

EASY WAY TO LEARN INCOME TAX

CONTENTS

1. DEFINITIONS	2
2. INCOME FROM SALARY	8
3. INCOME FROM HOUSE PROPERTY	21
4. PROFIT AND GAINS FROM BUSINESS AND PROFESSION	25
5. INCOME FROM CAPITAL GAINS	43
6. INCOME FROM OTHER SOURCES	55
7. SET OFF AND CARRY FORWARD OF LOSS	59
8. DEDUCTIONS (UNDER CHAPTER VI-A).....	61
9. TAX DEDUCTED AT SOURCES (TDS).....	79
10. FILING RETURN OF INCOME	85

Rules of My Life:

“Don't use anyone, but being useful for everyone.”

“There is no tax on helping each other.”

“Live for other is more joyful rather than live for yourself.”

“If you light a lamp for somebody, it will also brighten your path.”

“Happiness is a by-product of an effort to make someone else happy.” ☺

– Me

DEDICATED TO MY FRIENDS

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1. DEFINITIONS

Assessee: [Section 2 (7)]

To mean a person by whom any tax or any other sum of money payable under the Act and include-

- (1) Every person in respect of whom any proceeding has been initiated under the act for the assessment of his income or the income of any other person.
- (2) A person who is deemed to be assessee under any provision of the Act
- (3) A person who is deemed to be an assessee in default in any of the provision of the Act.

Person: Section 2 (31)

Person includes-

- (1) An individual
- (2) A Hindu undivided family
- (3) A company
- (4) A firm
- (5) An association of person or a body of individuals, whether incorporated or not
- (6) A local authority
- (7) Every artificial or juridical person not falling with the preceding sub clause.

Agriculture Income: [Section 2 (1 A)]

Any rent or revenue derived from land which is situated in India and is used for agricultural purpose;

- (a) Any income derived from such land by agriculture or by the process employed to render the product fit for market or by sale of such produce by the cultivator or receiver of rent in Kind.
- (b) Any income derived from any building provided the following conditions were satisfied

- (1) The building is or on the immediate vicinity of the agricultural land;
- (2) It is occupied by the cultivator or receiver of rent or revenue
- (3) It is used as a dwelling house or store house or out house ;
- (4) The land is assessed to land revenue and it is not situated with in the specified area.

Previous year and Assessment year

Previous year

- ◆ The financial year in which income is earned is referred to as previous year.
- ◆ Sections of 3 of the income tax act define the previous year to means a financial year immediately proceeding the assessment year.
- ◆ In case of business or profession newly set up of sources of income newly come in to existence, the previous year shall be the period beginning with the date of setting up with business and profession or the date on which the new sources of income come in to existence and ending with 31st March of said financial year.

Assessment year

- ◆ The periods of 12 months commencing on 1st day of April every year is known as assessment year as defined in **Section 2(9)**.
- ◆ An assessment year is a financial year immediately succeeds the relevant previous year.

Average rate of tax: [Section 2(10)]

- ◆ The rate arrived at by dividing the amount of tax calculated on the total income, by such income.
- ◆ This definition becomes relevant in the context of giving rebate u/s 110 in the assessment of member of AOP.

Assume that total income of a person amounting to ₹ 250000/- and tax payable on such income is ₹ 9270/- including education cess. Then average rate of tax work out to be...

Ans.: $\frac{₹ 9,270}{₹ 2,50,00} \times 100 = 3.21\%$

Key man insurance policy

- ◆ It is a policy taken on the life of one person by other person in whose organization; the first mentioned person may play a key role.
- ◆ The relationship between these two may be any of the following

(1) Employer or Employee
(2) Master or servant
(3) Contractor or contracte
- ◆ It can be claimed as business expense if such policy was taken for the benefit of the business
- ◆ Maturity proceeds of key man insurance policy shall be regarded as income and hence chargeable to tax

Gross Total Income

- ◆ According to **Section 2(45)** gross total income means total income referred to **Section 5**, computed in the manner laid down in the Income Tax Act, 1961
- ◆ According to **Section 80 (B)** of Income Tax Act, 1961 “Gross total income” means total income computed with the provisions of Income tax Act before making any deduction under **Chapter VI-A**.
- ◆ Gross total income reduced by **Chapter VI-A** will arrived at total head of income.
- ◆ In other words it is a Sum of 5 head of income *plus* Clubbed Income *less* Chapter VI A deduction.

	<i>Income from 5 heads</i>
Add:	<i>Clubbed income</i>
Less:	<i>Deduction [Chapter VI-A]</i>
	<i>Total income</i>

Substantial interest

In case of corporate entity

According to **Section 2 (32)** a person who has substantial interest the company, in relation to a company means *a person who is a beneficial owner of the shares, not being shares entitled to a fixed rate of divided with or without right to participate in the profit, carrying not less than 20 % of voting power.*

In case of non-corporate entity

A person can be said to have substantial interest if he is entitled for *20% or more of share of profit.*

RATES OF INCOME TAX

In case of every Individual or HUF or AOP/BOI (other than a co-operative society) whether incorporated or not, every artificial judicial person			
Upto ₹ 1,60,000		NIL	
₹ 1,60,010 to ₹ 5,00,000		10%	
₹ 5,00,010 to ₹ 8,00,000		20%	
Above ₹ 8,00,000		30%	
In the case of every Individual, being a women resident in India, and below the age of 65 years at any time during the previous year			
Upto ₹ 1,90,000		NIL	
₹ 1,90,010 to ₹ 5,00,000		10%	
₹ 5,00,010 to ₹ 8,00,000		20%	
Above ₹ 8,00,000		30%	
In the case of every Individual, being a resident in India, who is of the age of 65 years at any time during the previous year			
Upto ₹ 2,40,000		NIL	
₹ 2,40,010 to ₹ 5,00,000		10%	
₹ 5,00,010 to ₹ 8,00,000		20%	
Above ₹ 8,00,000		30%	
Note: 1. No surcharge is payable by the above assessee. 2. 'Education Cess' @ 2% & 'Secondary and Higher Secondary Education Cess (SHEC)' @ 1% on income tax shall be chargeable			
In case of every co-operative society			
Where income does not exceed ₹ 10,000		10%	
Where the Total Income exceeds ₹ 10,000 but does not exceeds ₹ 20,000		₹ 1,000 plus 20% of the amount by which the total income exceeds ₹ 10,000	
Where the total income exceeds ₹ 20,000		₹ 1,000 plus 30% of the amount by which the total income exceeds ₹ 10,000	
Note: 1. No surcharge shall be levied in the case of a co-operative society 2. 'Education Cess' @ 2% & 'Secondary and Higher Secondary Education Cess (SHEC)' @ 1% on income tax shall be chargeable			
In case if any firm (including LLP)		30%	
Note: 1. No surcharge shall be levied in case of firm 2. 'Education Cess' @ 2% & 'Secondary and Higher Secondary Education Cess (SHEC)' @ 1% on income tax shall be chargeable			
In case of Company			
Company	Particular	Rate	Surcharge
For domestic company	Total income exceeds ₹ 1,00,00,000	30%	7.5%
For foreign company	Total income exceeds ₹ 1,00,00,000	40%	2.5%
Note: 'Education Cess' @ 2% & 'Secondary and Higher Secondary Education Cess (SHEC)' @ 1% on income tax shall be chargeable			
Special rates of Income Tax			
On Short-Term Capital Gain (STCG) covered under Section 111A		15%	
On Long-Term Capital Gain (LTCG) covered under Section 112		20%	
On winning of lotteries, crossword puzzles, card games etc. [Sec. 115BB]		30%	

Special case where income is chargeable to tax in the same year:

Normally tax is levied after completion of a Financial Year. However, there are special cases under which income is chargeable to tax in the same year. *Following are some of the examples:*

(1) Shipping business of a Non resident

Where a ship is belonging or chartered by an NRI carrying Passengers, Livestock or goods, then ships is allowed to leave the port only if the tax due thereon has been paid or satisfactory arrangement have been made for the payment thereof.

(2) Person leaving India

(3) AOP or BOI or artificial or juridical person formed for a particular purpose.

(4) Person likely to transfer the property to avoid the tax

(5) Discontinued business or profession

Income deemed to receive in India: [Section 7]

Following shall be deemed to be received in the PY

- (1) Employer contribution to RPF in excess of 12 % of salary
- (2) Interest credited to RPF balance at the credit of the assessee to the extent of 8.5 % w e f 1st September (Up to 31st August the rate of interest prescribed is amounting to 9.5 % p a)
- (3) The transferred balance from URPF to RPF
- (4) Contribution made by an employer in the PY to the account of employee under a pension scheme refereed to section 80 CCD.

Business connection

- ◆ Any income accruing or arising through Business connection in India shall be deemed to accrue or arise in India.
- ◆ Such income is taxable even in the case of NRI.
- ◆ If a business or profession carried on abroad and in connection with such business or profession certain activity is carried on India, then it establishes Business connection.
- ◆ Such activity can be carried on either directly or through a branch office or through an agency appointed for the purpose.
- ◆ Business activity shall include any business activity carried out through a person who, acting on behalf of the NRI-
 - (a) Has an authority to conclude contract and habitually exercise such authority in India unless his activity is limited to purchase of goods or merchandise for NRI or;
 - (b) Has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of NRI.
 - (c) Habitually secures orders in India mainly or wholly for NRI or for that NRI along with other NRI who are subject to same common control as that of NRI.

Exempted category

Where a business activity is carried out through a broker, general commission agent or any other agent having an independent status if such person is acting in the ordinary course of his business

Residential status

Individual

(A) Resident: An individual is said to be resident to be in India in any previous year if he full fill any one of the following basic conditions.

- (1) He is in India in that PY for a period or periods amounting to 182 days or more or;
- (2) He is in India for a period or periods amounting in all to 60 days or more during the PY and 365 days or more during the 4 PY immediately preceding PY.

(B) Non Resident: if an individual does not satisfy any of the above basic conditions then he shall be deemed to be NRI.

- (C) **Resident and not ordinary resident:-** In addition to fulfilling any of the above basic condition , in case of an individual who satisfies any of the following additional condition then he is referred to as Resident and not ordinary resident.
- (a) He has been a NRI for in 9 out of 10 preceding PY.
- (b) He has been India for a period not exceeding 729 days during the 7 preceding PY.
- (D) **Resident and ordinary resident: -** In case of an Individual who does not satisfy any of the additional condition then he is regarded as resident and ordinary resident.

Charitable or Religious Trust/Institutions

- ◆ A Public charitable institution can be in the form of :-
 - (1) Trust
 - (2) Society
 - (3) Company registered under Companies Act, 1956 [Section 25]
- ◆ A public religious trust is generally in the form of Trust.
- ◆ If the beneficiary of the institutions is member of public then it is known as public charitable or religious institution. Whereas the beneficiaries are private individual then the income shall be chargeable to tax.
- ◆ **Charitable Purpose: Section 2 (15)** define a charitable purpose to include relief of poor, education, medical relief, preservation of environment (*including watersheds, forest and wildlife*) and preservation of monuments or places of artistic or historic interest, and the advancement of any other object of general public utility.
- ◆ The expression advancement of any other object of general public utility shall not be a charitable purpose if it involve the carrying of :-
 - (1) Any activity in the nature of trade, commerce or business or
 - (2) Any activity of rendering or any service in relation to any trade commerce or business

For a cess or fee or any other consideration, irrespective of the nature of the application or retention of income from such activity

However, disqualification will attract if the aggregate value of receipts from such business exceeds ₹ 10 Lakh [Section 2 (15)].

Condition for claiming exemption under Section 11

The voluntary contribution received by the trust shall be deemed to be the income of the trust under Section 11. Following are the condition required to be fulfilled in order to claim exemptions

1. The trust should be registered with commissioner of Income tax under Section 12 A
2. The account of the trust for the previous year should be audited by a Chartered Accountant if the total income exceeds ₹ 1,60,000/-
3. At least 85 % of the income is required to be applied for specific purpose.
4. The unapplied income and money accumulated or set apart should be invested or deposited in the specific forms or modes.

Registration of trust

- ◆ Every trust or institution shall submit an application in form 10 A as required under Section 12 A to the commissioner of Income tax before expire of financial year in which the benefit of exemption is sought to be claimed.
- ◆ After receipts of application, the commissioner can call such documents or information as considered necessary in order to satisfy the genuine of trust or institution.

Application of income

- A trust or institution must utilize 85 % of its income within the PY for the purpose of the trust.
- A trust can apply its income both for revenue or capital purpose provided such application of income is for the object of the trust.
- The amount equivalent to 15 % of income is exempt even if such income is not applied for the specified purpose.
- If due to non-receipts of income by the trust and owing to that reason, if the trust is not able to utilize 85 %, the short fall can be utilized during the year of receipts of such income.

Accumulating the income

- The trust or institution can set apart or accumulate its income for the specified purpose of trust by informing to the assessing officer.
- The period for which the fund can be accumulated cannot exceeds 5 years
- The amount so accumulated shall be invested in the specified investment.
- If the income accumulated or set apart is not utilized for the specified purpose, then it shall be deemed to be the income of the trust after the specified period.

Voluntary contribution

Types of donation

1. Corpus donation
2. Anonymous donation
3. Other donation

- ◆ **Corpus donation:** Donation received from the specific direction from the donor that it becomes part of the corpus (Capital trust). corpus donation shall not be regarded as income. Corpus donation can be regarded as the income limit of ₹ 1, 60,000/- for the purpose of audit.
- ◆ **Anonymous donation** is taxable in case of charitable trust u/s 115 BBC, however exempted for religious trust.
- ◆ **Other voluntary contribution** can be regarded as income but exemption can be available subject to the fulfilment of certain condition.

★★★

2. INCOME FROM SALARY

Basic conceptual part

- ◇ Employer and employee relationship
- ◇ Place for accrual of Salary
- ◇ Year of chargeability

Employer and Employee relationship:

- ◇ There must be employer and employee relationship between the payer and payee. (payer means the person paying the salary and payee means the person who receive the salary)
- ◇ If there is no such relationship, then there is no question of charging tax under salaries.
- ◇ In case of Directors of the company, the employer and employee relationship need to be presumed from Articles of Association. If Articles of association permit, the remuneration shall fall within the meaning of salary. However, the Managing director remuneration must fall within the meaning of salary.
- ◇ There require **contract of service** for charging tax under salary .In such case there exist best control over what is required to be done by the employee.
- ◇ **Contract for service** does not include under the ambit of charging tax under the head salaries. Since there is no effective control over the other persons.
- ◇ MP and MLA Remuneration does not fall within the meaning of salary since there is no employer and employee relationship between the Government and MP and MLA.
- ◇ Retainer fee or remuneration paid to advocate general by the government does not fall within the meaning of salary. The reason is advocate general is a professional person and there is no employer and employee relationship also.
- ◇ Remuneration received by judge will fall within the meaning of salary since there exist employer and employee relationship between government and Judges.

Chargeability:

Section 10: Salary is chargeable to tax on due basis or receipts basis whichever is earlier.

Example:

Advance salary is chargeable to tax on receipts basis and arrears of salary is chargeable to tax on due basis.

Place of accrual

Place of accrual refers to the place where service rendered and deeming provisions (Please Refer **Section 9**). The salary income originates in India or Deemed to Originate in India will be chargeable to tax.

Example

- ◇ Salary paid by Government of India to a foreign citizen shall be chargeable to tax if service is done in India.
- ◇ Salary paid by Government of India to a citizen of Indian origin in respect of service rendered outside India chargeable to tax.

Definition of salary: [Section 17 (1)]

(Please refer the definition part)

Profit in lieu of salary: [Section 17 (2)]

Profit in lieu of salary includes:

1. Any **compensation** due to or received by the assesses from his **employee** or **former employee** in connection with the following:

- | |
|--|
| (1) Termination of the employment.
(2) Modification of terms of employment. |
|--|
2. Any payment due to or received by the assessee from his **employee** or **former employee**
 3. Any payment due to or received by the assessee from Provident fund or any other fund or any sum received under Key man insurance policy including the sum allocated by way of Bonus.
 [Notes: Exempted payment were excluded from the purview]
 4. Any amount due to or received whether in lump sum or otherwise in connection with the following.

(1) Before joining the employment with that person (2) After cessation of employment with that person
--

Deduction [Section 16]

There are following deduction:

- | |
|---|
| 1. Profession tax
2. Entertainment allowance |
|---|

1. Profession tax (Tax on Employment)

If any sum paid by the Assessee as profession tax under 276 (2) of Articles of the constitution it is allowed as deduction.

2. Entertainment allowance

Who can claim this deduction?

Only Government servant can claim the following deductions

Following shall be allowed as deduction:

- | |
|---|
| 1. ₹ 5000/-
2. 1/5th of salary (20% of salary)
3. Actual entertainment allowance received during the FY |
|---|

Salary for this purpose include Basic pay only
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Exemptions for salary category [Section 10 (5) to Section 10 (14)]

Section 10 (5) to Section 10 (14) deals with various exemptions.

Value of leave travel concession or Assistance [Section 10(5) and Rule 2 (B)]

Value of leave travel concession or Assistance received by an individual from his **employee** or **former employee** in connection with the following:

1. On leave to any place in India
2. Any place in India after retirement from service or after termination of the service.

[Note: Any allowance received for Foreign Company will not be eligible for deductions.]

Family:

Include the following:

- | |
|--|
| (1) Spouse and children
(2) Brothers and sisters wholly dependent on individual |
|--|

Number of trips qualifies for exemption:

- ◆ Exemption is available in respect of 2 journey performed in a 4 block of calendar year commencing from 1986.
- ◆ Block of 4 calendar year Runs from 1986 to 1989, 1990 to 1993, 1994 to 1997 so forth.
- ◆ One journey can be carried forward and can be claimed as a deduction in the succeeding block of calendar year.

Quantum of deduction

1. If Journey performed by Air
Amount does not exceed the air economy fair of national carrier to the shortest destination of place of Journey.

Other than Air

Option 1: Rail service is available

Amount does not exceed A/C First class to the shortest destination of place of Journey.

Option 2: Rail service is not available and Recognized Public service does not exist

Amount does not exceed A/C First class to the shortest destination of place of Journey

Option 3: Rail service is not available and Recognized Public service exist

Amount does not exceed First class or deluxe class of such public transport to the shortest destination of place of Journey.

2. Exemption in case of Foreign National **Section 10(6)**

In case of an Individual who is not a citizen of India following shall be exempt:

1. Remuneration received by him as an employee of following category or staff member of the following categories shall be allowed as an exemption.
 - a) Official of Embassy
 - b) High Commission
 - c) Consulate
 - d) Staff member of Above

Notes: *The above categories were involve with foreign affairs and hence excluded.*

2. Remuneration received by him as an employee of the foreign enterprise during his stay in India if the following conditions were met.
 - a) Foreign enterprise does not engaged in any trade or Business in India
 - b) His stay does not exceed 90 days in aggregate during the previous year.
 - c) Such remuneration shall not be deductible from income chargeable in India.
3. Remuneration received by him as an employee of the foreign ship provided his stay does not exceed 90 days in aggregate during the previous year.
4. Remuneration received by him as an employee of the foreign Government during his stay in india in connection with his training in any enterprise owned and controlled by Government of India or Government company or any subsidiary owned by Government company.

Perquisite and allowance to Indian Citizen Employed Abroad [Section 10 (7)]

Any perquisite or allowance paid to a citizen of India in connection with abroad employment is exempt from Tax.

Gratuity [Section 10 (10)]:

Calculation:

1. Government servant

Any death cum retirement gratuity is wholly exempt from tax

2. Employees covered under payment of Gratuity Act, 1976

Least of the following is exempt from tax.

- (1) ₹ 10,00,000
- (2) 15 days salary out of 26 days salary based on last drawn salary
- (3) Actual gratuity received

Salary for this purpose is Basic pay and DA

3. Employees not covered under payment of Gratuity Act, 1976

Least of the following is exempt from tax.

- (1) ₹ 10,00,000/-
- (2) Half month days salary based on last 10 month average
- (3) Actual gratuity received

Salary for this purpose include basic pay and DA and commission as a % of Turn over achieved by the employee

Notes:

- ❖ Gratuity received during the period of service is always taxable
- ❖ If the employee receives gratuity from more than 2 employers then aggregate amount of Gratuity exempt doesnot exceeds the limits prescribed
- ❖ In case where an employee receives gratuity in earlier year in former employer and received gratuity in another employer then the limit of ₹ 3.5 lakhs will be proportionately reduced by the amount of tax exempt in earlier year.

Commuted pension [Section 10 (10) (A)]

- ❖ Un-commuted pension means the pension which is received by the employee periodically and which is chargeable to tax u/s 15 in the hand of both Government and Non Government employee.
- ❖ Commuted pension refers to taking lump sum amount by commuting the whole or part of the pension
- ❖ Where an employee had commuted his pension then the remaining portion will be received periodically
- ❖ Any commuted pension received by the government employee is wholly exempt from tax
- ❖ Judges of High court and supreme court also entitled for this exemption [Vide circular 623 Dt 6/1/92]
- ❖ In case of Non government employees following shall be exempt from tax

Calculation:

1. If the employee is in receipts of Gratuity

1/3 of commuted pension which we would have received had he commuted the whole pension (100%)

2. If the employee is in not receipts of Gratuity

1/2 of commuted pension which we would have received had he commuted the whole pension (100%)

Leave salary [Section 10 (10 AA)]

Calculation:

1. Government servant

Any amount received as cash equivalent to earned leave to the credit of the employee is wholly exempt from tax.

2. Non-government servant

Least of the following shall be exempt from tax

1. Cash equivalent of leave (on the basis of average of last 10 month salary) to the credit of the employee at the time of retirement (calculated 30 days credit for each completed year of service)
2. 10 month salary based on average of last 10 month salary
3. Amount notified by the Government ₹ 3,00,000
4. Leave encashment actually received

Notes:

- ◆ Leave encashment received during the period of service is always taxable
- ◆ If the employee receives Leave encashment from more than 2 employers then aggregate amount of Gratuity exempt doesnot exceeds the limits prescribed
- ◆ In case where an employee receives Leave encashment in earlier year in former employer and received gratuity in another employer then the limit of Rs 3 lakhs will be proportionately reduced by the amount of tax exempt in earlier year.

