus, the firm as well as Mr. Kaushal will be covered in Sr. No. 4 of the table discussed earlier and, hence, the due date for filing the return of income of the year 2022-23 (in case of the firm as well as Mr. Kaushal) will be 31st October, 2023.

Illustration

Mr. Kiran is a partner in SM Enterprises. The turnover of the firm for the financial year 2022- 23 amounted to Rs. 1,84,00,000. The firm has declared income @ 8% on presumptive basis under section 44AD of the Act. Apart from remuneration, interest and share of profit from the firm, Mr. Kiran is not having any other source of income. What will be the due date of filing of return of income by the partnership firm and by Mr. Kiran for the financial year 2022-23?

**

The turnover of the firm is below Rs. 2,00,00,000 and, hence, it will not be liable to get its accounts audited. Thus, the firm as well as Mr. Kiran will be covered in Sr. No. 5 of the table discussed earlier and, hence, the due date for filing the return of income of the year 2022-23 (in case of firm as well as Mr. Kiran) will be 31st July, 2023.

Illustration

Essem Minerals Pvt. Ltd. is a company engaged in trading of minerals. What will be the due date for filing the return of income for the financial year 2022-23?



**

In this case Essem Ltd. will be covered in Sr. No. 1 of the table discussed earlier and, hence, the due date for filing the return of income of the year 2022-23 will be 31st October, 2023.

Illustration

Essem Minerals Pvt. Ltd. is a company engaged in trading of minerals and liable to furnish a report in Form No. 3CEB under section 92E. What will be the due date for filing the return of income for the financial year 2022-23?

**

In this case Essem Ltd. will be covered in Sr. No. 2 of the table discussed earlier and, hence, the due date for filing the return of income of the year 2022-23 will be 30th November, 2023.

Belated return

If the person fails to file the return of income within the time-limit prescribed in this regard, then as per section 139(4) he can file a belated return. A belated return can be filed at any time 3 months before the end of the relevant assessment year or before completion of assessment, whichever is earlier.

Illustration

Mr. Raja is a trader of agricultural products. Turnover of his business for the previous year 2022-23 amounted to Rs. 84,00,000. He has not opted for the presumptive taxation scheme of section 44AD i.e. not declaring income at 8% of sales. He declared income at less than 8% of sales. What will be the 'due date' for filing his return of income for the financial year 2022- 23? If he fails to file the return of income by the due date then by what date he can file a belated return?

**

In this case, as Mr. Raja had not opted for presumptive taxation scheme of section



44AD, and declared income at less than 8% of sales, he will be required to get his accounts audited under section 44AB and, hence, he is covered in Sr. No. 3 of the table discussed earlier. Hence, the due date for filing the return of income of the year 2022-23 will be 31st October, 2023.

If he cannot file the return of income by the due date, i.e., by 31st October, 2023, then he can file a belated return 3 months before end of the relevant assessment year or before completion of assessment, whichever is earlier.

In other words, he can file a belated return upto 31-12-2023. If the assessment is completed before 31-12-2023, then he can file a belated return at any time before the completion of assessment.

Illustration Mrs. Gupta is house wife and has no source of income. During the financial year 2022-23, she made payment towards electricity bills of her house. Total payment of Rs. 1,50,000 lakhs were made through bank account. Whether Mrs. Gupta will be liable to file return of income?

A person shall be liable to file return of income if he has incurred aggregate expenditure in excess of Rs. 1 lakh towards payment of electricity bill. In this case, Mrs. Gupta has made payment of Rs. 1,50,000 towards electricity bills. Thus, she will be liable to file return of income for the financial year 2022-23 by 31st July, 2023.

Illustration

Mr. Raghav is a salaried employee. He gifted a holiday package of Dubai to his brother. Mr. Raghav paid total amount of Rs. 2.5 lakhs to tour operator for the holiday package. His salary income for the financial year 2022-23 is Rs. 2,00,000 and has no other income. Whether Mr. Raghav is liable to file return of income?

A person shall be liable to file return of income if he has incurred aggregate expenditure in excess of Rs. 2 lakh for himself or any other person for travel to a foreign country. So whether a person incurred expense for self or for any other person, filing of return is mandatory if expenses on foreign travel is in excess of Rs. 2 Lakh.



In this case, Mr. Raghav has purchased holiday package worth Rs. 2.5 lakhs. Thus, he will be liable to file return of income for the financial year 2022-23 by 31st July, 2023 even though his total income doesn't exceed the maximum amount not chargeable to tax.

Consequences of delay in filing the return of income

Delay in filing the return of income may attract certain adverse consequences. Following are the consequences of delay in filing the return of income:

- Loss (other than loss under the head "Income from house property") cannot be carried forward.
- Levy of interest under section 234A.
- Levy of fee under section 234F*
- Exemptions under sections 10A, 10B, are not available.
- Deduction under Part-C of Chapter VI-A shall not be available.

* Fee for default in furnishing return of income shall be Rs. 5,000. However, where the total income of the person does not exceed Rs. 5,00,000, the fee payable shall not exceed Rs. 1,000.

Revision of return

Sometimes the taxpayer may omit to include certain information in the return or may commit any mistake at the time of filing the return of income. In such case any unintentional mistake or error or omission in the return of income filed by the taxpayer can be corrected by filing a revised return.

A return can be revised at any time 3 months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. It should be noted that only a return filed under section 139(1) or belated return filed under section 139(4) can be revised.

A return of income filed pursuant to notice under section 142(1) of Act cannot be revised under section 139(5).



Defective return

Section 139(9) provides the list of situations in which the return of income filed by the taxpayer can be treated as defective return. If the Assessing Officer finds the return of income to be defective under section 139(9), then he may intimate such defect to the taxpayer and may give an opportunity to him to rectify such defect.

The taxpayer shall rectify such defect in the return of income within a period of 15 days of such intimation or within such further period as the Assessing Officer may allow.

If the defect is not rectified within the period of 15 days or the further period so allowed (as the case may be), then, notwithstanding anything contained in any other provision of the Act, the return shall be treated as an invalid return and the provisions of the Act shall apply as if the taxpayer had failed to furnish the return.

A return of income shall be regarded as defective, unless all the following conditions are fulfilled:

- The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in.
- The return is accompanied by a statement showing the computation of the tax payable on the basis of the return.
- The return is accompanied by the report of the audit referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, by a copy of such report together with proof of furnishing the report.
- The return is accompanied by proof of the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid. Where the return is not accompanied by proof of the tax, if any, claimed to have been deducted or collected at source, the return of income shall not be regarded as defective if :
 1. A certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income.



2. Such certificate is produced within a period of two years specified under sub-section (14) of section 155.
- Where regular books of account are maintained by the taxpayer, the return is accompanied by copies of :
 1. Manufacturing account, trading account, profit and loss account or, as the case may be, income and expenditure account or any other similar account and balance sheet.
 2. In the case of a proprietary business or profession, the personal account of the proprietor; in the case of a firm, association of persons or body of individuals, personal accounts of the partners or members and in the case of a partner or member of a firm, association of persons or body of individuals, also his personal account in the firm, association of persons or body of individuals.
 - Where the accounts of the taxpayer have been audited, the return is accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report and, where an audit of cost accounts of the taxpayer has been conducted under section 233B of the Companies Act, 1956 [now Section 148 of Companies Act, 2013], also the report under that section.
 - Where regular books of account are not maintained by the taxpayer, the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and also disclosing the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

Note: As per the current norms prescribed by CBDT vide Income-tax Rules, 1962 for filing return of income, no documents shall be attached along with the Return of Income. Hence, documents like computation of income, balance sheet and accounts, audit report, TDS certificate, tax payment challan, proof of investment, etc., are not to be attached along with the return of income. No penalty will be levied for non-



submission of these documents along with the return of income and the return will not be treated as defective due to non-attachment of aforesaid documents, statements, etc.

Return to be verified by whom

As per section 140, the return of income is to be verified by:

In the case of an individual :

- i. by the individual himself;
- ii. where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;
- iii. where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and
- iv. where, for any other reason, it is not possible for the individual to verify the return, by any person duly authorised by him in this behalf:

It should be noted that in a case referred to in (ii) or (iv) above, the person verifying the return holds a valid power of attorney from the individual to do so, which shall be attached to the return.