Salary for this purpose include basic pay and DA and commission as a % of Turn over achieved by the employee

Retrenchment compensation [Section 10 (10 B)]

Any compensation received by a workman is exempt to the extent of following

1. ₹ 500000
2. Amount specified under Industrial Dispute Act

Voluntary Retirement or separation [Section 10 (10C) and Rule 2 (BA)]

Amount received or receivable by the following employees

1. Public sector company
2. Any other company
3. Any authority established under central state or provincial Act
4. Local authority
5. Co operative society
6. University
7. IIT
8. Any state government
9. Any Central government
10. Institution having importance through out india or in any state on the Central government may specify
11. Any institute of Management as Central Government may specify in this connection.

At the time of VRS or termination of service under voluntary retirement or in the case of Public company under voluntary separation is exempt up to ₹500000. The scheme must be framed under Rule 2 BA.

Condition under Rule 2 BA (Important)

1. It applies to an employee of the company who has completed 10 year of service or completed 40 years of age which ever is earlier.
2. It applies to all the employees including workers and executive of the company and excluding the directors of the company
3. The scheme of Voluntary retirement or separation has been drawn up to result in overall reduction in the existing strength of the employee of the company
4. The Vacancy caused by Voluntary retirement or separation is not to be filled up
5. The retiring employee shall not be employed in another company or concern belonging to the same management.
6. The amount receivable on account of Voluntary retirement or separation doesnot exceed the amount equivalent to 3 month salary for each completed year of service or salary at the time of retirement multiplied by the balance month of services left before the date of retirement.

Note: The condition that an employee of the company who has completed 10 year of service or completed 40 years of age which ever is earlier is not applicable to Voluntary separation scheme framed by Public Sector Company.

Salary for this purpose include basic pay and DA and commission as a % of Turn over achieved by the employee

Statutory Provident Fund [Section 10 (11)]

- ◆ Any payment from Statutory Provident Fund (PF Act 1925) or public provident fund is wholly exempted from tax.

Recognized Provident Fund (RPF) [Section 10 (12)]

The accumulated balance due and becoming payable to an employee participating in a recognised PF shall be exempt in the following case in Rule 8 of part A of the fourth schedule

1. In the case of an employee who has rendered continuous service of more than 5 years or more.
2. In the case of an employee whose service has been terminated by reason of the employee ill health or by contraction or discontinuance of the employers business or other reason beyond the control of employee.
3. In the case of employee who obtains the employment with any other employee who maintains any recognised Provident fund to which the accumulated balance becoming due and payable is transferred.
4. Where the accumulated balance becoming due and payable is so transferred , the period of service under the former employer shall also be included in calculating the continuous service.

Approved Super Annuation Fund [Section 10 (13)]

Any payment from an approved superannuation fund is exempt from tax if it is made on the following situations

1. On the death of a beneficiary
2. To an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement
3. By way of refund of contribution on the death of beneficiary

House Rent Allowance (HRA) [Section 10 (13 A)]

HRA is allowed as an exemption to the extent of least of the following

1. Excess of rent paid over 10 % of salary
2. If the accomodation is in CCDM, then 50% of the salary and 40% of salary in other cases
3. Actual HRA

Special allowance [Section 10 (14) and Rule 2BB]

Following are allowed as an allowance under CBDT rules 2 BB

1. *Any allowance granted and spend to meet the cost of*
 - a) Travel on tour or transfer
 - b) Ordinary daily charges which is incurred on account of absent from place of employment
 - c) Conveyance allowance granted to meet the expenditure incurred on conveyance in the performance of duties provided free conveyance is not provided by the employer
 - d) Expenditure incurred on a helper in the performance of duties
 - e) The academic, research and training pursuit in educational and research institute
 - f) Purchase or maintance of uniform for wear during the performance of duties.
2. *Composite hill Allowance*
 - ◆ ₹ 300/- pm provided the place is located at a height of 1000 meters above from sea level.
 - ◆ ₹ 800/- pm in certain notified areas
 - ◆ ₹ 700 pm in Siachen area of Jammu and Kashmir

3. *Tribal Area Allowance*
₹ 200 Pm is exempt (Assam, Bihar, Karnataka, Madhya Pradesh, Orissa, Tripura, Tamil Nadu, UP)
4. *Special allowance*
 - ◆ Border area Allowance: ₹ 200
 - ◆ Remote area Allowance: ₹ 300
 - ◆ Difficult area Allowance: ₹ 750
 - ◆ Distributed area Allowance: ₹ 1050
5. *Employee working in a public transport system*
₹ 6000/- pm or 70 % of such allowance whichever is lower
6. *Children Education Allowance*
Exempt up to ₹ 100/- subject to a maximum of **two** children
7. *Children hostel allowance*
Exempt up to ₹ 300/- subject to a maximum of **two** children
8. *Counter insurgency allowance*
Exempt up to ₹ 3900/- Pm to the members of armed force operating in an areas away from their permanent locations for a period of more than 30 days
9. *Transport allowance to the person who is suffering Blindness:* ₹ 1600/- pm
10. *Transport allowance to the person who is suffering Blindness:* ₹ 800/- pm
11. *Underground allowance:* Exempt ₹ 800 pm
12. *High altitude allowances*
Exempt ₹ 1060/- pm for the altitude of 9000 to 15000 Ft
Exempt ₹ 1600/- pm for the altitude above 15000 Ft
13. *Special Allowance of members of armed force*
Special compensatory allowance highly active field allowance ₹ 4200/- pm
Island duty allowance of ₹ 3250/-

Perquisite (Important) [Section 17 (2)]

- (1) Value of rent free accommodation provided by the employer to the employee.
- (2) Value of concession in the matter of rent in respect of any accommodation provided by the employer to the employee
- (3) Value of any amenity or benefit provided free of cost or at concessional rate in case of specified employee
- (4) Any sum paid by the employer in respect of any obligation on behalf of the employee
- (5) Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity
- (6) The value of any other fringe benefit or amenity as may be prescribed.
- (7) The value of specified sweat equity shares transferred or allotted directly or indirectly at free of cost or at concessional rate to the assessee
- (8) Any contribution to super annuation fund by the employer in respect of assessee to the extent it exceed Rs one lakh

Medical facility is not a taxable perquisite (Important):

The value of following medical facility or expenditure incurred in favour of an employee is not treated as perquisite and therefore it is not taxable.

- (1) Medical facility provided to an employee or any member of his family in any hospital maintained by the employer.
- (2) Any sum paid by the employer in respect of any expense actually incurred by the employee or any member of his family on his medical treatment or medical treatment of any member of family in :-
 - (a) Any hospital maintained by the Government or
 - (b) Any approved hospital under central health scheme or similar scheme of state government
 - (c) Any hospital, approved by chief commissioner for medical treatment of specified disease or Ailment.
- (3) (A) Group medical insurance taken on the life of employee or
(B) Reimbursement of medical insurance premium paid by the employee on his health or health of any member of his family under the scheme approved under **Section 80 D**.
- (4) Re-imburement by the employer of actual expenditure incurred by an employee for medical treatment from any doctor in respect of employee or any member of his family.
- (5) Actual expenditure incurred by an employer in respect of following
 - (a) Medical treatment of employer or any member of his family outside India
 - (b) Travel and stay abroad of patient and one attendant subject to the following condition
 - (i) The expenditure on medical treatment and stay abroad will be exempted to the extent permitted by RBI.
 - (ii) The expenditure on medical treatment shall be exempted only in the case of employee whose gross total income as computed before included the said travel expense ₹ 2 Lakh.

Value of Rent Free Accommodation (RFA)

Government employee

- ◆ Where the accommodation provided by union or state government in connection with holding office or post in connection with affair of such union and state government or
- ◆ Holding post in any undertaking which is hold by union or state government.
- ◆ The value of perquisite shall be the license fee determined by such union and state government in connection with Rules framed in this behalf as reduced by rent ,if any, paid by employee.

Other employees

The value of perquisite will depends upon whether the accommodation is owned by the employer.

Calculation of Rent free unfurnished accommodation

Where the accommodation is owned by the employer

(a) Less than ₹ 10 lakh	–	7.5 %
(b) Between ₹ 10 lakh to ₹ 25 lakh	–	10 %
(c) Above ₹ 25 lakh	–	15%

Where the accommodation is taken on lease or rent

Least of the following

- (a) Actual cost of lease rental paid or payable by the employer or
- (b) 10 % of salary

* Reduced by the rent, if any, paid by the employee

Calculation of Rent free furnished accommodation:

Calculate the value as per the above calculation and add the following:

- (a) 10 % original cost where the furniture owned by the employer
- (b) Actual hire charges payable by the employer where the furniture is hired

* Reduce any hire charges which is beard by the employee during the previous year.

Hotel accommodation

Government employee

◇ Where the accommodation provided by union or state government in a hotel, then value of the perquisite is least of the following

- 24% of gross salary paid or payable for the previous year
- OR
- Actual hire charges paid or payable to such hotel

- ◇ Reduce any hire charges which is beard by the employee during the previous year.
- ◇ The calculation shall be for the period during which accommodation is availed.
- ◇ Where such accommodation is provided in connection with transfer of employee in one place to an other place for less than 15 days there is no question of perquisite. If exceeds 15 days then perquisite need to be calculated.

Additional points

- ◇ Where accommodation is provided to an employee who working in the following category then there is no taxable perquisite at all
 - (a) Mining site
 - (b) Onshore oil exploration site
 - (c) Project execution site located in a remote area
 - (d) Off shore site of similar nature (Remote area)
- ◇ Where on account of transfer of employee in one place to an other place , the employer provided with new place of posting while retaining the accommodation at old place, the value of perquisite is determined is as follows.
 - (a) For a period not exceeding 90 days, the value of perquisite is determined with reference to only one such accommodation which bears lower perquisite.
 - (b) For a period exceeding 90 days, value of perquisite is charged for both such accommodation.

Note: The test is for 90 days

Accommodation include the following

Accommodation in:

- (a) Flat
- (b) Farm house or part there of
- (c) Accommodation in a hotel, motel, caravan, mobile home or in ship or other floating structure (House boat)

Salary for this purpose

Salary includes the following:

Pay, allowance, bonus or commission payable monthly or otherwise or any other monetary payment payable by whatever name called from one or more employees as the case may be but does not include the following.

- (1) Dearness allowance or pay unless it include the part of super annuation or the retirement benefit of the employee concerned
- (2) Employer contribution to PF of the employee
- (3) Allowance which are exempt from payment of tax

- (4) Value of perquisite which is specified u/s 17 (2)
 (5) Any payment or benefit in the nature of allotment of shares ,debentures, or warrants under ESOP or scheme in accordance with guidelines prescribed by the government in this connection.

Value of concession in the matter of rent:

No specific calculation required

Value of any other amenity or benefit to specified employees (Important)

Specified employees

Following category of employees were called specified employees

- (i) Director of the company
 (ii) A person who have substantial interest in employer company
 (iii) An employee who is not covered (i) and (ii) above whose income under the head salary excluding all the non monetary allowance and perquisite exceeds ₹ 50,000/-

Notes: While computing the limit of ₹ 50,000/- following are excluded

- (i) All non monetary allowance
 (ii) Monetary allowance which is exempt under **Section 10**
 (iii) Deduction under **Section 16 (ii) and (iii)**

(a) Perquisite in respect of domestic servant

If employer had made a provision for Gardner, sweeper, watchman or personal attendant

The actual value of perquisite shall be the total amount of salary which is borne by the employer less amount if any paid by the employee

(b) Perquisite in respect of Gas, electricity energy and water supply for house hold.

- ◆ *If the above facility owned by the employer*
 Manufacturing cost incurred by the manufacturer shall be value of the perquisite
- ◆ *If the above facility Hired by the employer from outside agency*
 The amount paid by the employer on that account shall be the value of perquisite.
 * Reduce the amount if any paid by the employee on that account.

(c) Perquisite in respect of Education allowance

- ◆ *Where free education allowance provided by the employer to any member of house hold of employee*
 Actual cost incurred by the employer for providing such education.
- ◆ *Where education institution maintained or sponsored by the employer and providing free or concessional education facility to the household of employee*
 Value of perquisite shall be cost of such education in near or similar locality.
 If the cost of education is less than ₹ 1000/- child then there is no perquisite.
 * Reduce the amount if any paid by the employee on that account.

(d) Perquisite in respect of Transport facility

- ◆ Where any undertaking engaged in carrying goods or passengers and providing free transportation allowance to the employee or any member of house hold,
- ◆ Value of perquisite shall be value at which such benefit or amenity was granted to the public by such undertaking.

Value of other Fringe benefit or amenity [Section 17 (2) (vi)]

In computing the value of benefit or amenity, any amount paid or recovered or borne by the employee or any member of the house hold shall be reduced and the balance amount shall be charged to tax as perquisite in the hand of employee.

Note: Refer text book for more details.

Interest Free housing loan

The value of benefit or amenity on account of interest free or concessional loan made available to him shall be determined as *a sum equal to the interest computed at the rates charges by SBI as on the first day of the relevant previous year in respect of loan made to the similar purpose during the first day of the relevant previous year.*

SBI schedule for AY 2011-12 is as follows

Nature of loan	Periods	Rate
Housing Loan	0 to 20 years	8%
car	0 to 7 years	8%
Education	Up to ₹ 4 lakh	11.25%
	Above ₹ 4 to ₹ 7.5 lakh	12.75%
	Above ₹ 7.5	11.75%
Personal loan		16%
Two wheeler		15.75%

Interest shall be calculated on the basis of maximum monthly outstanding balance.

Exemption

- ◆ If the loan is availed for the disease specified in Rule 3 A
- OR*
- ◆ The amount of loan availed does not exceeds ₹ 20,000/-

Usage of movable asset

If the moveable asset owned or hired by the employer is used by the employee or any member of the household then the value of perquisite shall be

10% p.a. of the actual cost of such asset or the amount of hire charges incurred by the Employer shall be the value of perquisite.

Exemption

It doesnot covers the computers and laptops and the asset covered above.

Transfer of moveable asset

Where an employer transfers any asset directly or indirectly to the employee or any member of the family then the value shall be determined as follows

(1) Motor car	:	20 % on WDV
(2) Computer and electronic gadget	:	50 % WDV
(3) Other asset	:	10 % on SLM method.

Perquisite in respect of motor car

Where the car is owned by the employee and expenditure are met by him then there is no question of perquisite will be arise

However, the following case there may arise the question of perquisite.

Case 1: car is owned by the employee and expenditure were met by the employer

- (i) *Wholly for the personal use:* Actual amount incurred by the employer less amount if any recovered from the employee.
- (ii) *Partially for personal and official use:* Up to 1.6 liters CC ₹ 1800 pm and above 1.6 CC ₹ 2400/- Drivers salary ₹ 900 pm

Case 2: Car is owned by the employer and Expense are met by the employee

- (i) *Wholly for personal use:* Wear and tear or Hire charges and drivers salary
- (ii) *Partially for personal and official use:* Up to 1.6 liters CC ₹ 600 pm and above 1.6 CC ₹ 900/- Drivers salary ₹ 900 pm.

Case 3: Car is owned by the employer and expense is met by the employee.

- (i) *Wholly for personal use:* Running and maintenance expense, wear and tear or Hire charges, Drivers salary Less amount recovered from the employee for such use.
- (ii) *Partially for personal and official use:* Up to 1.6 liters CC ₹ 1800 PM and above 1.6 CC ₹ 2400/- Drivers salary ₹ 900 pm.

In the case of other conveyance allowance provided by the employer then the value shall be as follows:

- (i) *Wholly for personal use:* The running and maintenance expense
- (ii) *Partial for official and personal:-* Actual expense incurred by the employer as reduced by ₹ 900/-

Free or concessional tickets

In case of undertaking engaged in the business of carriage of goods or passengers and providing free or concessional journey to the employee or any member of house hold.

Value of perquisite shall be the amount at which such facilities are provided to the public less amount if any recovered from the employee.

Travelling, tour and accommodation

- ◆ The amount of expenditure incurred by the employer shall be regarded as the value of benefit or amenity. The amount recovered from the employee shall be reduced and the residual amount shall be regard as value of benefit or amenity
- ◆ If the facility is not uniformly available to the entire employee, then, the value at which such facilities are allowed to the public shall be allowed as value of amenity or benefit.
- ◆ Where the employee is in tour and any member of house hold are accompanied him, the amount of expenditure shall be value of perquisite.
- ◆ This will not cover Leave travel concession or assistance.

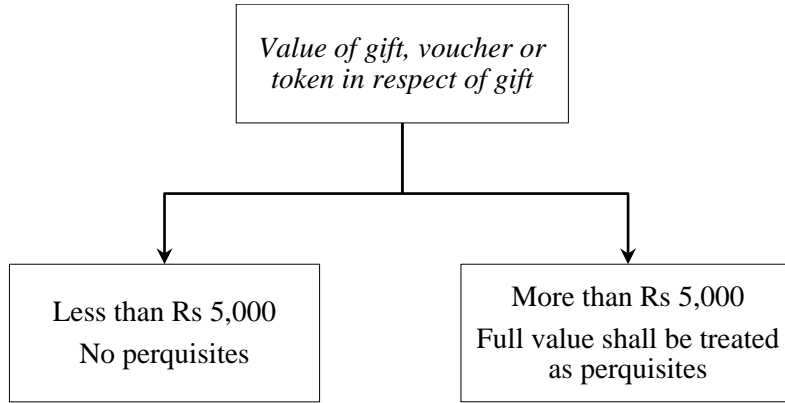
Free or concessional meals

The amount of expenditure incurred by the employer shall be the value of benefit or amenity. However, following shall be exempted

- a) Free meals provided during the *office hours* at *office or business premises* up to rs 50 per meals
- b) Free meals provided through paid vouchers which are not transferable and useable only at eating if the value there of is up to Rs 50 per meals
- c) Free meals provided at working hours provided in a remote area or an offshore installation
- d) Tea or snacks provided during office hours

Gift

- ◆ The value of Gift, or Voucher or token in lieu of which such gift may be received by the employee or any member of such house hold shall be the sum equal to such gift.
- ◆ If the value of such gift, or voucher or token in respect of which such gift or token received by the employee or member of house hold is less than Rs 5000/- then the value of perquisite shall be taken as NIL



Membership in a club

The amount of expenditure being membership fee and the annul fee incurred by the employee or any member of the house hold shall be the amount of benefit or amenity.

Salary General Format

<i>Particulars</i>	<i>Amount ₹</i>	<i>Amount ₹</i>
Salary or wages (Including advance salary)	
pension or Annuity (retirement benefit)	
Gratuity or leave salary	
Fee, commission etc.	
Taxable allowance	
Taxable perquisite	
Profit in lieu or addition of salary	
Contribution in excess of 12.5 % salary	
Interest credited in excess of 9.5 %	
Taxable balance transferred from UPRF to RPF	
<i>Gross salary</i>	
<i>Less:</i> Deduction under Section 16		
Entertainment allowance	
Profession tax	(.....)
Net salary	

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3. INCOME FROM HOUSE PROPERTY

Basic concepts:

- ◆ Normally under Income Tax Act real income is get taxed. Howe ever, Notional income is taxed in case of **let out property** where Fair rent exceeds actual rent.

Chargeability:

Section 22 deals with chargeability.

The **Annual value** comprises of any **building or land** appurtenant there to, of which Assessee is owner is chargeable to tax.

On a plain reading of charging section following can be interpreted.

- (1) Assessee must be owner of the Building or Land (Deemed owner ship also enough)
- (2) Tax is levied on Annual value of Building and Land
- (3) Rental income will be taken in to consideration only in case of let out property. But subject to fair rent condition

The annual value of any Building or portion of the building occupied by the Assessee for the purpose of his business and profession shall be not chargeable to tax.

Reason: It is a business related expense (Rent)

Explanations of Land appurtenant to building include the following.

- (1) Lawns
- (2) Garden
- (3) Parking space

Deemed ownership [Section 27]

In certain cases the ownership is in the name of one person whereas taxability is cast on other person deeming him as owner. Following are the situation.

- (a) Where an individual transfer otherwise than adequate consideration any house property to his or her spouse, not being an agreement in connection with leave apart, to a minor child not being a married daughter, is deemed to be the owner of the house property so transferred.
- (b) The holder of imparitable estate is deemed to be the individual owner of the properties so comprised in the estate
- (c) A member of co operative society or company or any other Association of person or body of individual to whom a building or part thereof is allotted or leased under a **House building scheme** of the society, company, Association of person, shall be deemed to be the owner of that building or part there of, even though co operative society/ company/ Association of person is a legal owner.
- (d) A person who is allowed to take or retain possession of any Building or part thereof in part performance of contract of the nature referred to in Section 53 A of Transfer of property Act 1882 is deemed to be the owner of that building or part there of.
- (e) A person who acquire any right (not being a right by way of lease from month to month or for a period not exceeding one year) in or with respect to any building or part there of, by virtue of any of the following transactions shall be deemed to be the owner of the property

- (a) Transfer of any land or building or part of a building by way of sale or exchange or lease for a term not less than 12 years
- (b) Transfer of any right in or with respect to any land or building or part of or Building which has an effect of transferring or enabling the enjoyment of Right.

How to calculate Annual value?

(1) *For the purpose of Section 22 Annual value shall be deemed to be:*

- (a) the sum for which property must be reasonably expected to be let from year to year
- (b) Where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to above (a), the amount so received or receivable
- (c) Where the property or any part of the property is let and was vacant during the whole or any part of the Previous year and owing to such vacancy the actual rent received or receivable is less than the sum referred to above (a), the amount so received or receivable.
- (2) *Where a property consist of a house or part of house which is :*
- (a) In occupation of the owner for the purpose of his own residence. **(Self-occupied property)**
- (b) Cannot actually occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, and he has to reside at that other place in a building not belonging to him. **(Un occupied property)**
Annual value shall be taken to be Nil in the above cases.
- (3) *Application of Nil Annual valuation is not applicable in the following cases*
- | |
|--|
| <p>(a) The house or part of the house is actually let during the whole or any part of the previous year;</p> <p style="text-align: center;"><i>OR</i></p> <p>(b) Any other benefit there from derived by the owner</p> |
|--|
- (4) *Where the property (Self-occupied or un occupied) consist of more than one house then:*
- (a) The provision of that sub section shall apply only in respect of one of such house, which the Assessee may, at his option, specify in this behalf.
- (b) The annual value of house or houses, other than the house in respect of which the Assessee has exercised an option under clause (a) shall be determined under clause 1 as if such house or house had been let out

Municipal taxes

Any tax levied by the local authority shall be deducted from the Annual value so determined.

Condition need to be satisfied for qualifying deduction

- (i) It should be borne by the Assessee
- (ii) It should be actually paid during the previous year.

Fair rent

The rent which similar property in similar locality would fetch, but if municipal valuation is also available, fair rent is taken as municipal valuation or FMV which ever is higher.

Gross annual value

Generally, Fair rent is adopted as Gross annual value. To this general rule following are the exemption

- (1) If the property is let out and actual rent received or receivable in respect there of is in excess of Fair rent., then the amount so received or receivables
- (2) If the property is let out and was vacant during whole or part of the previous year and owing to such vacancy the actual rent received or receivables is less than Fair rent, then the amount so received or receivables

Unrealised rent

Where any amount of rent not capable of being realised then such portion of rent shall be excluding in the actual rent received or receivable.

[Refer rule 4 in this connection]

Special treatment of a portion of property is let out and portion is self-occupied

Compute the Annual value separately for let out and self occupied portion. Never treat it as a single unit

Special treatment of House property let for few month during a year and let out for remaining part

- (1) Fair rent for whole the year need to be taken for determining the annual value
- (2) Compare the actual rent received or receivable on this account and compare with Fair rent, adopt whichever is higher.
- (3) Property tax for the whole the year shall be allowed as a deduction

Deemed let out property

This is arise when the person have more than one house for his self-occupation purpose. Assessee may have select any one house for his self occupation purpose and other house automatically become deemed let out

Factors taken for selection for deemed let out

- Higher Fair rent
- Interest factor

Type of property

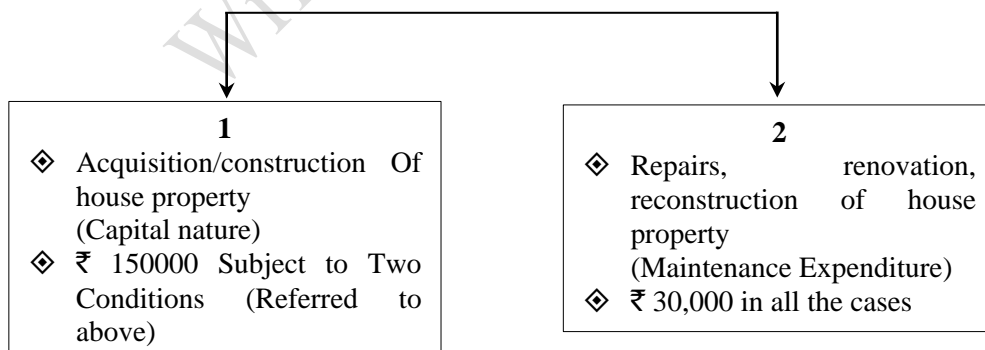
- (1) Self-occupied property
- (2) Let out property
- (3) Deemed let out property

Claiming of interest

In case of self occupied property following shall be allowed as deduction.

- (1) Rs 30,000/- is allowed as interest on loan borrowed for the purpose of acquisition, construction, repair, renovation etc of the property.
- (2) Rs 150000 is allowed as deduction but following condition need to be met

- (a) Loan must be acquired on or after 1/4/99
- (b) Acquisition or construction must be completed within 3 years from the date of completion.



Interest on loan [Section 24 (b)]

- (1) Interest payable on loans borrowed for the purpose of acquisition, construction, renovation, repairs or re construction can be claimed as deduction
- (2) Interest relating to the year of completion of construction can be fully claimed as deduction irrespective of the date of completion
- (3) Interest accrued during the construction period proceeding the year of completion of construction can be accumulated and claimed as deduction over a period of 5 years in equal instalment commencing from the year of completion of constructions.

- (4) According to the explanation of section 24 any subsequent loan borrowed to repay the original loan shall also be entitled to the same treatment of original loan.
- (5) Where a person acquires a property and pays only part of the sale consideration, interest payable on the unpaid purchase price qualifies for deduction in the computation of such property.

Steps to compute pre construction period interest

- ◆ Pre-construction periods start with Date of borrowing and end with the year immediately before the year of completion of construction.
- ◆ Year of completion of construction shall be excluded from the purview of pre-construction period

Step 1: Take date of borrowing of loan

Step 2: Take date of completion of construction

Step 3: accumulate the interest from the year of borrowing of loan (first year there is a fraction of month since loan is borrowed in any month with in a year)

Step 4: Compute total interest and give 1/5 and the resulted figures shall be the current year interest for the year.

Example:

Assume that loan borrowed on 1/1/2006 and the construction was completed as on 1/10/2009. The loan borrowed is ₹5,00,000 @ 16 % interest. How can you solve this?

Ans.:

Date of borrowing 1/1/2006 (PY 2005-06)

Date of completion of construction 1/10/2009 (PY 2009-10)

You are required to compute the interest from the year 2005-06 to 2008-09.

Since the year of completion is 2009-10 and interest for that year is fully allowed as a deduction irrespective of date of completion of construction.

30 % Annual value can be allowed as deduction

Section 24 (a) allows a flat deduction of 30 % on Gross annual value as determined above.

Un-realised rent subsequently received [Section 25AA]

It is deemed to be income of the Assessee and chargeable to tax under the head income from house property.

Reason: Such rent is excluded in actual rent computation and included it in receipts basis in subsequent year.

Notes: Assessee need not be the owner of the house property or part there of

Arrears of rent received [Section 25 B]

- ◆ It is deemed to be income of the Assessee and chargeable to tax under the head income from house property if and only if it is not charged in the earlier years.
- ◆ 70% of such arrear is need to be charged and 30 % shall be allowable as deduction

Co ownership [Section 26]

- ◆ Two or more person jointly owns a house property and their shares are definite and ascertainable , income from house property shall be taken on individual basis
- ◆ The share income of each such co-owner is determined and include in his assessment
- ◆ Each such co-owner is entitled for a confessional computation relating to one self-occupied property

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4. PROFIT AND GAINS FROM BUSINESS AND PROFESSION

Basic Concepts:

- ◇ **Section 2 (13)** define business to include, trade, commerce or manufacture or adventure in the nature of trade commerce or manufacture.
- ◇ Manufacture is a process of creating a new product which is different from the basic raw materials
- ◇ **Section 2 (36)** define profession to include Vocation.

Profession require academic degree diploma whereas for carrying out vocation In born skills and talent is only required. (Sree Ravi Shankar)

- ◇ Isolated transaction can be construed as Business But following factors taken in to consideration for determining.

- Nature of the items dealt with
- Intention of the parties
- The periodicity of transaction
- The effort taken which culminate in to the transaction

Method of Accounting

- ◇ According to section 145 income chargeable under the head profit and gains from business and profession need to be calculated in accordance with the method of accounting employed by the Assessee.
- ◇ There are only two methods which is permitted by Income tax authorities Cash base and mercantile base
- ◇ Under mercantile basis due base is adopted for receipts and payment
- ◇ Under cash basis income and expense is accounted on the receipts of cash.
- ◇ Claim of depreciation will not depends upon any of the above two method.

Chargeability or scope [Section 28]

Please refer the definition

- (i) The profits and gains of any business or profession which was carried on by the Assessee at any time during the previous year;
- (ii) Any **compensation or other payment** due to or received by,
 - (a) Any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;
 - (b) Any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto;
 - (c) Any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto;
 - (d) Any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;
- (iii) Income derived by a trade, professional or similar association from specific services performed for its members;
 - (a) Profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947);
 - (b) Cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India;

- (c) Any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971;
- (iv) The value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;
- (v) Any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm :
- (vi) Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause
- (vii) (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted;
- (viii) Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
- (ix) Explanation: For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10.
- (x) Explanation 1: Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

Speculative Business

- ◆ Where an Assessee who carries on any transaction which constitute speculative business, it shall be regarded as separate and distinct business by the Assessee.
- ◆ According to section 73 Loss from the speculative business cannot be set off against
 - (a) Any other regular business.
 - (b) Any other head of Income

Definition of Speculation business [Section 43 (5)]

- ◆ It is a transaction in which a contract for purchase or sale of any commodity Including shares and scrips.
 - ◆ It is periodically or ultimately settled otherwise than by actual delivery or transfer
- Common books for both speculative business and non-speculative business*
- ◆ Determine income and loss separately and distinctly for such business by allocating or apportioning the expense incurred separately for speculative and non-speculative business.
 - ◆ Basis of apportionment is may be either actual basis or some other basis.
 - ◆ Exception to the speculation business

Following are the exemption to speculation business

- (1) Contract in respect of raw material and merchandise in the normal course of business to guard against Price fluctuation.
- (2) A Contract in respect of stores or stock entered in to by a dealer or investor to guard against the loss due to the price fluctuation.
- (3) A contract entered in to by a member of stock exchange or forward market in a course of jobbing or arbitrage to guard against the loss due to the price fluctuation.

Income referred to section 28 shall be computed on the basis of provisions contained in **Section 30 to 43 D**

Expense relating to building [Section 30]

Where the Assessee occupying the premise as Tenant

Following shall be allowed as a deduction

- (1) Rent paid by him
- (2) Cost of repair provided the same has been undertaken by Him

Where the Assessee occupying the premise as Owner

Only current repair can be allowed as deduction in addition following shall be claimed as deduction:

- (1) Land revenue, local rates, and property taxes
- (2) Insurance premium in respect of property

Notes: Expenditure in the nature of capital expenditure cannot be claimed as a deduction. The reason for the same is it is allowed as deduction under the head capital gains.

Expense relating to machinery, plant and furniture [Section 31]

Following are the allowable expense in respect of machinery, plant and furniture

- (1) Current repairs
- (2) Insurance premium

If it is taken on hire then rent paid or payable on that can be claimed as deduction under **Section 37 (1)**

Notes: Expenditure in the nature of capital expenditure cannot be claimed as a deduction. The reason for the same is it is allowed as deduction under the head capital gains.

Explanation to Current repairs

- ◆ If by incurring certain expense, an existing asset restored to its normal or original condition then it is regarded as current repair (Normally maintaining the asset).
- ◆ It is the expenditure on Building, plant, machinery or furniture which is only for the purpose of preserving an existing asset is termed as current repairs.

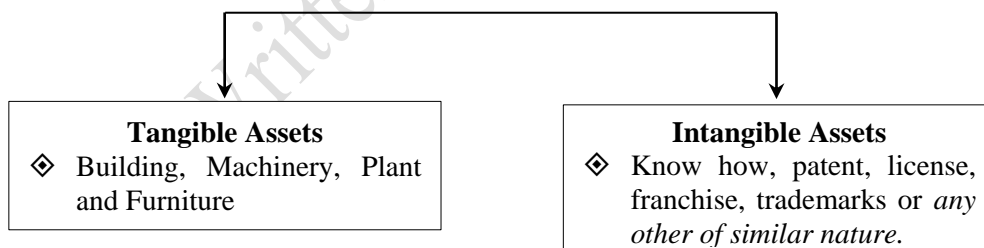
Capital expense

- ◆ If by incurring certain expense, the capacity of the asset had changed or enhancing its efficiency beyond the original efficiency, then it is a capital expenditure in nature.
- ◆ If an additional advantage is created in an asset also regarded as Capital expense
- ◆ This type of expense is mainly for the purpose of renewal or restoration of the asset

Depreciation (Important) [Section 32]

Eligible asset:

There are two category of the asset which is eligible for depreciation. This is as follows.



Condition for claiming depreciation

- (1) Assessee must be owner of the asset. Fractional ownership will also be taken in to account for the purpose of claiming depreciation.
- (2) The asset must be used by the Assessee for the purpose of Business and profession carried on by him
- (3) The asset must be used during the previous year

Notes: If the asset is put to use for less than 180 days then only 50 % of the allowable depreciation is allowed and 100% depreciation will be allowed for more than 180 days

- (4) The asset in respect of depreciation claimed must be fall in the eligible category as above.

Depreciation of power sector

Undertaking engaged in generation or generation or distribution of the asset can depreciate their individual asset on Straight line method.

The rate is appendixes in 1A

Notes: Only the method of depreciation which is prescribed by Income Tax Act is Written Down value method and above mentioned is relaxation of the above provision.

Option for changing method of Depreciation (SLM to WDV)

The above undertaking can claim depreciation under WDV method on block of asset basis. Such option need to be exercised on or before filing return of income Assessment relevant to the previous year.

Special treatment of sale, discarded, demolished or destroyed

- ◆ Where any asset in respect which SLM method of depreciation has been allowed is Sold, discarded, demolished or destroyed Short fall if any in moneys payable compared to the WDV shall be allowed as terminal depreciation.
- ◆ Such deficiency is actually required to be written off in the books of Account.
- ◆ If however, such asset has been Sold, discarded, demolished or destroyed the money realised thereof together with scrap value if any, exceeds the WDV then following treatment is required
 - (1) The excess to the extent of depreciation already allowed shall be assessable as balancing charges under the head profit and gains from business and profession.
 - (2) The surplus over and above the actual cost shall be chargeable to tax under the head capital gains

Money payable means the following items of expense

- Insurance
- Salvage
- Compensation money

Which is payable in respect of Asset

Block of asset [Section 2 (11)]

Group of asset falling within the class of asset comprising:-

- (a) Tangible asset being Building, Machinery, plant and furniture.
- (b) Intangible asset being Know how, patent, License, franchise, trade marks or any other rights of similar nature

In respect of which same rate of depreciation is prescribed

Actual cost: It is a total price of the asset

Adding items in total cost

- (1) If the amount is borrowed, then, interest payable up to the date of commencement of production can be added to the above.
- (2) Expense incurred for acquiring the asset. Following are the example

- Freight
- Insurance
- Loading charges

- (3) Expense incurred in connection with installation of the asset and following are the examples

- Technical fee for erection
- Platform erection cost

Deducted items in the actual cost list

Following are the example

- Amount met by Government or other person in the form of grant or subsidy

Notes: The Grant or subsidy is not directly relatable, and then the portion up to which it can be directly related. (Apportionment basis)

WDV calculation

<i>Particulars</i>	<i>Amount</i>
Opening value of Block
<i>Add:</i> Actual cost of asset acquired and belonging to the same Group
<i>Less:</i> Money payable in respect of the same block
WDV for the purpose depreciation

Money payable means the following items of expense

- Insurance
- Salvage
- Compensation money

Which is payable in respect of Asset

Un-absorbed depreciation [Section 32 (2)]

- ◆ Un-absorbed depreciation is allowed and carry forward for setting off in the subsequent year. There is no limitation as far as period of carry forward.
- ◆ It is treated as a part of current year depreciation.
- ◆ Un-absorbed depreciation bought forwarded during the current year shall be regarded as current year depreciation and can be claimed as expense of current year.
- ◆ Even a discontinued business can claim un-absorbed depreciation.
- ◆ It can be set off not only against the income under the head profit and gains from business and profession but also any other head of income also.

Tea or Coffee or Rubber Development Account [Section 33 AB]

Eligible Business: Assessee carrying on the business of **Growing and manufacturing** Tea or coffee or Rubber

Deposit: Assessee needs to deposit any of the following

- (1) NABARD in a scheme approved by Tea , coffee or Rubber Board
- (2) Account specified by the concerned board with the previous approval of Central Government

Time limit of deposit:

- (1) 6 month from the end of the previous year
- (2) Before filing return of income

Quantum of deduction:

Least of the following

- (1) To the extent of profit utilised as above
- (2) 40% of profit computed under the head profit and gains from business and profession.

Withdrawal: It must be in accordance with the purpose specified in a scheme or relevant deposit scheme.

When can withdrawn

Amount is allowed to withdrawn any of the following

- (1) Closure of the business
- (2) Partition of HUF
- (3) Dissolution of partnership firm
- (4) Liquidation of company

If an assessee uses the amount which was deposited for non-eligible asset then the amount so utilised shall be charged to tax under the head profit and gains from business and profession

List of non-eligible asset

- (1) Plant and machinery installed and used in any office or residential accommodation including guest house
- (2) Office appliance excluding computer (Amount can be used for purchase of computer)
- (3) Any new machinery or plant installed in an industrial undertaking for the purpose of any article or things specified in the eleventh schedule
- (4) Any plant and machinery in respect of which cost is allowed to be written off in one year.

Amount withdrawn and not utilised will not be charged to tax under the following situation:

- (1) Withdrawal on account of death of Assessee
- (2) Withdrawal on account of partition of HUF
- (3) Withdrawal on account of Liquidation of the company.

Asset in respect of which deduction is claimed will not be transferred for a period of **8** years.

Following are the exemption

- (1) Transfer to Government / Government company/Local authority
- (2) Transfer at the time of transfer or takeover of a firm by a company

Audit requirement

The account of the Assessee must be audited by a chartered Accountant and the report in **Form 3AC** shall be furnished along with the return of income

Site Restoration Fund [Section 33ABA]

Eligible Business

Assessee carrying on the business of:-

- i) Prospecting for petroleum and natural gas in India
- ii) Extraction or production of petroleum and natural gas in India

Central government must enter in to an agreement with the Assessee for above business.

Deposit

Assessee need to deposit any of the following

- (1) State Bank under a scheme approved by Government of India ministry of petroleum and natural Gas
- (2) Site restoration account under a scheme approved by the ministry.

Time limit of deposit

- (1) 6 month from the end of the previous year
- (2) Before filing return of income

Quantum of deduction

Least of the following

- (a) To the extent of profit utilised as above
- (b) 20% of profit computed under the head profit and gains from business and profession.

Audit requirement

The account of the Assessee must be audited by a chartered Accountant and the report in prescribed form shall be furnished along with the return of income

Tax treatment of amount withdrawn

Amount withdrawn in any of the previous year on account of closure of account shall be charged to tax.

Amount of tax is as follows

- ◆ Amount withdrawn less amount that may be payable to the government as per the agreement
- ◆ If the amount is not utilised in accordance with the scheme, it shall be deemed to be the income which is chargeable to tax under the head profit and gains from business and profession.
- ◆ Amount cannot be utilised for non-eligible asset and following are the list

List of non-eligible asset

- (1) Plant and machinery installed and used in any office or residential accommodation including guest house
- (2) Office appliance excluding computer (Amount can be used for purchase of computer)
- (3) Any new machinery or plant installed in an industrial undertaking for the purpose of any article or things specified in the eleventh schedule
- (4) Any plant and machinery in respect of which cost is allowed to be written off in one year.

Asset in respect of which deduction is claimed will not be transferred for a period of **8** years.

Following are the exemption:

- (1) Transfer to Government / Government company/Local authority
- (2) Transfer at the time of transfer or takeover of a firm by a company

Deduction in respect of shipping business [Section 33AC]

Eligible Assessee

- (1) A government company
- (2) Public company registered in India with the main object of Carrying on the business of operation of ships

Quantum of deduction

- (1) To the extent of amount transferred to special reserve in respect of profit and gains derived from shipping business.
- (2) Where the amount so transfer exceed twice the paid up capital and General reserve, and share premium account no deduction shall be allowed for such excess amount.

Conditions

- (1) The shipping reserve must be utilised for the purpose of acquiring new ship.

Notes: Until acquisition of the new ships such reserve can be utilised for the purpose of business and profession of the Assessee, but following are the exemptions

- (i) Distribution of dividend
- (ii) Remittance of profit outside India
- (iii) Creation of Asset outside India

- (2) The new ships must not be sold or transferred for the period of 3 years from the date of acquisition.
- (3) In case where the ship is sold after 3 years from the end of the previous year in which it is acquired and the sale proceed is utilized for acquiring the new ship within 1 year from the end of the previous year in which the ship was acquired.

Expenditure on scientific research [Section 35]

Meaning: Any activity for extension of knowledge in the field of natural or applied science including agriculture, animal husbandry and fisheries.

Following are the three category of expense

- (1) In house research
- (2) Companies in specified business
- (3) Contribution to outsiders.

In house research

- ◆ Both revenue and capital expenditure can be claimed as deduction (But expense incurred for land cannot be claimed)
- ◆ Expenditure incurred during the 3 years immediately preceding the commencement of business can be claimed during the year of commencement of business.

Quantum of deduction: 100% of the above expense

Companies in specified business

Following are the list of specified business

- ◆ Bio technology
- ◆ Manufacture or production of any drugs
- ◆ Pharmaceuticals
- ◆ Electronic equipment
- ◆ Computers
- ◆ Tele communication equipment
- ◆ Chemicals

Quantum of deduction: 200% of the above expense

Contribution to outsiders

<i>Contribution made to</i>	<i>Purpose</i>	<i>% of deduction</i>
Research association	social or statistical research	125%
Company	scientific, social or statistical research	125%
Research association	Scientific research	175%
National laboratory, University, college or IIT or a Specified person with direction	Scientific research under a programme Approved by prescribed authority	175%

Unabsorbed expense

Please refer un-absorbed depreciation

Expenditure on acquisition of copy/patent right [Section 35A]

- ◆ This provision applies with respect of capital expenditure incurred for acquiring copy/patent right up to 31/3/98.
- ◆ From 1/4/98 onwards the Assessee is required to constitute the above block as intangible asset and avail the depreciation.

Expenditure on acquisition of Know how [Section 35AB]

Please refer the above

Expenditure for obtaining licence to operate telecommunication service

[Section 35 ABB]

- ◆ Any amount paid for obtaining licence to operate telecommunication license shall be allowed as deduction in equal instalment during the life of license
- ◆ No depreciation under **Section 32** cannot be claimed once an assessee avails the above deduction
- ◆ If a part of license transferred for a consideration which is less than the amount remaining un-allowed then the balance amount shall be allowed as a deduction during the remaining number of years in equal instalment.