- b) in the case of a Hindu undivided family, by the karta, and, where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;
- c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to verify the return, or where there is no managing director, by any director thereof.

It should be noted that where the company is not resident in India, the return may be verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return. Following points should be noted in this regard :

- 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, the return shall be verified by the liquidator referred to in section 178(1);

- where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be verified by the principal officer thereof;

- With effect from Assessment Year 2018-19, where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Section 7 or 9 or 10 of the Insolvency and Bankruptcy Code, 2016, the return shall be verified by the insolvency professional appointed by such adjudicating authority.

(cc) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor;

(cd) in the case of a limited liability partnership, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to verify the return, or where there is no designated partner as such, by any partner thereof;

(d) in the case of a local authority, by the principal officer thereof;

(dd) in the case of a political party referred to in section 139(4B), by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

Note:



W.e.f., Assessment Year 2020-21, the Finance Act, 2020 has empowered the Central Board of Direct Taxes (CBDT) to enable any other person, as may be prescribed, to verify the return of income in the cases of a company and an LLP.

In exercise of such power, the CBDT has inserted a new Rule 12AA to prescribe the other person who can verify a company's return and an LLP. This rule provides that any other person shall be the person, appointed by the National Company Law Tribunal (NCLT), 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.

Updated Return

The Finance Act 2022, has inserted subsection (8A) in section 139 to enable the filing of an updated return. The section provides that an updated return can be filed by any person irrespective of the fact whether such person has already filed the original, belated or revised return for the relevant assessment year or not.

An updated return can be filed at any time within 24 months from the end of the relevant assessment year. However, an updated return cannot be filed in the following three situations:

Situation 1: An updated return cannot be filed if such updated return:

- a) is a return of a loss; or
- b) results in lower tax liability determined on the basis of original, revised or belated return filed by assessee; or
- c) results in or increasing the refund due on the basis of original, revised or belated return filed by assessee.

Situation 2: A person cannot file updated return wherein:

- a) A search has been initiated under section 132 or books of account or other



documents or any assets are requisitioned under section 132A in the case of such person; or

b) A survey has been conducted under section 133A, other than section 133A(2A), in the case such person; or

c) A notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person; or

d) A notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person.

In this situation, an updated return cannot be filed for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and any assessment year preceding such assessment year.

Situation 3: An updated return cannot be filed for the relevant assessment year wherein:

a) An updated return has been furnished by him for the relevant assessment year;

b) Any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed;

c) The Assessing Officer has information in respect of such person under:

- The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976;
- The Prohibition of Benami Property Transactions Act, 1988;
- The Prevention of Money-laundering Act, 2002; or
- The Black Money (Undisclosed Foreign Income and Assets) and



Imposition of Tax Act, 2015.

And the same has been communicated to him, prior to the date of furnishing of updated return

- d) Information has been received under an agreement referred to in section 90 or section 90A in respect of such person and the same has been communicated to him, prior to the date of furnishing of return of updated return;
- e) Any prosecution proceedings have been initiated in respect of such person, prior to the date of furnishing of updated return.
- f) Assessee is such person or belongs to such class of persons, as may be notified by the Board.

Note:

1. Where a person has furnished a return of loss under section 139(3), he can furnish an updated return. However, such an updated return should be a return of income. In other words, the updated return should not be a return of loss.

2. If as a result of furnishing of an updated return for a previous year, the following is reduced for any subsequent year, then the person shall be required to file the updated return for each such subsequent year:

- 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 115JAA; or
- tax credit carried forward under Section 115JD.

Tax on updated return

Section 140B provides for payment and computation of tax, interest, fee, and additional income-tax on updated return. It contains the following six provisions:

(a) Computation of tax on the updated return where no original or belated return was filed.



(b) Computation of tax on the updated return where original, revised or belated earlier ('earlier return') was filed.

(c) Computation of additional tax payable at the time of furnishing of updated return.

This provision also contains an explanation that provides for computation of interest under section 234A, section 234C and interest on additional tax payable at the time of furnishing of updated return.

1. Computation of tax, interest, and fee on the updated return where no return was filed earlier Where a person has not filed the original or belated return for the relevant assessment year, the tax payable on the updated return (self-assessment tax) shall be paid along with interest and fee for delay in furnishing the return of income and interest for any default or delay in payment of advance tax.