- ◇ If entire license transferred for a consideration which is less than the amount remaining un-allowed then the balance amount shall be allowed as a deduction in the year of transfer.
- ◇ If part or entire license which is transferred for a consideration which is more than the expense remains un-allowed then following treatment is required
 - (1) No further deduction shall be allowed
 - (2) The surplus to the extent of deduction claimed is treated as business income
 - (3) The remaining surplus is treated as capital gain

Expenditure on Eligible Projects/scheme [Section 35 AC]

- ◇ Payment of any sum to the below entities qualifies for exemption
- ◇ Listed entity

- Public sector company
- Local authority
- Association or Institute approved by the National committee for the purpose of carrying out the eligible project

Method of payment:

Assessee can make the contribution to the above entity or directly to the projects.

Condition for availing the deduction:

- ◇ *In case where Assessee make the contribution to the above entities*
Assessee should furnish with his return of income a certificate from the concerned entity regarding the contribution made
- ◇ *In case where contribution directly to the project*
A certificate the Chartered Accountant

Withdrawal of Approval

- ◇ If the national committee is satisfied that the association or institution is not carrying out the project or Scheme.
- ◇ An opportunity being heard shall be given to the association or Institution
- ◇ After withdrawal of the approval, such contribution shall be treated as income under the head profit and gains from business and profession.

Contribution to Rural development programme [Section 35 CCA]

Contribution made to approved scientific association/ institution for the following activity

- ◇ Implementation of rural development program
- ◇ Training for the personal for such program
- ◇ Contribution to the National Fund to the rural development
- ◇ Contribution to National poverty Eradication fund notified by the Central Government

Amortisation of Certain Preliminary expense [Section 35 D]

Who can claim?

- Indian companies
- Resident corporate Assessee

Purpose

Preliminary expense incurred for the following purpose can qualify

- (1) Commencement of business
- (2) After commencement of business in connection with the –
 - (a) Extension of existing industrial undertaking
 - (b) Setting up of new industrial undertaking

Preliminary expense include the following:

- (i) Legal expense for the purpose of an agreement for the setting up or for conduct of business
- (ii) Cost of preparation of feasibility report, project report, expenditure incurred for conducting any survey including market survey and engineering service relating to the business
- (iii) Legal expenditure incurred for preparation of memorandum of association and Articles of Association
- (iv) Cost of printing memorandum and Articles of Association
- (v) Registration fee paid for incorporation
- (vi) Expense incurred in connection with public issue of shares and debenture being underwriting commission, brokerage and charges for drafting typing, printing and advertisement of the prospectus

Quantum of deduction

- ◆ Non corporate Assessee
5% of cost of project (Cost of fixed asset) as on the last day of the relevant previous year
- ◆ Company Assessee
5% costs of project *or* 5 % of the capital employed at the option of the company.

Notes: Capital employed means aggregate of issued capital, debentures and long term borrowing

Deduction

Deduction is allowed over a period of 5 years in equal instalment.

Amortisation of expenditure in case of amalgamation and de merger [Section 35 DD]

Eligible Assessee: Indian company

Expenditure needs to be incurred on or after 1/4/99 and which is wholly for the purpose of amalgamation /de merger of the undertaking.

Deduction

Deduction is allowed over a period of 5 years in equal instalment.

VRS compensation [Section 35DDA]

Same treatment as above

Deduction

Deduction is allowed over a period of 5 years in equal instalment.

Expenditure on prospecting for certain minerals [Section 35E]

Eligible Assessee

- ◆ Indian company
- ◆ Resident non-corporate Assessee

Type of expense

- ◆ Expenditure incurred in connection with prospecting for development of certain minerals listed in VIIIth schedule of the Income Tax Act.
- ◆ The expense need to be incurred during a period of 5 years ending with the year of commencement of commercial production.

Deduction: Deduction is allowed over a period of 10 years in equal instalment

Audit: Audit of account is necessary for claiming the above deduction

In eligible deduction

- (i) Capital expenditure
- (ii) Expenditure on acquisition of minerals

Transfer of undertaking due to Amalgamation and de merger

Amalgamated company and resulting company can claim the deduction and the erstwhile company is not qualified for any deductions.

Other deductions [Section 36]

Following are the list of such expense

- (i) Insurance premium paid in respect of insurance against the risk of damage of stock or stores
- (ii) Insurance premium paid by Federal co-operative society for insurance of the life of cattle's owned by the member of primary society
- (iii) Bonus or commission paid to the employees in respect to the service rendered. Such sum would not be payable as profit or dividend
- (iv) Interest paid in respect of capital borrowed for the purpose of business and profession.
 - ◇ Interest on loan borrowed from public financial institutions or state financial institution.
 - ◇ Interest on term loan borrowed from schedule bank also be allowed as deduction
- (v) Contribution to recognised provident fund or approved super annuation fund subject to **Section 43B**
- (vi) Contribution to any approved gratuity fund.
- (vii) Any contribution received from the employees towards their welfare fund , if such sum remitted on or before the due date specified under the relevant due date.
- (viii) In respect of animal used for the purpose of business and profession otherwise than stock in trade and have died and become permanently useless for such purpose, the difference between the actual cost and the amount if any realised in respect of the carcasses or animals.
- (ix) Amount of bad debt written off but subject to the following conditions

<ul style="list-style-type: none"> (a) The debt should be incidental to the business (b) It should be taken in to account in computing the income of the assessee or it should represent money lent in the ordinary course of banking or money lending business. (c) It should be written off in the books of accounts (d) The business in respect of which the debt is incurred is continued during the relevant previous year

- (x) In respect of provision for bad and doubtful debt made by following entity
 - (a) A scheduled or non-scheduled bank incorporated in India, then an amount not exceeding 7.5% of gross total income (before giving the effect of this deduction) and 10% of the aggregate average advance made by the rural branch of such banks
 - (b) A bank incorporated outside India, an amount not exceeding 5% of Gross total income
 - (c) A public financial institution or a state financial co-operation or a state industrial development co-operation, an amount not exceeding 10% of gross total income.
- (xi) In the case of –
 - ◇ Financial corporation engaged in providing long term finance for industrial or agricultural development or development of infrastructure facility in India or
 - ◇ Public company providing long term finance for construction or purchase of residential house in India

- ◇ An amount not exceeding 40% of profit of such business carried to a special reserve account created and maintained.
- ◇ Where the aggregate amount of reserve account exceed twice the paid up capital and free reserve then there is no deduction for such excess amount.
- (xii) Any expenditure incurred by the company for promoting family planning among the employees. If the expenditure is in the nature of capital expenditure, then, deduction is allowed over a period of 5 year period.
- (xiii) Any sum paid by a public financial institution by way of contribution towards exchange risk premium.

General deduction [Section 37]

Any expenditure

- | |
|---|
| <ul style="list-style-type: none"> (i) Not being expenditure of the nature described in the section 30 to 36 (ii) Not being in the nature of capital expenditure (iii) Not being in the nature of personal expenditure of the assessee. (iv) Laid out or expended wholly or exclusively for the purpose of business or profession |
|---|

Shall be allowed as a deduction in computing the income under the head profit and gains from business and profession

Advertisement in publication of a political party [Section 37 (2B)]

- ◇ No allowance shall be made in respect of expenditure incurred by an assessee on any advertisement in a souvenir, brochure, pamphlet, or the like publication by a political party.
- ◇ *In admissible expense:* Certain expense are fully disallowed and certain other expense are disallowed on account of non-fulfilment of certain conditions

Disallowance in all the case [Sections 40(a)]

- (1) Interest, salary, royalty, fee for technical service or any other sum payable outside India or payable in India to a NRI or a foreign company is not deductible unless tax is deducted at source
- (2) Income tax and wealth tax is not deductible (it is a personal expense of assessee)
- (3) Any tax payment borne by the employer, on behalf of the employee in respect of non-monetary perquisite provided to such employee, which is exempt under **Section 10(10 CC)**.

Disallowance in the case of partnership firm [Section 40 (b)]

- (i) Interest paid to the partner of the firm is not deductible unless the following conditions are satisfied
 - (1) It should be authorised by and in accordance with the partnership deed
 - (2) It should be relate to the period falling after the partner ship deed
 - (3) It should not exceed 12% of p.a. similar rate of interest.

Dis allowance of interest is subject to the following condition

 - (a) If a person is a partner in his representative capacity and receive interest in the firm and if he receive the interest in his individual capacity from the firm such interest should not be disallowed.
 - (b) If a person who is a partner in his individual capacity and receive interest for and on behalf of someone else from the firm in which he is a partner such interest should not be disallowed.
- (ii) Any amount paid by way of salary, bonus, commission or remuneration by a firm to a partner is not deductible in the computation of income of the firm unless the following condition are satisfied

- (1) It should be authorised by and in accordance with the partnership deed
- (2) It should be relate to the period falling after the partnership deed
- (3) It should be within the prescribed limits. The prescribed limits are as follows
- (4) It should be paid to a working partner

Please find the following working

Book profit	Remuneration as a % of book profit
On the First ₹ 3,00,000 or in case of loss	₹ 150000 or 90% whichever is higher
On remaining balance	60%

Disallowance of association of person or body of individual [Section 40(ba)]

- (i) Any amount paid by way of interest salary, bonus, commission or remuneration by association of person or body of person to its members is not deductible in the computation of income of AOP or BOI
- (ii) If a member pays interest to AOP or BOI and also receive the interest from such AOP or BOI then net excess interest only disallowed in computation of income or loss
- (iii) If a person is member in his representative capacity and receive interest in the firm and if he receives the interest in his individual capacity from the firm such interest should not be disallowed.
- (iv) If a person who is member in his individual capacity and receive interest for and on behalf of someone else from the AOP or BOI in which he is a member such interest should not be disallowed.

Excessive and un reasonable expense [Section 40A(2)]

If any expense incurred by the assessee for goods supplied, service rendered, or facility provided from the **specified person**, then Assessing officer can dis allow such expense to the extent it is unreasonable or excessive.

Assessing officer is determines unreasonable or excessive on below bases

- (1) Fair market value of goods and services
- (2) Legitimate need of business or profession
- (3) Benefit derived there from

Payment in excess of ₹ 20,000 [Section 40A(3)]

- ◆ Dis allowance shall be made at whole amount in respect of payment made in excess of Rs 20,000/- towards expense incurred and claimed as a deduction otherwise than a crossed cheque or demand draft.
- ◆ In case of an assessee carrying on the business of hiring, plying and leasing Goods carriage then the amount prescribed is Rs 35,000/-
- ◆ This provision shall not apply in respect of expenditure for which no deduction is claimed.
- ◆ *Example:* capital expenditure

[Refer Rule 6 DD along with the above provision]

Provision for gratuity [Section 40A (7)]

No deduction shall be allowed in respect of any provision made by the assessee for payment of gratuity to his employee on their retirement or on termination of their employment for any reason.

Exemption

- ◆ Provision made by the assessee for the purpose of payment of gratuity which has become payable during the previous year
- ◆ Any provision made by the assessee for the purpose of contribution towards approved gratuity fund.

Non statutory/ unrecognised Provident Fund [Section 40A (9)]

No deduction shall be allowed in respect of any contribution made to the above

Deductions based on actual payment [Section 43B]

Certain expense which are otherwise allowable as deduction shall be disallowed .

Reason for disallowance:

- ◆ Payment is not made within the stipulated time limit
- ◆ Evidence of such payment is not furnished along with the return of Income

Nature of payment

Any sum payable by the assessee by the way of –

- (i) Tax , duty, cess, or fee under any law in force
- (ii) Contribution to any recognised provident fund or super annuation fund or gratuity fund or any other fund for the welfare of employee.
- (iii) Any bonus or commission to the employee
- (iv) Any interest on borrowing from any public financial institution or state financial corporation or state industrial investment corporation.
- (v) Interest on loan and advance from scheduled bank
- (vi) Any sum payable by the assessee as an employer in lieu of any leave at the credit of the employee.

Unless Payment is not made within the stipulated time limit and Evidence of such payment is not furnished along with the return of Income.

Deemed profit [Section 41 (1)]

◆ **Sub-section (1)**

- Where deduction has been made in respect of any loss, expense or trading liability and subsequently assessee or successor of the business has obtained any amount in respect such loss or expenditure or
- Any benefit in respect of such trading liability by remission or cessation there of
- The amount so obtained or value so accrued shall be deemed to be the income of the assessee.

Example

- Travelling expenditure incurred by the assessee and later reimbursed by the manufacturer or any other persons. It shall be deemed to be the income of the assessee.
- Stock is destroyed by fire and debited as a loss in profit and loss account and later any claims received from the insurance company.
- Credit purchase is made and later some discount allowed by the supplier. In this case there is a remission or cessation of the liability.

- ◆ **Sub-section (2):** In case of an undertaking engaged in generation and distribution of power where assessee can claim depreciation in SLM method. Where any asset is sold for a price which is more than the depreciable value the surplus to the extent of depreciation already allowed shall be deemed to be the income of the assessee.
- ◆ **Sub-section (3):** Any amount realised on transfer of asset used for scientific research is taxed as income of the assessee to the extent of deduction which is already availed under **Section 35**.
- ◆ **Sub-section (4):** Any amount recovered by the assessee against the bad debt which is earlier allowed as deduction is deemed to be the income of the assessee.
- ◆ **Sub-section (5):** Any amount transferred to the special reserve by the financial institution prescribed by **Section 36(viii) (1)** is allowed as deduction. But any amount subsequently withdrawn by the assessee shall be deemed to be the income of the assessee.

- ◇ **Sub-section (6):** Any assessee who is chargeable to tax in respect of discontinued business, then any loss incurred after the discontinuation of the business shall be allowed to be set off against the deemed profit.

Computation of income in case of prospecting for or extraction of minerals [Section 42]

Eligible assessee: Any assessee who is carrying on the business of prospecting for or extraction of minerals and with whom government of India has entered in to an agreement.

Following deductions can be spelled out

- ◇ Expenditure in respect of in fructuous or abortive exploration expense in respect of area surrounded prior to beginning of commercial productions.
- ◇ Expenditure incurred in respect of drilling or exploration activity or any service obtained in respect of such drilling or exploration. This expense can be claimed before or after commencement of business.
- ◇ Depletion of mineral oil in respect of mining area in respect of Assessment year relevant to the previous year commercial production begun.

Where there is any transfer of business whether partially or wholly or any interest in such business is transferred then following treatment shall be occurred:

- (i) Where the proceeds of the transfer are less than the expense incurred remains un allowed, the balance expenditure arrived at by reducing the proceeds from the expenditure remains un allowed shall be allowed as deduction in the previous year in which business or interest thereof is transferred
- (ii) Where the proceeds of the transfer are more than the expense incurred remains un allowed, the deduction already allowed shall be treated as income from business or profession in the year in which transfer take place

Exchange rate fluctuation [Section 43 (A)]

Where any asset acquired from abroad and in terms of exchange rate variation , liability in terms of payment towards such asset increase or decrease, then, actual cost of the asset shall be increased or decreased accordingly.

Special provision in case of income of public financial institutions, etc. [Section 43D]

Following assessee can claim interest on bad and doubtful debt

- ◇ Public Financial institution
- ◇ Scheduled bank
- ◇ State financial corporation
- ◇ State industrial development corporation.
- ◇ Public company carrying the business of providing long term finance for construction or purchase of house in India. These company should be registered with National Housing board

Interest shall be in accordance with the guidelines issued by RBI or guidelines prescribed by the national housing board.

Special provisions Section 44 to Section 44AD

Insurance business [Section 44]

- ◇ Any person carrying on insurance business their income shall be chargeable to tax under the head profit and gains from business and profession.
- ◇ Income computation shall be based on rules contained in the First schedule of the Income tax Act.
- ◇ Amount set apart by the insurance company for redeeming preference shares shall be treated as expense. These are not the expense which is covered from section 30 to 36 of the income tax Act. (General Insurance Corporation of Indi a V/s CIT)

Trade, professional or similar association [Section 44A]

- ◇ Any amount received from the members by way of contribution or subscription which is fall short of expenditure, then the deficit shall be allowed as deduction while computing the income under the head profit and gains from business and profession.
- ◇ Such deficit can be set off against any other head of income of above association
- ◇ While setting off such deficit, priority shall be given for carry forward loss of earlier year.
- ◇ Deduction permissible under this provision does not exceeds 50% of income of the previous year.
- ◇ Income of the above mentioned association is not distributed to its members excepts as grant to any of the association affiliated to it.

Maintenance of books of accounts [Section 44AA]

In case of an assessee carrying on business and profession other than those specified under **Rule 6F**, the books of account required to be maintained as follows.

Income criteria

- ◇ Income from such business and profession has exceeds ₹ 1,20,000 in any of the preceding 3 years;
- OR
- ◇ Likely to be exceeded ₹ 1,20,000 during the current previous year in case of newly set up business and profession.

Turn over criteria

- ◇ Sales or Turn over or Gross receipts from such business and profession has exceeds ₹10,00,00 in any of the preceding 3 years;
- OR
- ◇ Likely to be exceeded ₹ 10, 00,000/- during the current previous year in case of newly set up business and profession.

Presumptive business

In case where assessee carry on the business and profession referred to **Section 44 AD, Section 44AE or Section 44AF or Section 44BB or Section 44 BBB** and claims that income from such business is lower than the amount prescribed in those provisions

Rule 6F Professions

- Law
- Medicine
- Accountancy
- Artitecture
- Interior decoration
- Authorised representative
- Film artisit
- Engineer
- Technical consultancy
- Interior decoration

Conditions:

- ◇ Gross Receipts from such business and profession has exceeds ₹ 1,50,000 in any of the preceding 3 years;
- OR
- ◇ Likely to be exceeded ₹ 1,50,000 during the current previous year in case of newly set up business and profession.

Books required to be maintained

- (1) Cash book
 - (2) Ledger
 - (3) Journal (if and only if the mercantile basis of accounting is followed)
 - (4) Copies of the bills for value exceeding Rs 25/-
 - (5) Original bills for expenditure exceeding Rs 50/-
 - (6) In case of medical practitioner following books required to be maintained
 - (a) Daily case register
 - (b) Inventory of first and last day of the previous year, showing the stock of medicine
Number of year of maintenance
- ◇ The books of account is required to be maintained at the place of business if there is more than one place of business then principal place of business
 - ◇ The books of accounts are required to be maintained for 6 years from the assessment year relevant to the previous year.

Audit of books of Accounts [Section 44AB]

- (1) In case of an Assessee carrying on business and profession

→ Total sales	}	Exceeds ₹ 60,00,000
→ Gross receipts		
→ Turn over		
- (2) In case of an Assessee carrying on profession
Gross receipts exceeds ₹ 15,00,000
- (3) In case of presumptive business
In case where Assessee carry on the business and profession referred to **Section 44 AD, Section 44AE or Section 44 AF or Section 44 BB or Section 44 BBB** and claims that income from such business is lower than the amount prescribed in those provisions.

Audit

- ◇ Audit is required to be done by a Chartered Accountant. Audit report obtained is required to be filed along with the Return of income.
- ◇ Where books of account required to be audited under any other law, then, it is sufficient to furnish a report in the format specified and audit under other laws.

Defective Return

If the audit report not furnished along with the return of income, it is regarded as a defective return under **Section 139 (9)**.

Civil construction Business [Section 44 AD]

Eligible assessee: Individual or HUF or a Firm other than LLP

Eligible business

Assessee carrying on the business of:-

- Civil construction or
- Supply of labour for civil construction

Condition

Income from the above business does not exceed ₹ 60,00,000

Quantum of expense

- 8% of Gross receipts from such business or profession or
- Such higher sum as may be declared by the assessee in his return of income

Meaning of civil construction

Civil construction includes:

The construction or repair of any building, bridge, dam or other structure or of any canal or road.

Transport operation business [Section 44AD]

Eligible business

Assessee carrying on the business of:-

Plying } of goods carriage and who does not own more than 10 goods
 Hiring } carriage at any point of time during the previous year
 Leasing }

Condition

Income from the above business does not exceed ₹ 60,00,000

Quantum of expense

- ₹ 5,000 for heavy Goods vehicles
- ₹ 4,500 for other than a heavy goods vehicles
- Such higher sum as may be declared by the assessee in his return of income

Notes: Where an assessee possess the vehicle on hire purchase scheme or an instalment scheme shall be deemed to be the owner of the goods vehicles

Special provision to Non-resident and foreign companies [Section 44 B to 44 BBA]

Section	Particular	Deemed income
44 B	Shipping business	7.5% of the Turn over
44 BB	Business of providing facility or service in connection with or supplying plant and machinery on hire used the prospecting for or extraction or production of mineral oil	10% of the Turn over
44 BA	Business of operation of air craft	5% of the Turn over
44 BBB	Foreign company doing civil construction business, etc.	10% of the Turn over

Amount on which the above % is applied

- Amount paid or payable to the assessee or any other person on his behalf
- Amount received or deemed to receive in India on the above mentioned in India

Foreign company doing civil construction business, etc. [Section 44BBB]

Eligible assessee

- ◆ Foreign company engaged in the business of civil construction
- ◆ Erection of plant and machinery
- ◆ Testing and commencing thereof in connection of turnkey project approved by the assessee.

Deemed income: 10 % of the Turn over

★★★

5. INCOME FROM CAPITAL GAINS

Capital asset [Section 2 (14)]

Property of any kind held by the assessee, whether or not connected with his business and profession, but does not include the following

- (1) } Held for the purpose of business and profession of the assessee
- Stock in trade
 - Consumable
 - Raw materials
- (2) Personal effect of movable nature, but jewellery is a capital asset,

Example: Furniture, utensils, vehicle held for personal purpose by the assessee or any member of his family.

- (3) Agricultural land which is not situated in the specified area
 (4) Gold bond issued by government of India including gold deposit bond issued under Gold Deposit Scheme, 1999 notified by central government.
 (5) Special bearer bond issued by Government of India.

Fair market value [Section 2 (22B)]

In relation to the capital asset means the price that the capital asset would ordinarily fetch on sales in open market on the relevant date.

Long term and short term capital asset [Section 2 (29A) and Section 2 (42A)]

The basic factor for determining a capital asset as long term and short term is period of holding by the assessee before the date of transfer.

- ◆ *In case of capital asset other than shares*
 A capital asset held by the assessee for a period exceeding 36 month is a long term capital asset and less than 36 month is a short term capital asset.
- ◆ *In case of shares*
 Shares held by the assessee for a period exceeding 12 month is a Long term capital asset and less than 12 month is a short term capital asset.

Additional points

- If a capital asset acquired by any of the specified modes referred to in **Section 49 (1)** the period for which previous owner held the capital asset will also be taken in the consideration for the purpose of determining period of holding.

Specified modes according to Section 49(1)

If the capital asset acquired in below methods

- Partition of HUF
- Gift
- Inheritance
- Amalgamation or demerger.

- ◆ The period for which previous owner held the asset shall also be taken in to consideration for determining period of transfer.
- ◆ Shares held in a company in liquidation, then the period after liquidation shall not be taken in to account for the purpose of determining period of holding.

◆ According to section 50, depreciable asset forming part of block of asset shall be deemed to be a short term capital asset

- ◆ In case of trading or clearing right of recognised stock exchange pursuant to dematerialisation or corporatisation of recognised stock exchange
- ◆ The period for which the person was member of such recognised stock exchange prior to such dematerialisation or corporatisation shall be taken in to account for the purpose of determining period of holding.

- ◇ In case of allotment of equity shares allotted in pursuant to corporatisation or demutualisation of recognised stock exchange then the period for which the person was member of such recognised stock exchange prior to such dematerialisation or corporatisation shall be taken in to account for the purpose of determining period of holding.

[Refer CBDT circular 704 and 768]

Long term capital gain [Section 2 (29B)]

Means gain arising from the transfer of long term capital asset

Short term capital gain [Section 2 (42B)]

Gain arising from the transfer of short term capital asset.

Transfer of capital asset [Section 2 (47)]

Transfer in relation to capital asset, includes:-

- ◇ Sale, exchange or relinquishment of capital asset
- ◇ Extinguishment of any right therein
- ◇ Compulsory acquisition of capital asset under any law in force
- ◇ Conversion or treatment of capital asset in to/ as stock in trade
- ◇ A person who is allowed to take or retain possession of any Building or part thereof in part performance of contract of the nature referred to in Section 53 A of Transfer of property Act 1882.
- ◇ Any transaction whether by way of acquiring shares in or by way of becoming member of co-operative society, company or association of person or by way of any arrangement or agreement or any other manner which has the effect of transferring or enabling enjoyment of any immovable property.
- ◇ Section 45 is charging section for charging capital gains and following are the example

Sub-Section	Transaction	Year of Chargeability	Consideration
1	Transfer of capital asset	PY in which transfer take place	Consideration for transfer
1A	Damage or destruction of capital asset	PY in which money or any other asset received from insurance company	Value of money or FMV of other asset on the date of such receipts
2	Conversion/ treatment of capital asset in to Stock in trade Transfer of capital asset	PY in which Stock in trade is sold	FMV as on the date of transfer
2A	Transfer of securities made by the depository who is deemed to be the registered owner under Depository Act 1996	PY in which transfer take place on FIFO method	Consideration for transfer chargeable to tax in the case of the beneficial owner and not in the case of depository
3	Transfer of a capital asset by a partner to the firm or by a member of AOP or BOI by way of capital contribution or otherwise	PY in which transfer take place	The value of asset recorded in the books of the Firm or AOP or BOI
4	Transfer of capital asset by way of distribution on dissolution or otherwise of AOP or BOI	PY in which transfer take place	FMV as on the date of transfer
5	Transfer of capital asset by way of compulsory acquisition under any law	PY in which compensation received	Initial compensation or enhanced Compensation
6	Repurchase of mutual fund unit referred to Section 80 CCB	PY in which repurchase take place Or the scheme terminate	Repurchase price

Damage to or destruction of capital asset

Following are the example

- (1) Flood, typhoon, hurricane, cyclone, earthquake, or other convulsion of nature
- (2) Riot or civil disturbance
- (3) Accidental fire or explosion
- (4) Action by an enemy or action taken to combating the enemy

Capital gain on purchase by company of its own share and other specified securities

[Section 46A]

Events: When a company purchase its own shares and other specified securities

Capital gain or loss: The difference between actual cost and amount of consideration received from the company with respect to transfer shall be charged as capital gain or loss.

Transaction not considers as transfer [Section 47]

- ❖ Transfer of capital asset in a total or partial partition of H U F
- ❖ Transfer of capital asset by way of Gift, or under a will or an irrecoverable trust.
- ❖ Transfer of capital asset being bonds and Global depository receipts referred to sec 115 AC, made outside India by a NRI to an other NRI.
- ❖ Conversion of debenture, debenture stock or deposit certificate of a company in to shares or debenture of that company.
- ❖ Transfer of following capital asset.
 - Work of art
 - Archaeological or scientific or art collection
 - Any book manuscript, drawing and painting
- ❖ Transfer of capital asset being membership of recognised stock exchange by a person to a company in lieu of shares issued by the company.
- ❖ Transfer of land of a sick industrial company under a scheme sanctioned under section 18 of the sick industrial companies (Special provisions) Act 1985, where such sick industrial company being managed by its worker co-operative.
- ❖ Transfer of capital asset by a holding company to its subsidiary company or vice versa but following conditions required to be fulfilled.
 - (a) The holding company or its nominee should hold whole of the share capital of subsidiary company
 - (b) The transferee company should be an Indian company.

Amalgamation

- ❖ Transfer of capital asset in a scheme of amalgamation, if the amalgamated company is an Indian company
- ❖ Transfer of shares held in Indian company, in a scheme of the amalgamation between two foreign companies by amalgamated foreign company if the following two conditions are fulfilled
 - (a) At least 25% of the shareholder of the amalgamated foreign company continued to be the shareholder of amalgamated foreign company
 - (b) Such transfer does not attract tax on capital gain in the country in which the company is incorporated.
- ❖ Transfer of capital asset being shares held by the shareholder of the amalgamating company in lieu of the shared issued by the amalgamated company if the following conditions are fulfilled
 - (a) The transfer is made in consideration of allotment to him any of shares in the amalgamated company;
 - (b) Amalgamated company is an Indian company.

Demerger

- ◇ Transfer of capital asset in a scheme of demerger, if the resulting company is an Indian company
- ◇ Transfer of shares held in Indian company, in a scheme of demerger between two foreign companies, by the demerge red foreign company if the following two conditions are fulfilled
 - (a) At least three fourth in value shares of the demerge red foreign company continued to be the shareholder of amalgamated foreign company
 - (b) Such transfer does not attract tax on capital gain in the country in which the company is incorporated.

Business re organisation

Following transfers are exempted from transfer list

- ◇ Any transfer of capital asset or intangible by a firm to a company as a result of succession
OR
- ◇ Transfer of capital asset to a company in the course of demutualisation or corporatisation of recognised stock exchange

Conditions

Following condition need to be fulfilled:

- (a) All the assets and liabilities of the firm or AOP or BOI relating to the business immediately before the succession shall become the assets and liabilities of the company
- (b) All the partners of the immediately before succession become the shareholder of the company in the same proportion in which their capital account stood in the books of the firm on the date of succession.
- (c) The partners of the firm do not receive any consideration or benefit directly or indirectly, in any form or manner, other than by way of allotment of shares in the company.
- (d) The aggregate of the shareholding in the company of the partners of the firm is not less than 50% of the voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession
- (e) The demutualisation or corporatisation of a recognised stock exchange in India is carried out in accordance with a scheme approved by SEBI in this regard.

Notes: Same condition is applicable for succession of proprietary concern.

Withdrawals of exemption [Section 47A]

Capital gain arising from transfer of capital asset by holding or subsidiary company was exempted will be charged to tax if any of the following events occurs within a period of 8 years from the date of transfer.

- (i) The holding company does not continue to hold the whole of the share capital of the subsidiary company;
- (ii) The transferee company converts or treats the capital asset in to or as stock in trade

Membership right of recognised stock exchange

The capital gain arising from transfer of capital asset in the nature of membership of a recognised stock exchange exempted will be chargeable to tax if the shares allotted in lieu of such rights are transferred within a period of 3 year from the date of transfer.

Computation of capital gain of Non depreciable asset [Section 48]

(A) Short term capital gain computation

<i>Particulars</i>	<i>Amount ₹</i>
Full Value of consideration
<i>Less:</i> Expense incurred in connection with transfer
Net consideration
<i>Less:</i> Cost of acquisition
<i>Less:</i> Cost of improvement
Total STCG

(B) Long term capital gain

<i>Particulars</i>	<i>Amount ₹</i>
Full Value of consideration
<i>Less:</i> Expense incurred in connection with transfer
Net consideration
<i>Less:</i> Indexed cost of acquisition
<i>Less:</i> Indexed cost of improvement
<i>Less:</i> Exemption under <i>Section 54, 54B, 54D, 54EC, 54EC, 54 F</i>
Taxable capital Gain

Cost of acquisition [Section 49, 51 and 55]

Cost of acquisition for specified mode referred to Section 49 (1)

Following are the list of specified mode

- Partition of HUF
- Gift
- Inheritance
- Amalgamation or demerger.

- ◆ Cost to the previous owner shall be adopted as cost of acquisition.
- ◆ If the capital asset acquired to any other mode, then the cost incurred to him shall be adopted as cost of acquisition to the assessee
- ◆ In any of the above methods, the asset was acquired before 1st April 1981, then following are the cost of acquisition

FMV as on 1 st April 1981	}	Whichever is greater
OR		
Actual cost of asset		

Advance money received [Section 51]

- ◆ If any of the capital asset was subject matter of negotiation and advance received in respect thereof, transfer of the asset was not taken place, then, such advance need to be deducted from any of the below component for the purpose of computing capital gain

Cost of acquisition	}	Depends upon the nature of capital asset
FMV		
WDV		
- ◆ In case of shares allotted by amalgamated company in lieu of shares held in amalgamating company
- ◆ The cost of acquisition of above share shall be value of shares allotted by the amalgamated company.
- ◆ In case of conversion of debenture, debenture stock or deposit certificate in to shares and debenture of the same company

- ◇ Cost of acquisition shall be the cost of debenture, debenture stock or deposit so obtained on such conversion.

Special provision for full value of consideration in certain cases [Section 50C]

Scope

- ◇ This provision is applies to transfer of capital asset being land or building or both.
- ◇ This provision deeming as stamp duty value as full value of consideration if the actual consideration is less than stamp duty value.

Reference to valuation officer

- ◇ If the assessee claims that the stamp duty value exceeds the FMV of the asset then assessing officer may refer the valuation of capital asset to valuation officer.
- ◇ Such reference shall be made if and only if stamp duty value has not been in dispute in any appeal or revision before any authority or court or High court.
- ◇ Where such reference had made then provision of section 16 A shall apply with suitable modification.

Valuation by valuation report

If the value as per valuation report exceeds stamp duty value, then such stamp duty value shall be taken as full value of consideration.

Reassessment

Subsequent to the making of assessment in case of adopting the stamp duty value as the full value of consideration, if such value is revised in any appeal or revision etc., then the Assessing Officer shall amend the order of assessment to re compute the capital gain on the basis of revised value.

Cost of improvement [Section 55]

- ◇ Any capital expenditure incurred for improvement of capital asset and not allowed as deduction under any other head of income shall be allowed as deduction.
- ◇ Cost of improvement incurred on or after 1st April 1981 is eligible for deduction
- ◇ Cost of improvement of following shall be taken as NIL:
 - (i) *Goodwill of the business*
 - (ii) *Right to manufacture, produce or process any articles or things*
 - (iii) *Right to carry on any business.*
- ◇ Cost of acquisition of special cases
 - If self generated good will is transferred then cost of acquisition is adopted as Nil
 - In case of acquired good will then actual cost incurred for acquiring the same shall be taken as cost of acquisition
 - In both the above case, cost of improvement shall be taken as Nil
- ◇ At present following case of capital asset , the cost of acquisition can be taken to be Nil

- (a) Self-generated goodwill
- (b) Tenancy right
- (c) Stage carriage permit
- (d) Loom hours
- (e) Bonus share
- (f) Right to subscribe to right shares
- (g) Any right to manufacture, produce or process any articles and things
- (h) A trade name or brand name associated with the business
- (i) Right to carry on any business
- (j) Trading or clearing right of the recognised stock exchange under a scheme of corporatisation or demutualisation.

Indexation

- ◆ In computing tax on Long term capital asset deduction can be claimed for cost of acquisition after indexing them.
- ◆ The same principle can be applicable for improvement also.
- ◆ Indexing is a process of converting the cost of acquisition and cost of improvement on the current date.

Following are the indexation table

<i>FY</i>	<i>CII</i>	<i>FY</i>	<i>CII</i>
1981-82	100	1996-97	305
1982-83	109	1997-98	331
1983-84	116	1998-99	351
1984-85	125	1999-00	389
1985-86	133	2000-01	406
1986-87	140	2001-02	426
1987-88	150	2002-03	447
1988-89	161	2003-04	463
1989-90	172	2004-05	480
1990-91	182	2005-06	497
1991-92	199	2006-07	519
1992-93	223	2007-08	551
1993-94	244	2008-09	582
1994-95	259	2009-10	632
1995-96	281	2010-11	711

Tax on Long term capital gains [Section 112]

- ◆ Long term capital gain shall be chargeable to tax @ **20 %** on LTCG
- ◆ In case of individual and HUF if the basic exemption limit is not exhausted by basic exemption Limit, then LTCG shall be adjusted against such un exhausted basic exemption Limit and balance is required to be taxed.
- ◆ In case of capital asset being listed securities or units or mutual fund, the gain arising from the transfer of such securities or unit shall be liable to tax at the rate of 10 % on such long term capital gain computed without allowing the indexation benefit or 20 % with indexation benefit whichever is more beneficial to the assessee.

Exemption available with respect to LTCG

Profit on sale of property used for residence [Section 54]

<i>Eligible assessee</i>	<i>Condition</i>	<i>Quantum of exemption</i>
(1) Individual (2) HUF	(3) Residential house to be transferred (4) It must be Long term capital asset (5) The income from such asset must be charged under the head income from house property (6) Within one year before or 2 year after, a residential house is purchased or within a period of 3 year a residential house is constructed	If the cost of new residential house is more than capital gain then the whole value of capital gain .Otherwise to the extent of cost of new residential house.

Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases [Section 54 B]

<i>Eligible assessee</i>	<i>Condition</i>	<i>Quantum of exemption</i>
Individual	(1) Agricultural land to be transferred (2) It must have been used for agricultural purpose in the 2 years immediately preceding the date of transfer (3) Within 2 years another agricultural land is purchased	If the cost of new residential house is more than capital gain then the whole value of capital gain. Otherwise to the extent of cost of new residential house

Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases [Section 54D]

<i>Eligible assessee</i>	<i>Condition</i>	<i>Quantum of exemption</i>
Any assessee	(1) There must be compulsory acquisition (2) The property acquired is land and building forming part of an industrial undertaking (3) The asset must be used in the 2 years immediately before transfer for the purpose of business of the assessee. (4) Within a period of 3 years any other land or building is purchased or constructed for the industrial undertaking existing or newly set up	If the cost of new residential house is more than capital gain then the whole value of capital gain. Otherwise to the extent of cost of new residential house.

Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house [Section 54F]

<i>Eligible assessee</i>	<i>Condition</i>	<i>Quantum of exemption</i>
♦ Individual ♦ HUF	(1) The asset transferred is a long term capital asset, not being a residential house (2) Within a period of 1 year before or 2 year after the date of transfer, a residential house is purchased or within a period of 3 years a residential house is constructed. (3) The assessee does not own more than one residential house on the date of transfer. (4) The assessee does not within a period of 1 year purchase or does not within a period of 3 years construct any residential house other than the new residential house.	If the cost of the new residential house is not less than the net consideration then whole of the capital gain. Otherwise the capital gain in the same proportion as the cost of new residential house bears to the net consideration.

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area [Section 54G]

<i>Eligible assessee</i>	<i>Condition</i>	<i>Quantum of exemption</i>
Any assessee	(1) Machinery, plant building or land used for the business of an industrial undertaking situated in an urban area is transferred. (2) Transfer is due to shifting to any other place other than urban area (3) Within a period of 1 year before or 3 year after the date of transfer purchased machinery, building, plant or acquired land or building or constructed building and completed the shifting	If the cost of new residential house is more than capital gain then the whole value of capital gain .Otherwise to the extent of cost of new residential house.

Notes: Sections 54, 54B, 54D and 54 G where new asset is required to be acquired and if the new asset is transferred within a period of 3 years from the date of its acquisition, the cost of such asset shall be reduced by the amount of capital gains exempted earlier and the STCG shall be computed after deducting such reduced cost of acquisition

Capital gain deposit scheme

Capital gains are exempted if such gains are invested in new asset as mentioned in **Sections 54, 54B, 54D, 54F**. Within the time allowed for the above purpose

If such investment is not made before due date for furnishing return of income then amount of capital gain or net consideration as the case may be is required to be deposited in an account under capital gain deposit account

Conditions

- (1) The deposit shall be made before the due date for furnishing return of income or within the due date for furnishing return of income u/s 139(9)
- (2) The deposit shall be made in an account with bank or institute approved for the purpose.
- (3) The return of income shall be accompanied by a proof of such deposit
- (4) The amount deposited can be withdrawn for utilisation in accordance with the scheme specified for the purpose
- (5) If the amount deposited is not utilised for the purpose of acquiring the new asset within the specified period, the capital gain related to unutilised amount shall be regarded as income of the previous year in which period specified in the scheme is expires

Capital gains shall be exempted in investment of certain bonds [Section 54 EC]

<i>An assessee can claim deduction on LTCG by investing following bonds issued by:</i>	<i>Quantum of deduction</i>	<i>Time limit for making the investment:</i>
♦ NABARD ♦ National Highway authority ♦ National Housing bank ♦ Rural Electrification Corporation limited Redeemed after a period of 3 years	♦ Amount of capital gain or ♦ Amount of deduction.	Within 6 month from the date of transfer of the asset.

Treatment of conversion in to or as stock in trade

- ◆ Capital gain shall be calculated in the year in which such Stock in trade is sold.
- ◆ If specified bonds so invested are transferred or converted within a period of 3 years from the date of transfer, the capital gain earlier allowed as deduction will be chargeable to tax.
- ◆ If an assessee takes any loan on the basis of above security also regarded as transfer and capital gain shall be calculated
- ◆ If cost of above bond has taken for capital gain exemption, then no rebate shall be claimed under **Section 88**.

Capital gain on transfer of certain listed securities or unit, not to be charged on Investment in eligible equity shares [Section 54ED]

<i>An assessee can claim deduction on LTCG by investing following bonds issued by:</i>	<i>Quantum of deduction</i>	<i>Time limit for making the investment:</i>
<ul style="list-style-type: none"> ◆ Listed securities ◆ Units 	<ul style="list-style-type: none"> ◆ Amount of capital gain or ◆ Amount of deduction. 	Within 6 month from the date of transfer of the asset.

Eligible equity shares means an equity shares which satisfies the following conditions

- (1) The issue should be made by a public limited company formed and registered in India
- (2) The shares forming part of the issue are offered for subscription to public.

Computation of capital gain in case of depreciable asset [Section 50]

Two conditions must be full filled under **Section 32**

- ◆ There must be at least one asset in the block ; and
 - ◆ There must be some value for the block on which prescribed percentage can be applied
- Where any of the above conditions are not applicable then section 32 cease to apply and **Section 50** will be applicable resulting in short term capital gain or loss

Slump sales [Section 50B]

Definition: Section 2 (42C) Transfer of one or more undertaking as a result of lump sum consideration without value being assigned to individual assets and liability on such sales.

Notes: Determination of asset and liability for the purpose of payment of stamp duty or registration fee shall not be regarded as assignment of individual value to assets and liability.

Taxability

- ◆ Any profit and gains arising from the slump sales affected during the previous year shall be charged to income tax as capital gains
- ◆ If the undertaking held for more than 36 month then such gains shall be regarded as long term capital gain else it is regarded as short term capital gain.
- ◆ The net worth of the division so transferred shall be regarded as cost of acquisition and cost of improvement.

Meaning of net worth

- ◆ It shall be the aggregate value of total asset of the undertaking or division as reduced by the value of liability of such undertaking or division as appearing in the books of accounts.
- ◆ Any changes in the value of asset on account of revaluation of asset and liability shall be ignored for the purpose of computing net worth.

Value of asset for the purpose

- ◆ In case of depreciable assets, WDV of block of asset
- ◆ In case of other asset the book value of such assets.

Report from CA

A report from the chartered Accountant indicating computation of net worth and certifying the correctness of net worth is required.

Reference to valuation Officer [Section 55A]

With a view to ascertaining the FMV of a capital asset for the purpose of capital gains and other purpose the assessing officer may refer the valuation of capital asset to a valuation officer.

Valuation of capital asset is performing under the following situation

- ◇ In case where the value of the asset as claimed by the assessee is in accordance with the estimate by the registered value , if the assessing officer is of the opinion that the value so determined is less than its FMV.
- ◇ In any other case, if the assessing officer is of the opinion that FMV of the asset as claimed by the assessee by more than 15 % of the value claimed or by more than ₹ 15,000/-
- ◇ Having regarded to the nature of the capital asset and other relevant circumstance it is necessary to make the reference.
- ◇ Where any such reference is made the provisions of section 16 A of the wealth tax Act shall be applicable and valuation report of the valuation officer shall be binding on assessing officer.