Further, an additional income tax shall be paid before filing of an updated return. Such tax, interest, fee, and additional income tax shall be computed in the following manner:

(a) Self-assessment tax

Self-assessment tax on income reported in updated return shall be computed after taking into account the following:

- Advance tax;
- Tax deducted at source (TDS);
- Tax collected at source (TCS);
- Relief under section 89;
- Foreign tax credit; and
- MAT or AMT credit.

(b) Interest under Section 234A for late filing of return

At the time of furnishing of updated return, the interest under section 234A shall be computed on the self-assessment tax payable on updated return.

The interest shall be charged for the period commencing from the date



immediately following the due date for filing the original return of income and ending with the date on which the updated return is furnished.

However, this interest shall not be charged on the amount of additional income-tax payable on updated return.

(c) Interest under section 234C for default in payment of advance tax instalments

Section 234C interest is computed with reference to 'tax due on the returned income'. Thus, in the case of an updated return, the total income reported in updated return is to be considered as returned income. Total income reported in updated return shall be treated as returned income even in cases where the assessee has already filed an original, belated or revised return for the relevant assessment year before filing the updated return.

(d) Fee under section 234F for default in furnishing return

The fee for default in furnishing of return shall be levied as per the extant provisions on furnishing of belated return.

2. Computation of tax, interest and fee on updated return where a return was filed earlier

Where a person has already filed the original, belated or revised return for the relevant assessment year, then the tax payable on the updated return (self-assessment tax) shall be paid along with interest for any default or delay in payment of advance tax as reduced by the amount of interest paid in an earlier return.

Further, an additional income tax shall also be required to be paid before filing of updated return. The tax, interest and additional income tax that is required to be paid before filing of updated return shall be computed in the following manner:

(a) Self-assessment tax

The self-assessment tax shall be computed after taking into account the following:

- Tax or relief, the credit of which has already been taken in earlier return; and
- Tax or relief, the credit of which has not been claimed in earlier return.



Further, the amount of tax so computed shall be increased by the amount of refund, if any, issued in respect of such an earlier return.

(b) Interest under section 234B for delay in payment of advance tax

Where a person has already filed return of income, interest payable under section 234B at the time of furnishing of updated return shall be computed on the amount of assessed tax or on the amount by which the advance tax paid falls short of the assessed tax, as the case may be. The amount of interest computed shall be reduced by the amount of interest paid in an earlier return.

(c) Interest under section 234C for default in payment of advance tax instalments

Interest under section 234C shall be computed after taking into account the income furnished in the updated return as the returned income. The amount of interest computed shall be reduced by the amount of interest paid in an earlier return.

(d) Fee under section 234F for default in furnishing return

A person shall not be required to pay the fee at the time of furnishing of updated return if he has already filed the original, revised, or belated return for the relevant assessment year.

3. Payment of additional tax on updated return

Tax on the updated return shall be paid along with interest, fee, and additional income tax.

The additional tax shall be equal to 25% of the aggregate of tax and interest payable by a person on the filing of the updated return where such return is furnished after the expiry of the due date of filing of belated or revised return but before completion of a period of 12 months from the end of the relevant assessment year.

Where the updated 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, the additional tax payable shall be 50% of



the aggregate of tax and interest payable.

4. Proof of payment

The updated return shall be accompanied by the proof of tax payment, i.e., normal tax (if any), additional tax, interest and fee as required under section 140B; otherwise, it shall be treated as a defective return.

Filing the return through Tax Return Preparers

For the purpose of enabling any specified class or classes of persons (*) in preparing and furnishing returns of income, the Board has notified the Tax Return Preparers Scheme providing that such persons may furnish their returns of income through a Tax Return Preparer (TRP)* authorised to act as such under the Scheme

In other words, a specified person** can file his return of income through Government authorised return preparers i.e. TRPs.

*“Tax Return Preparer” means any individual, [not being a person referred to in section 288(2)(ii)/(iii)/(iv) or an employee of the “specified class or classes of persons”], who has been authorised to act as a Tax Return Preparer under the Scheme framed in this behalf.