Written by CA Vivek M

Remember this: Exemption from Capital Gain [Section 54/54B/54D/54EC/54F/54G/54GA]									
Sec.	Asset transferred	Who is entitled	Use of Holding period	Amount to be invested	New Asset	Exemptions	Prescribed period for investment	Treatment of unutilized amount	Sale of new asset
54	Residual House	Individual or HUF	Exceeding 36 months	Capital Gain	Residual House	Capital Gain or amt. invested whichever is less	Within 1 yr. before or 2 yrs. after the date of transfer in case of purchase, or within 3 yrs. after the date of transaction in case of new consideration	Deposit in Capital Gains Account Scheme before due date of furnishing the return of Income	If sold within 3 yrs. from the date of purchase/ construction for the purpose of computation of STCA on the new asset, the cost of new asset shall be reduced by the amount of CG claimed as exempted
54B	Agricultural Land	Individual	Use for 2 yrs. for agriculture	Capital Gain	Agricultural land	As Above	Within 2 yrs. after transfer	As Above	As Above
54D	L & B for industrial Undertaking	Any assessee	Use for 2 years	Capital Gain	L & B for industrial undertaking	As Above	Within 3 yrs. after transfer	As Above	As Above
54EC	Long term capital asset	Any assessee	LTCA	Capital Gain	Bonds issued on or after 1/4/2007 by NHAI or RECL	Capital Gain or amt. invested whichever is less (maximum ₹ 50 lakh during any financial year)	Within 6 months of transfer of original asset	Not Applicable	If sold within 3 yrs. exempted Capital gain will be deemed to be the income of the assessee in the yr. of sale of new asset
54F	Any asset other than residual house	Individual or HUF	Should be LTCA. Should not own more than one house on the date of transfer	Net consideration	Residual House	Capital Gain Amt. Invested × Net consider.	Within 1 yr. before or 2 yrs. after the date of transfer in case of purchase, or within 3 yrs. after transfer in case of construction	Deposit in Capital Gains Account Scheme before due date of furnishing the return of Income	Sale as for Section 54, 54B, 54D except that under section 54F will be taxed as LTCG
54G	P & M or L&M for industrial undertaking in urban area	Any assessee	May be LTCA or STCA	Capital Gain	P & M or L & B used for industrial undertaking in non-urban area or meeting expenses of shifting	Capital Gain or amt. invested whichever is less	Within 1 yr. before or within 3 yr. after the date of transfer	As Above	Same as for Section 54, 54B & 54D
54GA	P & M or L&M for industrial in urban area	Any assessee	May be LTCA or STCA	Capital Gain	P & M or L & B used for industrial undertaking in SEZ or meeting expenses of shifting	Capital Gain or amt. invested whichever is less	Within 1 yr. before or within 3 yr. after the date of transfer	As Above	Same as per Section 54

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6. INCOME FROM OTHER SOURCES

Basic concepts:

- ◆ It is a residuary head of income.
- ◆ Any item chargeable to tax does not fall within the ambit of any other head of income shall be chargeable to tax under this head of income.

Chargeability [Section 56]

Following head of income shall be chargeable to tax under the head other sources

- (1) Dividend income – **Section 56 (2)(i)**
- (2) Income by way of:
 - (i) Winning from lotteries
 - (ii) Cross word puzzles
 - (iii) Race including horse race
 - (iv) Card games
 - (v) Any other game of any sort
 - (vi) Gambling
 - (vii) Betting
- (3) Any interest on compensation or enhanced compensation received during the year.
- (4) Any sum of money or property received, movable or immovable, the aggregate value of which exceeds ₹ 50,000/- received from any person, without consideration or without consideration by an individual or HUF during the year.

Income chargeable under this head of income, if and only if it is not chargeable under other source

- ◆ Interest on securities (state and central government securities and debenture).
- ◆ Any sum collected from the employees towards their share of contribution to any of the welfare fund.
- ◆ Income from letting of machinery , plant and furniture
- ◆ Income from letting of machinery, plant and furniture together with building, if the letting of the building is in separate to the letting of other assets.

Income chargeable under this head of income, if and only if it is not chargeable under other source or salaries

Any sum received under key man insurance policy including sum allocated by way of bonus on such policy when it is received by any person other than the employer who took the policy and the employee in whose name policy was taken.

Dividend income [Section 2(22)]

Dividend to include-

- (a) Any **distribution** by a **company** to its **shareholders** to the extent of **accumulated profit**, whether capitalized or not, resulting in release of all or any part of the assets of the company.
- (b) Any distribution to its shareholders by the company –
 - (i) Of debenture, debenture stock or deposit certificate with or without interest.
 - (ii) Distribution of bonus shares to the preference share holders by the company to the extent of **accumulated profit**, whether capitalized or not.
- (c) Any distribution made by the company on its liquidation to the extent of distribution attributable to accumulated profit of the company capitalised or not.

Notes: Where liquidation is as result of compulsory acquisition by the government or a corporation owned or controlled by the government then

Accumulated profit shall not include any profit of the company prior to 3 consecutive previous years immediately preceding the previous year in which acquisition taken place.

- (d) Any distribution by the company on account of reduction of share capital to the extent of accumulated profit whether capitalized or not.
- (e) Any payment to the extent of accumulated profit by the company, not being a company in which public are substantially interested, of any sum by way of –
- (i) Loan or advance to a shareholder who hold the beneficial ownership of equity shares carrying not less than 10 % of voting power.
 - (ii) Loans or advance to any concern (HUF, Firm, AOP or BOI) in which such shareholder is a partner or a member holding substantial interest
20 % or more beneficial interest at any time during the previous year
 - (iii) Any payment on behalf of or for the individual benefit of any such share holder made to any person.

Exceptions

- ◆ Any advance or loan to a shareholder or the concern in which such share holder had substantial interest shall not be deemed as dividend if-
 - The loans and advance is given during the normal course of the business provided lending of money is substantial part of the business of the company.
 - Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77 A of the companies Act, 1956 shall not be regarded as dividend.
- ◆ Any distribution of shares pursuant to a demerger by the resulting company to the shareholder of the demerged company shall not be treated as dividend

Winning from lotteries, etc. [Section 115BB]

Where the total incomes of the assessee include the following income then tax shall be calculated at 30 % of such income plus education cess.

Income by way of:-

- Winning from lotteries
- Cross word puzzles
- Race including horse race
- Card games
- Any other game of any sort
- Gambling
- Betting

Notes:

- ◆ No expenditure or allowance can be allowed against such income
- ◆ No chapter VI A deduction can be allowed
- ◆ No benefit of set off or un absorbed depreciation is available against such income
- ◆ No basic exemption Limit is available against such income.

Tax liability of any sum or property (Moveable or immovable)

◆ The objective of this provision is to bring in to tax net the bogus transaction in the name of gift from unknown persons.	
◆ Any gift from non-relative shall be subject to tax under Section 56 (2)	
Any sum of money received without consideration in aggregate exceeding ₹50,000	Whole of such sum shall be chargeable to tax.
Any immovable property received without consideration and stamp duty value exceeds ₹ 50,000	The entire value of such property equivalent to stamp duty valuation
Any immovable property received for consideration which is less than stamp duty value exceeds ₹ 50,000	The difference between value of consideration and stamp duty value shall be chargeable to tax

Any immovable property received without consideration and Fair market value exceeds ₹ 50,000	The whole of the aggregate of FMV shall be chargeable to tax
Any immovable property received for consideration which is less than Fair market value exceeds ₹ 50,000	The difference between value of consideration and fair market value shall be chargeable to tax

Notes: The benefit of basic exemption limit is not available in for the above transaction

Property include the following

- ◇ Immovable property being land and building or both
- ◇ Shares and securities
- ◇ Jewellery
- ◇ Archaeological collection
- ◇ Drawing
- ◇ Painting
- ◇ Sculpture
- ◇ Any work of art

Receipts of closely held companies by firm or closely held company [Section 56 (2)(viii)]

Situation: Where a firm or company receives any shares on or after 1/06/2010, the FMV of which exceeds ₹ 50,000 of another closely held company from any person without consideration or inadequate consideration, the tax implication is as follows.

Situation 1 where share received without consideration: FMV shall be treated as Taxable sum

Situation 2 where shares are received in adequate consideration: The difference between FMV and shares received for in adequate consideration shall be treated as taxable sum.

Expense admissible or inadmissible

Admissible expense [Section 57]

- (i) In respect of dividend income, other than dividend which is exempt from tax and interest income,

Any reasonable expense incurred by way of commission or remuneration for realisation of such income is deductible.

- (ii) In respect of any sum collected from employees towards the welfare fund contribution,

Deduction shall be allowed to the extent the amount is remitted within the relevant due date

- (iii) In respect of family pension, least of the following shall be allowed as deduction

- ◇ $33\frac{1}{3}$ of such pension or
- ◇ ₹ 15,000/-

- (iv) In respect of income earned by way of lease rental on letting of machinery, plant and furniture with or without building, the following shall be allowed as deduction

- ◇ Repairs
- ◇ Insurance
- ◇ Depreciation

- (v) Any other expenditure incurred by the Assessee not being –

- (a) Capital expenditure (b) Personal expense

But laid out or expended for the purpose of making or earning any income chargeable under this head of income can be allowed as deductions.

- (vi) In respect of interest received on compensation or enhanced compensation, then
A sum equal to 50% of such income shall be allowed as a deduction. No other deduction shall be allowed as deduction.

Inadmissible expense [Section 58]

- (i) Personal expense
- (ii) Interest and salary payable outside India, if tax has not been paid or deducted at source.
- (iii) Wealth tax
- (iv) Expense of the nature referred to in *Section 40A*
- (v) No deduction shall be allowed for the following category of income

- | |
|---|
| <ul style="list-style-type: none">(a) Winning from lotteries(b) Cross word puzzles(c) Card games(d) Race including horse race(e) Gambling(f) Betting |
|---|

Written by CA Vivek M.

7. SET OFF AND CARRY FORWARD OF LOSS

Basic Concepts:

- (1) Inter source adjustment
- (2) Inter head adjustment

(1) Inter source adjustment

Where net result of computation for any Assessment year in respect of any source of income falling under any head of income is loss, the assessee shall be entitled to have set off such loss against any other source of income falling under the same head of income. However, following are the exemptions

1. Loss from speculative business [Section 73]
2. Loss from specified business under Section 35D [Section 73A]
3. Long term capital gain [Section 74]
4. Loss of any activity of owing and maintaining any horse race [Section 74A]

(2) Inter head adjustment

Where net result of computation for any Assessment year in respect of any head of income is loss, the assessee shall be entitled to have set off such loss against the same head of income. However, following are the exemptions.

1. Loss under the head profit and gains from business and profession against the salary income Sec 72
2. Loss from speculative business.
3. Long term capital gain (74)
4. Loss of any activity of owing and maintaining any horse race(74A)

Note: Unabsorbed depreciation allowance loss cannot be set off against any income in the form of winning from lotteries, cross word puzzles, race including horse race, card games or any sort of games in the form of gambling and betting.

Table for Loss set off

Section	Nature of loss	Number of years	To be set off
71B	Loss from House property	8 years	income from house property
72	Unabsorbed Business loss	8 years	Profit and gains from BP
72A(1)	Unabsorbed depreciation of amalgamated company	Indefinite period	Any income of amalgamated Company
72A(4)	unabsorbed depreciation of demerged company	Indefinite period	Any income of resulting Company
72A(6)	Unabsorbed depreciation of firm or a propriety firm Succeeded by Company	Indefinite period	Any income of successor company
72A(6A)	unabsorbed depreciation of private company or unlisted public company converted in to LLP	Indefinite period	Any income of successor LLP
72AA	unabsorbed depreciation of amalgamating banking company	Indefinite period	Any income of amalgamated banking company
72AB1	unabsorbed depreciation of amalgamating co-operative bank	Indefinite period	Any income of amalgamated co-operative bank

72AB(3)	unabsorbed depreciation of demerged co operative	Indefinite period	Any income of resulting Co
72A(1)	Unabsorbed Business loss of amalgamating company	8 year from the expiry of amalgamation	income of business and profession of Amalgamating company
72A(4)	Unabsorbed Business loss of demerged Company	Unexpired period out of total permissible period of 8 years	income of business and profession of Resulting company
72A(4)	Unabsorbed Business loss of firm or a propriety firm Succeeded by Company	8 years from the expiry of year of conversion of firm or propriety concern in to the company	income of business and profession of Successor company
72A(6A)	Unabsorbed Business loss of private company or unlisted public company converted in to LLP	8 years from the expiry of year of conversion of the PVT company or unlisted public company in to LLP	income of business and profession of LLP
72AA	Unabsorbed Business loss of amalgamating banking company	8 years from the expiry of year of amalgamating of such banking company with banking institution	income of business and profession of Amalgamating banking institution
72AB(1)	Unabsorbed Business loss of amalgamating co-operative bank	unexpired period out of total permissible period of 8 years	business income of such amalgamated co-operative bank
	Unabsorbed Business loss of demerged co operative	unexpired period out of total permissible period of 8 years	Business income of resulting co-operative bank
73	Speculation business Loss	4 years	Income from speculation business
73A	Loss of speculative business as specified under Section 35AD	Indefinite period	Income from any other specified business
74	Loss under head capital Gains		
	Short term capital loss	8 years	Short term capital loss
	Long term capital loss	8 years	Long term capital loss
74 A	Loss from owing and maintain Race horse	4 years	Income from same activity

Notes: Long term capital gain on sale of any listed security in the stock exchange is exempted under **Section 10 (38)**, therefore any loss from such transaction shall not be eligible for set off or carry forward.

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8. DEDUCTIONS (UNDER CHAPTER VI-A)

Basic Concepts:

- ◆ In computing total income there shall be allowed from the gross total income deduction specified in section 80 C to 80 U.
 - ◆ The aggregate amount of deduction shall not be exceeding Gross Total income.
 - ◆ Deduction is permitted up to Gross total income.
 - ◆ In case where Assessee avails deduction u/s 10 A, 10 AA, or 10 B no deduction shall be claimed under any provision of Chapter VI A section 80A (4).
- ◆ Where goods or service held for the purpose of eligible business are transferred to any other business or goods and services held for normal business are transferred to eligible business, if the value of consideration as recorded in the books of eligible business doesnot correspond to the market value, then the profit eligible for deduction shall be computed by adopting market value of such goods and service

Types of deduction

- ◆ Deduction based on *payment*
- ◆ Deduction based on *receipts*

Deduction based on the payment

Deduction in respect of Life insurance premia, deferred annuity, contribution to PF, etc. [Section 80C]

Eligible Assessee

- (1) Individual
- (2) HUF

Eligible investment or contribution:

(1) Life insurance/ Annuities

Amount paid towards –

- (i) Life insurance premium
- (ii) Defered Annuities

Contribution towards-

- (i) Unit linked plan 1971
- (ii) Notified plan of the L I C or any other insurer
- (iii) Unit linked plan of LIC or
- (iv) Mutual fund notified U/s 10 (23 D)

Deduction from salary

Salary payable by or on behalf of the government to any employee in accordance with condition of service, for the purpose of securing deferred annuity or making provision for his spouse or children not exceeding 1/5th of the salary.

(2) Employee welfare fund

Contribution by the individual to the following is eligible for deduction

- (i) Any provident fund to which Provident fund Act 1925 applies
- (ii) Public provident fund
- (iii) Recognised provident fund
- (iv) Approved super Annuation fund

(3) Central Government / Post office / other notified scheme

◆ Post office

5 year time deposit in an account under Post Office Time Deposit scheme

- ◆ *National saving certificate/ Notified Saving certificate*
Investment or subscription to National Saving certificate/ notional saving certificate
- ◆ *NABARD Bond*
Subscription to the bonds issued by NABARD
- ◆ *Term deposit with Schedule bank*
Term deposit for a period not less than 5 years in a scheduled bank in accordance with the scheme notified by the Central Government
- ◆ *Mutual fund under Section 10 (23D) or Unit notified by the central Government*
 - (i) Subscription to any of Mutual fund under **Section 10(23D)** or Unit notified by the central Government.
 - (ii) Contribution by an individual to a pension fund set up by Mutual fund under **Section 10(23D)** or Unit notified by the central Government.
- ◆ *Senior citizen saving certificate*
Deposit in an account under senior citizen saving scheme.

(4) Housing related

Repayment of any loan borrowed for the purpose of purchase or construction of residential house from the following entity shall be allowed as a deduction

- ◆ Government approved Institution
- ◆ Specified employer
- ◆ Any board or corporation or body established under central or state Act or
- ◆ Notified institution.

Note: Any expenditure incurred for stamp duty and registration fee shall be allowed as deduction

- ◆ Payment in part / installation under any self-financing or similar scheme of any housing board or development authorities engaged in construction and sales of houses
- ◆ Payment in part / installation towards cost of the house allotted, due to any company or co-operative society of which Assessee is a shareholder or a member.

(5) Tuition Fee

Eligible payment: Tuition fee to any university, college or school or other educational institution situated in India for the purpose of Full time education.

Deduction is permissible in respect of Two children of the assesses.

Non eligible items:

- Development fee
- Donation
- Any payment of above nature

(6) Others

- ◆ Subscription to any deposit scheme
- ◆ Contribution to any such sum specified by National Housing Bank
- ◆ Deposit with public sector Company engaged in providing long term finance for purchase or construction of residential house in India.
- ◆ Deposit with any authority constituted in India for the purpose of dealing with and satisfying the needs for housing accomodation for the purpose of planning, development or improvement of cities, towns and villages or both.

Quantum of deduction

Least of the following

Aggregate of contribution
OR
₹ 1 Lakhs

Contribution made to certain pension fund [Section 80 CCC]

Eligible Assessee: Individuals

Eligible investment or contribution

Contribution made to annuity plan of-

- ◆ LIC or;
- ◆ Any insurer approved by IRDA

For receiving pension from the fund is exempt up to ₹ 1, 00,000

Taxability

- (i) The pension amount received by the assessee or his nominee from the fund is taxable in the year of receipts
- (ii) If the assessee or his nominee surrenders the policy before its maturity, then, surrender value including bonus and interest shall be taxable in the year of receipts. (Receipts basis)

No deduction under Section 80C if the assessee avails benefit under this section

Deduction in respect of contribution to the pension plan of Central Government [Section 80 CCD]

Eligible Assessee: Individuals

Eligible investment or contribution: Contribution made to a pension plan notified by the Central Government.

Quantum of deduction

<i>In case where assessee derives salary income</i>	10% of salary income
<i>In case where the assessee derives any other income</i>	10% of Gross Total Income

Taxability

- ◆ The amount standing to the credit together with amount credited (bonus and interest) received either assessee or nominee whether wholly or partially-
 - As a pension on closure of the account
 - Opting out of pension scheme
- ◆ Shall be chargeable to tax in the year of receipts (Receipts basis)

[No deduction u/s 80 C if the assessee avails benefit under this section]

Medical insurance premium [Section 80 D]

Eligible Assessee:

- ◆ Individual
- ◆ HUF

Eligible investment or contribution

Premium paid by any mode other than cash-

- (i) Medical insurance scheme of the General insurance corporation approved by the Central Government.
- (ii) Any other insurer approved by I R D A

Quantum of deduction

<i>In case normal person</i>	Deduction is permissible up to ₹ 15,000
<i>In case of senior citizen</i>	Deduction is permissible up to ₹ 20,000

Notes: In case of an individual, in addition to above deduction, a separate limit of ₹ 15,000/- is allowable as a deduction in respect of medical insurance premium paid on the health of parents.

Maintenance including medical treatment of a dependent with disability [Section 80 DD]

Eligible Assessee

- ◆ Individual
- ◆ HUF *resident in India*

Eligible investment or contribution

- (i) Any expenditure incurred for the following-
 - Medical treatment including nursing
 - Training and rehabilitation of the individual
- (ii) Amount deposited by the assessee under the following-
 - Under any scheme of L I C
 - Any other insurer or administer or specified company which is approved by the board for the purpose of maintenance of dependent with disability.

Quantum of deduction

<i>Normal cases</i>	Flat amount of ₹ 50,000/- shall be allowed as deduction irrespective of deposit or contribution made.
<i>Dependent with severe disability</i>	Flat amount of ₹ 1, 00,000/- shall be allowed as deduction irrespective of deposit or contribution made.

Conditions for deduction

- ◆ LIC, or any other insurer or administer or specified company provide for the payment of annuity or lump sum amount to the dependent with disability in the event of death of individual or member of HUF in whose name policy was taken.
- ◆ The assessee nominates either the dependent with disability or trust or any other person to receive the payment on his behalf, for the benefit of dependent with disability.

Taxability

- ◆ If the dependent with disability predecease the individual or member of HUF in whose name the subscription is made, the amount so deposited shall be the income of the assessee.
- ◆ Assessee claiming deduction under this section is required to furnish a certificate which is issued by the medical authority in the year in which deduction is claimed along with the return of Income under **Section 139 (1)**.
- ◆ Where the condition of disability requires re assessment of its extent after a specified period which is stipulated in the above certificate, then the deduction shall be allowed after the expiry of the said period only a certificate is obtained from the medical authority and furnished along with the Return of income.

Medical treatment for specified disease or ailment [Section 80DDB]

Eligible Assessee

- ◆ Individual
- ◆ HUF *resident in India*

Eligible investment or contribution

Deduction can be claimed under this section towards the medical treatment of specified disease or ailment

- In case of an individual
- For himself or dependent

Quantum of deduction

	Least of the following
<i>Normal cases</i>	Amount of expenditure incurred OR ₹ 40,000
<i>In the case of senior citizen</i>	Amount of expenditure incurred OR ₹ 60,000

Condition for deductions

Assessee claiming deduction under this section is required to furnish a certificate which is issued by -

- ◆ Neurologist or
- ◆ Oncologist or
- ◆ Urologist or
- ◆ Haematologist

[In the year in which deduction is claimed along with the return of Income under **Section 139(1)**]

Deductions in respect of loan taken for higher education [Section 80E]

Eligible Assessee: Individual

Eligible investment or contribution

- (i) Any amount paid towards interest on loan borrowed from below entity for pursuing higher education shall be allowed as a deduction
 - financial institution
 - Approved charitable institution
- (ii) The higher education shall be pursued either by the assessee or any relative of his family.
- (iii) The amount shall be actually paid out of income chargeable to tax during the previous year.

Period of deduction

Interest shall be allowed as deduction during the initial year and immediately succeeding 7 year

OR

Until the interest is repaid by the assessee in full
Whichever is earlier.

Meaning of Higher education

Higher education means any of the study course persuaded-
(a) After passing the senior secondary or its equivalent from any school
(b) Board or university recognised by the Central Government, state Government or local authority or any other recognised authorities.

Notes: The student for which the individual is a **legal guardian** also include here

Deduction in respect of donations to certain funds, charitable institutions, etc. [Section 80G]

There are **three** deduction rates which is specified according to its categories

Segment 1	100% of deduction without having restriction
Segment 2	50% of deduction without having restriction
Segment 3	Donation eligible for 100% of the restricted amount And Donation eligible for 50% of the restricted amount

Steps for computing adjusted total income

Step 1:	Compute gross total income before giving effect of the above deduction and reduce the following (1) All the deduction under Chapter VI A (2) Short term capital Gain under Section 112 (3) Long term capital gain under Section 11A (4) Income of a non-resident chargeable to tax in respect of interest and dividend
Step 2:	Compute 10 % of above (which is called adjusted total income)
Step 3:	Compute the actual donation qualifying for the restricted amount (100% or 50% as the case may be)
Step 4:	Maximum permissible deduction is given for deduction qualifying 100% of restricted amount and after that 50% of the restricted amount

Notes: Donation in kind is not deductible.

Rent paid [Section 80GGB]

Eligible Assessee: Individual

Quantum of deduction

Rent paid is allowed as deduction to the extent of least of the following

- ◆ Excess of rent paid over 10 % of Gross total Income
- ◆ 25 % of the total income
- ◆ ₹ 2000 pm

Notes: Total income for the purpose means Gross total income before giving effect of this deduction [Section 80GGB]

Conditions

- ◆ Assessee should not be in receipts of HRA.
- ◆ The assessee or his spouse or minor child or the HUF in which he is a member should not own any residential accommodation at other place
- ◆ No claim in respect of self-occupied property is made in respect of any accommodation.
- ◆ Assessee must file a declaration in **Form 10BA** wherein he confirms the details of rent paid and fulfilment of any other conditions.

Donation in respect of scientific research and rural development [Section 80 GGA]

Eligible Assessee: All the assessee who does not have income chargeable under the head profit and gains from business and profession.

Eligible investment or contribution

Following donation to particulars is fully deductible:

- (i) Approved scientific research institution or association
- (ii) University or college
- (iii) Institution for scientific research or statistical research or research in social science.
- (iv) Public sector company, local authority or an institution or association approved by the national committee for carrying out any eligible project or scheme or
- (v) National Fund for Rural Development

Notes:

- Where a deduction is allowed and claimed under this section then no deduction for the same is allowed under any other section.

- In case a person making contribution to institution or association, which was granted approval under section 80 GGA is eligible to claim contribution even if the same was withdrawn later.

Contribution by the company to the political party [Section 80GGB]

Eligible contribution:

- ◆ Contribution Referred to *Section 293A* of the Companies Act 1956 OR
- ◆ Electoral trust

Shall be allowed as deduction while computing the total income

Contribution by the Person to the political party [Section 80GGC]

Eligible contribution

- ◆ Contribution to the political party OR
- ◆ Electoral trust

Shall be allowed as deduction while computing the total income

Deduction in respect of industrial undertaking engaged in infrastructure development [Section 80IA]

Type of business eligible for deduction

- (1) Infrastructure facilities
- (2) Telecommunication service
- (3) Developer of any industrial undertaking or SEZ
- (4) Power generation.

Infrastructure facilities

Eligible business

Any enterprise carrying on –

- (i) Developing or
- (ii) Maintaining and operating or
- (iii) Developing, maintaining and operating any infrastructure facility

Conditions to be complied with

- ◆ The enterprise should be owned by the following entity
 - (a) A company registered in India or consortium of such companies
 - (b) An authority or board or corporation or any other body or corporation established or constituted under Central or state Act.
- ◆ The enterprise should enter in to an agreement with Central or state Government or a local authority or any other statutory body for-
 - (a) Developing or
 - (b) Maintaining and operating or
 - (c) Developing, maintaining and operating any infrastructure facility
- ◆ The enterprise should start operation on or before 1st April 1995

Meaning of infrastructure facility

- (a) A road including toll road, bridge or a rail system
- (b) Highway project being housing and other activity being an integral part of the high way project
- (c)
 1. A water supply project
 2. Water treatment system
 3. Irrigation project
 4. Sanitation system
 5. Sewage system
 6. Solid waste management system.
- (d) A port ,airport, inland port or navigational channel in the sea

Quantum of deduction

100% profit derived from such business for 10 assessment year out of 20 assessment years beginning from the year of operation.

Telecommunication service

Eligible business:

Any enterprise providing-

- (i) Telecommunication service whether basic or cellular including radio paging ,
- (ii) domestic satellite service network of trunking,
- (iii) Broad band network and internet services.

Conditions to be complied with

The enterprise should start its operation on or after 1st April 1995 but before 31st march 2005.

Quantum of deduction

100% profit derived from such business for 5 assessment year and 30 % of profit in the next 5 assessment year out of beginning from the year of operation.

Developing, maintaining and operating any infrastructure facility

Eligible business:

Any undertaking which-

- (i) Develops
- (ii) Develops and operates
- (iii) Maintain and operates an industrial park or SEZ notified by the Central Government.

Conditions to be complied with

- ◆ The enterprise should start its operation on or after 1st April 1997 but before 31st march 2009.
- ◆ In case of an industrial undertaking the enterprise should start its operation on between 1st April 2006 but before 31st march 2009.

Quantum of deduction

100% of profit derived from such business for a period of 15 year beginning from the year of operation.

Power Generation

Eligible business:

- (i) An enterprise setup in any part of India for generation or generation and distribution of power.
- (ii) An undertaking, which starts transmission or distribution of power by laying a network of new transmission or distribution lines.
- (iii) An undertaking which undertake substantial renovation or modernization of existing network of transmission or distribution of lines.

Conditions to be complied with

- ◆ In respect of enterprise setup in any part of India for generation or generation and distribution of power.

◆ The enterprise should have start its operation on or after 1st April 1993 but before 31st march 2011.

◆ In respect of enterprise which starts transmission or distribution of power by laying a network of new transmission or distribution lines

◆ The enterprise should have start its operation on or after 1st April 1999 but before 31st march 2011.

- ◇ In respect of enterprise which undertake substantial renovation or modernization of existing network of transmission or distribution of lines.
- ◇ The enterprise should have start its operation on or after 1st April 2004 but before 31st march 2011

Substantial renovation or modernization means an increase in the plant and machinery in the network of transmission or distribution line by at least 50% of the book value of plant and machinery.

Condition to be complied with the industrial undertaking

- ◇ The industrial undertaking is not formed by splitting up or re construction of an existing industrial undertaking.
- ◇ The undertaking is not formed by transfer of machinery or plant previously used for any purpose.
Exemption: Up to 20 % of plant and machinery can be plant and machinery previously used.
- ◇ Any machinery and plant which was used by any person other than assessee shall not be regarded as machinery and plant previously used. Following condition need to be fulfilled.
 - (a) Such machinery or plant was not at any time used in India
 - (b) Such machinery or plant was imported from any country outside India.
 - (c) No deduction on account of depreciation was claimed for such plant and machinery.

Other General conditions

- ◇ Profit and gains from the above mentioned business shall be computed as if it is the only source of income of the assessee.
- ◇ Loss from the above business is setting of against the income of business
- ◇ The accounts are required to be audited by a Chartered Accountant and the audit report is required to file along with the return of Income u/s 139 (1)
- ◇ As far as Housing and other development activities the benefit can be claimed if and only if the profit from such business is transferred to a special reserve. The un utilised amount shall be treated as profit and gains from the business and profession.
- ◇ Where goods and service held for the purpose of eligible business is transferred to the normal business or normal business to eligible business and the value of which is recorded in the book of eligible business does not correspond to the market value then profit shall be computed according to the market value of goods and services.
- ◇ If the assessing officer cannot calculate the same with reference to the market value then the value of the goods and service shall be adopted based on some other reasonable methods.
- ◇ Where any assessee avails deduction under this section then no deduction under any other section of Chapter VI A can be claimed.

Undertaking engaged in the business of developing a SEZ notified on or after 1st April 2005 [Section 80IB]

Eligible Assesse: Any undertaking engaged in the business of developing a SEZ notified on or after 1st April 2005

Period of deductions: 10 consecutive years out of 15 years beginning from the year of notification of SEZ

Quantum of deduction

100% of profit derived from the business of developing SEZ shall be exempt.

Condition to be complied with

- ❖ The accounts are required to be audited by a Chartered Accountant and the audit report is required to file along with the return of Income u/s 139 (1).
- ❖ Where an undertaking avails the deduction u/s 80 IA then the deduction under this section is restricted to the unexpired period of 10 years.
- ❖ In case of amalgamation or de merger, the benefit shall be availed to amalgamated or resulting company.

Small scale industrial undertaking operating cold storage facility [Section 80 IB(1)]

Eligible business: Operation of cold storage plant

Condition to be fulfilled with

The industrial undertaking being SSI begins its operation at any time during the period commencing from 1/4/1995 and ending with 31st march 2002

Quantum of deduction

Companies	30%
Others	25%

Period of deduction

Co-operative society	12 years
Others	10 years

Industrial undertaking in industrially backward state [Section 80IB(4)]

Eligible business: Industrial undertaking located in the backward state specified in the Eighth schedule

Condition to be complied with

- ❖ The industrial undertaking shall manufacture or produce article or things to start its operation on any day beginning from 1st April 1993 and with 31st march 2004.
- ❖ In the case of an industrial undertaking located in Jammu and Kashmir, then the undertaking shall not manufacture or produce any articles or things specified in part C of the eleventh schedule of the Income Tax Act.

Quantum of deduction

Co-operative society	For the first 5 AY: 100% of the profit For next 7 years: 25%
Any other assessee	For the first 5 AY: 100% of the profit For next 5 years: 25%
Company Assessee	For the first 5 AY: 100% of the profit For next 5 years: 30%
Assessee located in any of the state of North West region	100% profit for 10 years

Industrial undertaking located at industrial back ward district notified by the Central Government [Section 80IB (5)]

Eligible business:

- ❖ Industrial undertaking located at industrial back ward district notified by the Central Government by notification in the official gazette.
- ❖ The central government specifies the industrially back ward area as category A and category B

Condition to be complied with

The industrial undertaking begins its operation at any time during the period commencing from 1/10/1994 and ending with 31st march 2004.

Quantum of deductions

Category of assessee	Category A	Category B	Quantum of the profit
Co-operative society	First 5 AYs	First 3 years	100%
	Next 7 years	Next 9 years	25%
Company assessee	First 5 AYs	First 3 years	100%
	Next 5 years	Next 5 years	30%
Any other assessee	First 5 AYs	First 3 years	100%
	Next 5 years	Next 5 years	25%

Hotel Business [Section 80IB(7)]

Condition to be complied with

- ◆ The Hotel shall start its function at any time during the period commencing from 1/04/1997 and ending with 31st march 2001.
- ◆ The hotel shall be owned by an Indian company having a paid up capital of not less than ₹5 lakh
- ◆ The hotel shall not be formed by splitting or re construction of a business which is already in existence.
- ◆ The hotel shall not be formed by transfer of any building which is used as a hotel previously or transfer of plant and machinery which is used previously
- ◆ The business of hotel shall be approved by the approved authority

Quantum of deduction

<ul style="list-style-type: none"> ◆ Hilly Area (A place more than 1000 meters from sea level) ◆ Rural area ◆ Place of pilgrimage ◆ Other place notified by the central Government 	Then 50 % of the profit for 10 consecutive assessment years
<ul style="list-style-type: none"> ◆ Any other place other than above 	Then 30 % of the profit for 10 consecutive assessment years

Multiplex theatre and convention centre [Section 80 IB (8)]

Eligible business: Undertaking engaged in the business of building, owning and operating multiplex theatre or convention centres

Condition to be complied with

- ◆ The multiplex or convention centres is constructed at any time during the period commencing from 1/04/1997 and ending with 31st march 2001.
- ◆ The multiplex or convention centre shall not be formed by splitting or re construction of a business which is already in existence.
- ◆ The multiplex or convention centre shall not be formed by transfer of any building which is used as a hotel previously or transfer of plant and machinery which is used previously.

Quantum of deduction

50 % of the profit for 10 consecutive assessment years

Deduction allowable under Section 80 IB (8A)

Eligible business: Any company having its main objective as scientific research or industrial research and development and engaged in such business.

Condition to be complied with

- ◆ The company shall be registered in India
- ◆ The company approved by the Department of scientific and industrial research at any time after 31/3/2000 and before 1/4/2007.
- ◆ The company shall fulfil the other condition specified.

Quantum of deduction

100 % of the profit for 10 consecutive assessment years

Undertaking engaged in production and refining of mineral oil [Section 80(1B)(9)]

Eligible business:

The enterprise engaged in the commercial production of mineral oil or refining of mineral oil.

Condition to be complied with

- ◆ Undertaking is located in any part in India and has begun commercial production on or after 1/4/2007
- ◆ The undertaking is engaged in refining of mineral oil and begins such refining on 1/10/1998 but not later than 31/3/2012.
- ◆ The undertaking is engaged in the production of natural gas in the blocks licensed under the VIII round of bidding award of exploration of contracts under the new exploration licence policy announced by the Government of India
- ◆ The undertaking is engaged in the production of natural gas in blocks announced under IV round of bidding for award for the exploration contract announced by the Government of India.

Quantum of deduction

100 % of the profit for 7 consecutive assessment years including the initial assessment year

Undertaking engaged in developing housing project [Section 80(1B)(10)]

Eligible business: The enterprise engaged in developing and building housing project which is approved by the local authority before 31/3/2008.

Condition to be complied with

- ◆ The undertaking commence the development and construction of the housing project on or after 1/10/1998 and complete the construction as on
 - (a) On or before 31/3/2008 for the project approved before 1/4/2004
 - (b) Within 4 years for the project approved after 1/4/2004
- ◆ The residential plot have following build up area

Delhi and Mumbai	– 1000 sq. ft. build up area
Other places	– 1500 sq. ft. build up area
- ◆ In case of commercial establishment then following are the limits

5% of aggregate of limits of build – up area	} whichever is lower
2000 sq. ft.	
- ◆ Only residential unit in the housing project shall be allotted to any person other than individual
- ◆ The project developed by an undertaking is on the size of land of a plot which has a minimum area of 1 acre ibid.

Quantum of deduction

100 % of the profit and there is no period of restriction in this case

Cold chain facility for agricultural products [Section 80IB(11)]

Eligible business

The enterprise engaged in the business of setting up and operating a cold storage facility for the agricultural product.

Condition to be complied with

The cold storage facility shall begin its operation on or after 1/4/1999 but before 1/4/2004.

Quantum of deductions

Category of assessee	Category A	Category B	Quantum of the profit
Co-operative society	First 5 AYs	First 3 years	100%
	Next 7 years	Next 9 years	25%
Company assessee	First 5 AYs	First 3 years	100%
	Next 5 years	Next 5 years	30%
Any other assessee	First 5 AYs	First 3 years	100%
	Next 5 years	Next 5 years	25%

Undertaking engaged in preservation of fruits [Section 80 (IB) (11A)]

Eligible business:

Undertaking engaged in business of processing, preservation and packaging of

- ◆ Fruits or vegetables,
- ◆ Meat and meat products
- ◆ Poultry farming
- ◆ Marine or dairy products or
- ◆ In the integrated business of handling, storage and transportation of goods

Condition to be complied with

Undertaking engaged in business of processing, preservation and packaging of

- ◆ Fruits or vegetables, or
- ◆ In the integrated business of handling, storage and transportation of goods.

Then such business shall be started on or after 1/4/2001

In case of the following undertaking

- ◆ Meat and meat products
- ◆ Poultry farming
- ◆ Marine or dairy products

Then such business shall be started on or after 1/4/2009

Quantum of deductions

Category of assessee	Category A	Category B	Quantum of the profit
Company assessee	First 5 AYs	First 3 years	100%
	Next 5 years	Next 5 years	30%
Any other assessee	First 5 AYs	First 3 years	100%
	Next 5 years	Next 5 years	25%

Hospital in the rural area [Section 80 IB (11B)]

Eligible business: Undertaking engaged in the business of operating and maintaining hospital in a rural area.

Condition to be complied with

- ◆ The hospital is constructed at any time between 1/10/2004 to 31/3/2008 as per the regulation of local authority
- ◆ The hospitals have at least 100 beds for the patients.

Quantum of deductions

100 % of profit for first 5 years

Deduction for off shore banking units [Section 80 LA]

The deduction under this section is available to an Assessee being -

- ◆ Scheduled bank or any bank incorporated outside India which owns an off shore banking unit in a SEZ.
- ◆ A unit of international financial service in the SEZ.

Quantum of deduction

Deduction shall be allowed to the extent of income derived by way of convertible foreign exchange from the off shore banking unit situated in SEZ.

- (a) 100% of such income for 5 consecutive assessment year in which permission to operate such unit has been obtained under BRA or SEBI Act or any other statute.
- (b) 50% of such income next 5 consecutive assessment year.

Condition for claiming deduction

- ◆ A report from a Chartered Accountant about the correctness of the claim of deduction in the **Form 10 CCF**.
- ◆ A copy of permission obtained from RBI

Other deduction for certain income and payment

Deduction in respect of Profit and gains from the business of collecting and processing of bio degradable waste [Section 80 JJA]

Eligible assessee: All the assessee

Condition

The Assessee must be engaged in following business-

- ◆ Collecting and processing of Bio de gradable waste for generating power or producing fertilizers, bio fertilizer, bio pesticides , or other biological agent or
- ◆ For producing bio gas, making pellets or briquetts for fuel or organic manure

Quantum of deduction

100% of profit and gains from the above business for 5 Assessment year relevant to the previous year in which such business was started.
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Deduction in respect of employment of new work man [Section 80JJAA]

Eligible Assessee: Indian company

Condition

- ◆ Audit report of chartered accountant should be furnished along with the return of income.
- ◆ The undertaking is not formed by splitting up or re construction of an existing undertaking or amalgamation with another industrial undertaking.
- ◆ The gross total income should include profit and gains derived from an industrial undertaking engaged in manufacture or production of articles and things

Quantum of deduction

An amount equal to 30 % of additional wages paid to new regular workmen employed by the Assessee in the Previous Year in which such employment was provided.

Meaning of additional wages

◆ Additional wages means wages paid to new regular workman in excess of 100 work men employed during the previous year.

In the case of an existing undertaking

◆ Additional wages shall be calculated if and only if the increase in the number of regular workman employed during the previous year exceeds 10 % or more of the existing number of workman employed in such undertaking as on the last date of preceding previous year.

Regular workman does not include the following

- ◆ Casual workman or a workman employed through a contract labour or
- ◆ Any workman employed for a period of less than 300 days during the previous year.

Co-operative societies [Section 80P]

Income of the following co-operative societies were fully deductible

- ◆ A co- operative societies providing banking or credit facility to its members.
- ◆ Cottage industry
- ◆ Marketing of agricultural produce grown by its members
- ◆ Purchase of agricultural implements, seeds, etc., for supply of its members
- ◆ Processing of agricultural produce of members without the aids of power.
- ◆ Income from supply of milks
- ◆ Oil seeds, fruits and Vegetables raised or grown by the members to the federal co-operative societies.

Labour co-operative society

◆ Business income of the labour co operative societies were fully deductible provided voting rights are restricted only to the members who constituted the society.

Primary co-operative society

- ◆ Incomes of the Primary co operative society engaged in the following activity were fully deductible.
 - Supplying of the milk
 - Oil seeds,
 - Fruits
 - Vegetables raised by its members to federal milk co-operative society, Government, local authority and statutory corporation.
- ◆ Income of the above mentioned society engaged in the activity engaged in the activity in addition to or other than the above mentioned activity, then, additional deduction of ₹50,000/- for the additional activity and in the case of consumer co operative society then the deduction shall be ₹ 1,00,000/-

Exemption of Income of co-operative society

- ◆ Income by way of investment in an other co-operative is fully deductible.
- ◆ Income by way of letting of godown and warehouse for storage. Processing etc of the commodity is fully deductible.
- ◆ Income from house property and interest on security is fully deductible in case of certain co-operative society whose Gross total income does not exceed ₹ 20,000/-

Weaver's co-operative society

Condition for claiming exemption: Weaving is done by the members of the society at their residence or at the common place provided by the society without any outside labours.

Notes: The payment made outside agency or dying bleaching and transport arrangement shall be excluded from the purview of outside labour. Where a co-operative society availing deduction under **Section 80 IA and 80 IB** then no deduction shall be available under here

Exclusion: Provision of this shall not apply to a co-operative bank other than primary agriculture society.

Royalty incomes of certain authors [Section 80QRRB]

Eligible Assessee: Resident individual being an author

Taxability

Any income in the nature of lump sum consideration for assignment or Grant if any or interest in copy right of any books or
Royalty fee or
Copy right

Notes:

If the income is not a lump sum consideration in lieu of all the rights in the books
The income before allowing expense attributable thereto in excess of 15 % of the value of such book shall be ignored as not eligible for the deduction.

Quantum of deduction

Deduction from such income to the extent of ₹ 3 lakhs

Treatment for the income earned outside India

- ◆ If the income earned any source outside India, then, deduction shall be allowed to the extent of income brought in to India in convertible foreign exchange.
- ◆ A certificate in the prescribed form duly signed by the person responsible for making the payment to the Assessee shall be furnished along with the return of Income.
- ◆ Where any deduction under this section claimed and allowed under this section, then, no deduction shall be allowed and under any other provision during the current Assessment year.

◆ Income in respect of any books to qualify deduction under this section shall be a work of literacy or artistic or scientific in nature.

Book for the purpose shall not include the following

- | | |
|----------------|-------------------------|
| → Brochure | → Magazines |
| → Commentaries | → News papers |
| → Diaries | → Pamphlet |
| → Guides | → Text book for schools |
| → Journal | |

Deduction for royalty income and patent [Section 80RRB]

Eligible Assessee: Resident individual

Taxability

Any income in the nature of royalty in respect of a registered patent
If a compulsory license is granted in respect of any patent under the Patent Act, 1970 the income by way of royalty eligible for royalty shall not exceeds the amount of royalty under the terms and condition settled by the controller under this Act.

Treatment for the income earned outside India

- ◇ If the income earned any source outside India, then, deduction shall be allowed to the extent of income brought in to India in convertible foreign exchange.
- ◇ A certificate in the prescribed form duly signed by the person responsible for making the payment to the Assessee shall be furnished along with the return of Income.

Quantum of deduction

Deduction from such income to the extent of ₹ 3 lakhs or income from such business whichever is lower.

Where any deduction under this section claimed and allowed under this section, then, no deduction shall be allowed and under any other provision during the current Assessment year

Royalty in respect of any patent means

Consideration, including lump sum but excluding any consideration in the nature of capital gains or consideration for sales of product manufactured with the use of the patented process or of the patented articles.

Deduction in case of a person with disability

Deduction in case of a person with disability [Section 80U]

Eligible Assessee: An individual who is a resident and who is certified by a medical authority to be a person with disability at any time during the previous year.

Quantum of deduction

Normal case	₹ 50,000/- shall be allowed as deduction
Severe disability	₹ 1, 00,000/- shall be allowed as deduction

Written by CA Vivek M

EASY WAY TO LEARN INCOME TAX

Sec.	Applicability	Nature of Payment/Receipt	Amount of deduction
80C	Individual/HUF	Life insurance premium, contributions to PF, etc.	Max. ₹ 1,00,000
80CCC	Individuals	Contribution to certain pension funds	Amt. paid or ₹ 1,00,000 (<i>lower</i>)
80CCD	CG or other or self-employees	Contribution to CG pension schemes	Amt. paid or 10% of salary (<i>lower</i>) [Self-employees max. 10% of GTI]
80CCE	80C+80CCC+80CCD		Max. ₹ 1,00,000
80CCF	Individuals/HUF	Long-term infrastructural bonds	Max. ₹ 20,000
80D	Individuals/HUF	Central Govt. Health Scheme (CGHS) amended for AY 2011-12	General: Premium paid or ₹ 15,000 (<i>lower</i>) and For parents ₹ 15,000 Senior citizen: Premium paid or ₹ 20,000 (<i>lower</i>)
80DD	Resident Individual/HUF	Expenditure on handicapped dependent relative	Disability: ₹ 50,000 (<i>fixed</i>), Severe Disability: ₹ 1,00,000 (<i>fixed</i>)
80DDB	Resident Individual/HUF	Expenditure on specified diseases	General: Actual or ₹ 40,000 (<i>whichever is less</i>) Senior citizen: Actual or ₹ 60,000 (<i>whichever is less</i>)
80E	Individuals	Interest on payment of loan taken for Higher Education	Actual Interest (<i>maximum 8 assessment year</i>)
80G	All Assesseees	Deduction in respect of Donation	⇒ 100% deduction without Qualifying Limit ⇒ 50% deduction without Qualifying limit ⇒ 100% deduction without Qualifying limit (10% of Adj. total income) ⇒ 50% deduction without Qualifying limit
80GG	Individuals	Assessee should not be entitled to HRA, not own any residential at work space	Minimum of (i) Rent paid <i>less</i> 10% of Adj. total income (ii) 25% of Adj. Total Income, (iii) ₹ 2000 p.m.
80GGA	All Assesseees (<i>no PGBP income</i>)	Donations	Just like to Section 35/35CCA/35AC
80GGB	Indian Companies	Donation to Political Party or Electoral Trust	Actual amt. donated
80GGC	Other than Indian Company (<i>except local authority, AJP</i>)	Donation to Political Party or Electoral Trust	Actual amt. donated
80IA	Industrial Undertaking	Infrastructural facility, telecommunication, industrial park, distribution of power	100% of profit for 10 years
80JJA	All Assesseees	Business of processing of Bio-degradable waste	100% of profit for first 5 Assessment years
80JJAA	Indian Companies	Deduction for additional employment	30% of Additional wages for 3 years
80LA	Off shore banking units of banks	Income from Off-shore banking unit	First 5 years: 100%, Next 5 years: 50% } of such income
80P	Co-operative society	Cottage industries, marketing of the agricultural produce, fishing	⇒ Co-operative society engaged in other activities ₹ 50,000 ⇒ Consumer's co-operative society ₹ 1,00,000
80QQB	Resident Individual	Royalty income from book	Least of whole of such income of ₹ 3,00,000
80RRB	Resident Individual	Income from patent registered after 1/4/2003	Least of whole of such income of ₹ 3,00,000
80U	Handicapped Resident Individual		General: ₹ 50,000 (<i>fixed</i>) Severe Disability: ₹ 75,000 (<i>fixed</i>)

★★★

9. TAX DEDUCTED AT SOURCES (TDS)

Salary [Section 192]

Who can deduct the TDS?

Any person responsible for making the payment of salary

Rate of deduction

TDS is required to be deducted at slab rate of income applicable to the particular Individual.

Additional points

- ◆ TDS is required to be deducted only at the time of actual payment of salary.
- ◆ Tax shall not be deducted at source in case where the salary income of the assessee is Nil after considering all the deductions and allowance which he is entitled to him under the provision of this Act.

Where an employee work with more than one employer at simultaneously

The employee concerned shall give the details of salary and TDS in form 12 (B) to any one employer at his choice.

Where employee leaves the job with one employer and joins with any other employer during the same previous year.

The employee concerned shall give the details of salary and TDS in form 12 (B) of the previous employment to the new employer.

Set off provision

Only loss from the house property can be taken in to consideration for deducting TDS. No other losses shall be taken for adjusting against the salary income.

Interest on securities [Section 193]

Who can deduct the TDS?

Any person paying interest to a **resident**

Limits

The amount by way of Interest on securities exceeds Rs 2500/-

Rate of TDS

10 % on the amount of interest

Exemption from this section if the following conditions are satisfied

Following conditions required to be fulfilled cumulatively

- (a) Payer is a company in which public are substantially interested.
- (b) The payment is made by way of account payee cheque or draft.
- (c) The amount of interest does not exceeds ₹ 2,500

Exempted entities

- ◆ LIC
- ◆ General Insurance corporation of India
- ◆ Any of the subsidiary of GIC
- ◆ Any other insurer in respect of the security owned or controlled or in which beneficial interest is held by GIC.
- ◆ 8% saving taxable bonds 2003 issued to a resident and interest payable thereon does not exceeds Rs 10,000/- during the financial year.

- ◇ Corporate bonds issued to a resident and interest payable thereon and which is dematerialised form and which is listed in a Recognized stock exchange.

Dividend [Section 194]

Who can deduct the TDS?

Any domestic company declaring and paying TDS to a resident shareholders.

Limits

The amount by way of dividend exceeds ₹ 2,500

Rate of TDS

10 % on the amount of interest

Exemption from this section if the following conditions are satisfied

Following conditions required to be fulfilled cumulatively

- (a) Payee is an individual shareholder.
- (b) The payment is made by way of account payee cheque or draft.
- (c) The amount of interest does not exceeds Rs 2500/-

Exempted entities

Dividend to the below entities were exempted from the payment of TDS

- ◇ LIC
- ◇ General Insurance corporation of India
- ◇ Any of the subsidiary of GIC
- ◇ Any other insurer in respect of the security owned or controlled or in which beneficial interest is held by GIC.

Interests other than interest on securities [Section 194A]

Who can deduct the TDS?

Individual or HUF whose total sales, Turn over or Gross receipts exceeds the limits prescribed for tax Audit under **Section 44 AB**.

Limits

The amount by way of dividend exceeds ₹ 10,000/- during the financial year.

₹ 10,000/- to the following entities

- (a) A banking company
- (b) A co operative society engaged in the banking business
- (c) Post office on any deposit under any scheme of central Government.

Rate of TDS

10 % on the amount of interest

Exemption for saving bank Account from deduction of TDS (Vide circular no 617)

Following transaction shall be excluded from the purview of interest

- ◇ Interest credited or paid to a partner by a firm
- ◇ Interest credited or paid to a members by a co-operative society
- ◇ Interest on compensation amount awarded by the motor Accidents Claims Tribunals where aggregate of such income does not exceeds ₹ 50,000/-
- ◇ Interest paid or payable on Zero coupon Bonds issued by an infrastructure capital company or an infrastructure capital fund or a public sector company or a scheduled bank.

Winning from lotteries or cross word Puzzles [Section 194B]

Who can deduct the TDS?

Any assessee

Limits

The amount exceeds ₹ 10,000/- during the financial year (up to 30th June 2010, the limit applicable is ₹ 5000/-)

Rate of TDS

30 % on the amount of interest

Additional points

- ◆ In case where the winning are partially or fully in kind and the balance cash is not sufficient to deduct the tax at source, then, the person responsible for making the payment shall make a special arrangement for collecting the amount towards TDS
- ◆ In case of unsold lottery ticket as far as a lottery agent is concerned, and any prize on such tickets shall not be treated as winning from lottery but profit and gains from business and profession

Winning from horse race [Section 194BB]

Who can deduct the TDS?

- ◆ Any person being a book maker or
- ◆ A person who is holding the license for horse racing wagering or betting in any horse race

Limits

The amount exceeds ₹ 5000/- during the financial year. (up to 30th June 2010, the limit applicable is ₹ 2500/-)

Rate of TDS

30 % on the amount of interest

Contracts [Section 194C]

Who can deduct the TDS?

- ◆ Any person responsible for making the payment to a resident contractor for carrying out any work in connection with a contract including sub contract.
- ◆ Contract also includes the supply of labour for carrying out such work.

- Central Government or state Government
- Local authorities (Corporation, punchayath, etc.)
- Central or state provincial corporation
- Company
- Co-operative society
- Housing board
- Trust
- University
- Any foreign government or a foreign enterprise or any association or body established outside India.
- Firm
- HUF
- Individuals

Limits

- (i) Any single sum paid or credited to a contractor exceeds Rs 30,000 or
- (ii) Aggregate amount paid or credited to a contractor exceeds Rs 75,000/- during the year.

Rate of TDS

In case of individuals and HUF	–	1%
Others	–	2%

Meaning of work

Work shall include-

- ◆ Advertising
- ◆ Broadcasting and telecasting including production programme for such broad casting and telecasting;
- ◆ Carriage of goods and passenger by any mode of transport other than railways
- ◆ Catering
- ◆ Manufacturing or supplying of a product according to the requirement or specification of the customer by using materials purchased from such customer.

Insurance commission [Section 194D]

Who can deduct the TDS?

Any person who is paying insurance commission

Limits

Insurance commission in excess of ₹ 20,000/- (up to 30th June 2010, the limit applicable is ₹5000/-)

Rate of TDS

10% in case of all the Assessee

Payments to a non-resident sports man or association [Section 194E]

Who can deduct the TDS?

- ◆ Any person who is paying to any non-resident sports man who is not a citizen of India.
- OR
- ◆ Payment to a non-resident institution or association by way of guaranteed sum in relation to any game or sports in India.

Limits: Any amount

Rate of TDS

10% in case of all the Assessee.

Such payment shall be in the nature of-

- ◆ Income for participation in any games or sports in India
- ◆ Income by way of advertisement
- ◆ Income by way of articles on sports magazine etc.

Payment in respect of deposit under National saving scheme etc. [Section 194EE]

Who can deduct the TDS?

Any person making any sum out of NSE etc.

Limits: Payment in excess of ₹ 2500/-

Rate of TDS:

20% in case of all the assessee.

Payment on account of purchase of units by mutual fund or UTI [Section 194F]

Who can deduct the TDS?

Any assessee

Limits: Any amount

Rate of TDS

10% in the case of above assessee

Commission on sale of lottery [Section 194G]

Who can deduct the TDS?

Any person making payment by way of commission or remuneration or prize exceeding ₹1000/- to any person stocking, distributing, purchasing or selling lottery ticket

Rate of TDS: 10 %

Commission or brokerage [Section 194H]

Who can deduct the TDS?

- ◆ Any assessee
- ◆ In case of individual or HUF whose sales, turnover or gross receipts exceeds the limits specified under **Section 44AB**.

Limits

Commission or brokerage exceeds ₹ 2500

Rate of TDS

10% in the case of above assessee

Meaning of commission or brokerage

Commission or brokerage include any payment received or receivable, directly or indirectly, by a person acting on behalf of an other person for-
Service rendered or

- ◆ For any service in the course of buying and selling of goods and services or
- ◆ In relation to any transaction relating to any asset, valuable article or things not being securities

Rent [Section 194I]

Who can deduct the TDS?

- ◆ Any assessee
- ◆ In case of individual or HUF whose sales, turnover or gross receipts exceeds the limits specified under **Section 44AB**.

Limits

Payment by way of rent exceeds ₹ 1, 80,000 during the financial year (up to 30th June 2010, the limit applicable is ₹ 1,20,000)

Rate of TDS

- ◆ Rent for plant, machinery or equipment 2%.
- ◆ Rent for land and building or both or Rent of equipment or furniture in case of individual and HUF 10%
- ◆ Rent for land and building or both or Rent of equipment or furniture other than individual and HUF 10%

Additional points

- ◆ TDS on service tax shall not be applicable for rent (Vide circular 4/2008 dt 28.4.2008).
- ◆ Where an individual and HUF were taken a hotel accommodation on regular basis, then it will fall within the meaning of TDS.

Fee for professional or technical service or royalty or non-compete fee [Section 194J]

Who can deduct the TDS?

Any person paying-

- (i) Fee for professional service
- (ii) Fee for technical service
- (iii) Royalty
- (iv) Non-compete fee referred to **Section 28(va)**

In case of individual or HUF whose sales, turnover or gross receipts exceeds the limits specified u/s 44 AB.

Limits

Payment as exceeding ₹ 30,000/- (up to 30th June 2010, the limit applicable is ₹ 20,000)

Rate of deduction

10% on the above fees

Sec.	Nature of payment	Who is liable to deduct tax?	Type of Recipient	Rates of TDS	Exemption Limit
192	Salary	Employers	Employees	Rates of tax as applicable to the individual	Basic exemption applicable to individuals (₹ 1,60,000/ ₹ 1,90,000/ ₹ 2,40,000)
193	Interest on securities	Payer of Interest of securities	A resident person	Domestic co.: 10% Other: Listed debentures 10% Non-listed debentures: 10%	Exempted for certain listed securities u/s 193. Listed Debentures: ₹ 2,500 De-mat. Security
194	Dividend u/s 2(22)(c)	Domestic company	Resident	20%	Upto ₹ 2,500 during a FY in case of an individual
194A	Interest other than interest on securities	All assessee except Individuals and HUF who are not subject to audit u/s 44AB during prior PY	A resident person	Domestic co.: 10% Other: 10%	₹ 10,000 if payment made by Banking co., co-operative society, post office. ₹5,000 if payment made by any other person.
194B	Winning from lotteries/ crossword puzzles	Any Person	Any Person	30%	₹ 10,000
194BB	Winning from horse race	Any Person	Any Person	30%	₹ 5,000
194C	Payment to contractor or sub-contractor	All assessee except Individuals and HUF who are not subject to audit u/s 44AB during prior PY	Any person resident in India	Individual/HUF: 1% Other: 2%	₹ 30,000 per contract value or credit less than ₹ 75,000 p.a. aggregate
194D	Insurance commission	Any Person	Resident Assessee	Domestic Co.: 20% Others: 10%	₹ 20,000 p.a.
194E	Payment to non-resident sportsmen or sport association of income referred to sec. 155BBA	Any Person	Non-resident: Sportsmen being foreign citizen; or Sport association	10%	NIL
194EE	National saving scheme	Post office	Any Person	20%	₹ 2,500 or payment is made to heirs of the deceased assessee
194F	Repurchase of units	Mutual funds or UTI	Unit holder u/s 80CCB	20%	NIL
194G	Commission on sale of lottery	Any Person	Any resident Person	10%	₹ 1,000 p.a.
194H	Commission on brokerage	All assessee except Individuals and HUF who are not subject to audit u/s 44AB during prior PY	Any resident Person	10%	(i) ₹ 5,000 (ii) Commission payable by BSNL or MTNL
194I	Rent	All assessee except Individuals and HUF who are not subject to audit u/s 44AB during prior PY	Any resident Person	Rent of P & M: 2% Rent of L & B, Furniture: 10%	(i) ₹ 1,80,000 in a financial year (ii) Payee is Govt./Local authority
194J	Professional or Technical fees	All assessee except Individuals and HUF who are not subject to audit u/s 44AB during prior PY	Any resident Person	10%	₹ 30,000 in a financial year
194LA	Compensation/ Enhanced compensation on compulsory acquisition	Any person	Any resident Person	10%	Aggregate of such payments during the FY does not exceed ₹1,00,000
195	Interest; or any other sum (other than income taxable as "Salaries")	Any person	Non-resident foreign company	As Specified by Finance Act	Dividend referred in Section 115O

10. FILING RETURN OF INCOME

Due dates [Section 139 (1)]

According to **Section 139 (1)**–

- (i) Every person being a company or firm or
- (ii) Being a person other than a company or firm, if his total income or total income of any other person in respect of which he is assessable under this act exceeds the maximum amount which is not chargeable to tax shall furnish a return of income within the stipulated time limit specified herein under

30th September of the relevant assessment year for the following case of assessee

- (i) Company;
- (ii) A person whose accounts are required to be audited under the Act or any law for the time being in force
- (iii) A working partner of the firm whose accounts are required to be audited under the act or any law for the time being in force.

31st July of the relevant assessment year

In the case of any person other than those mentioned above.

Filing of return of income in case of salaried employees [Section 139(1A)]

- ◆ In case of salaried class employee, the return of income for any previous year shall be furnished to the employer concerned.
- ◆ The employer concerned shall furnish all the return received by him on or before the due date in the manner prescribed by CBDT for this purpose.
- ◆ Where an employee furnishes the return of income with the employer shall be deemed to be furnished the return of income in accordance with the law.

Filing return of income in electronic form [Section 139(1B)]

- ◆ Any person may at his option file return in electronic form such as floppy disk or magnetic tape or CD Rom or computer readable media.
- ◆ Such return may be filed by the assessee in accordance with the scheme specified by CBDT in this behalf.
- ◆ Return filed in electronic form shall be deemed to be as a return filed in accordance with the provision of the Act.

Section 139 (4) Loss return

- ◆ Any person who had sustained a loss under any of the below provision and claims that such loss shall be carry forward, then furnish a return of loss on or before 31st July or 30th September of the relevant assessment year as the case may be.

◆ Section 72	Business loss
◆ Section 73	Speculation business
◆ Section 74	Capital Loss
◆ Section 74A	Owing and maintaining horse race.

- ◆ Return so filed shall be deemed to be as a return filed in accordance with the provision of the Act.

Belated return [Section 139 (4)]

Who can file a belated return?

Any person who has not furnished a return within the time allowed u/s 139 (1) or within the time allowed by the notice issued u/s 142 (1).

Time Limits

- ◆ One year before the relevant assessment year;
- ◆ Before the assessment year is completed.

Returns by Trust [Section 139(4A)]

Who can file this kind of return?

Every person who is in receipts of income derived from property held –

- (i) Under trust *or*
- (ii) Other obligation wholly or partially for charitable or religious purpose *or*
- (iii) Income by way of voluntary contribution.

Limits

Total income exceeds the maximum amount which is not chargeable to tax before giving effect of *Sections 11 and 12*.

Audit of Account

If the income exceeds ₹ 1, 60,000 then audit of account become compulsorily and therefore the due date shall be 30th September.

Returns by the political party [Section 139(4B)]

Who is required to file this kind of return?

Chief Executive officer of a political party

Limits

Total income exceeds the maximum amount which is not chargeable to tax before giving effect of section 13 A.

Audit of Account

The account of political party must be audited and the due date shall be 30th September.

Return by certain institution and associations [Section 139(4C)]

The following entities shall furnish a return of income. If their income exceeds the maximum amount which is not chargeable to tax

- (i) Scientific research association covered under *Section 10(21)*
- (ii) News agency covered under *Section (22B)*
- (iii) Association or institution referred to in *Section 10(23A)* and *Section 10(23B)*;
- (iv) Fund or institution, university or other educational institutions or hospital or other medical institution referred to in *Section 10(23C)(iiad)/(iiiae);(iv)/(v)/(vi)/(via)*.
- (v) Trade union or association covered under *Section 10(24)*

Returns by institutions, college or university [Section 139(4D)]

Any university, college or institution which is accorded approval as scientific research unit shall furnish return of income in accordance with the provision of the Act.

Revised return [Section 139(5)]

Who can file this kind of return?

Any person who has furnished a return within the time allowed u/s 139 (1) or within the time allowed by the notice issued under *Section 142 (1)*.

When to file such return...

If the assessee find any wrong statement or omission in the return which was filed earlier

Time Limits

- ◆ One year before the relevant assessment year;
- ◆ Before the assessment year is completed.

Additional points

- ◆ Where an assessee files a belated return, then, such assessee cannot file a revised return even if there is any omission or any wrong statement.
- ◆ A revised return must be considered as having been filed when the original return was filed.
- ◆ The effective return for the purpose of assessment shall be the return ultimately furnished by the assessee.
- ◆ A revised return replaces the original return. Therefore, where an assessee discovers any omission or a wrong statement in such a revised return, he is entitled to furnish a second revised return. In any case the overall time limit does not exceed those specified under **Section 139(5)**

Particulars required to be filed with the return of income [Section 139(6)]

The assessee is required to furnish the following particulars in prescribed form wherever warranted.

- (i) Details of exempt income
- (ii) Nature and value of prescribed asset belonging to him
- (iii) Details of bank account and credit card details
- (iv) Details of expenditure exceeding prescribed limit under the prescribed heading.
- (v) Such other outgoing.

Particulars to be furnished in case of an assessee engaged in the business and profession [Section 139 (6A)]

- (a) Audit report under **Section 44AB**
- (b) Particulars of location and principal place of business or profession and all the branches
- (c) The extent of share of the assessee
- (d) The name, address, and the extent of share of his partners of the firm or other member of AOP or BOI

Defective return of income [Section 139(9)]

A return of income can be regarded as defective by the assessing officer under the following situation.

- ◆ Annexure, statement and columns in the return of income has not been duly filed in
- ◆ A return of income has not accompanied the following
 - (i) Statement showing computation of taxable income
 - (ii) Proof of tax claimed to be deducted or collected at source (TDS or TCS)

Notes:

A return of income shall not be regarded as defective if -
 The TDS certificate was not received by the person furnishing the return of income and it is produced within 2 year from the end of the assessment year in which the income covered by TDS is assessable

- (iii) Tax audit report u/s 44 AB or copy of such report together with the proof of furnishing on earlier date
- (iv) Where books of accounts are maintained then the following are not furnished.
 - The copies of trading or manufacturing account
 - Profit and loss account or
 - Income or expenditure account or any similar account
 - Balance sheet.
- (v) Where books of accounts are not maintained then the statement indicating following are not filled.
 - Turn over or gross receipts
 - Gross profit
 - Expense and net profit together with the basis thereof

- Sundry debtors, sundry creditors, stock in trade, and cash balance of previous financial period.
- (vi) If the accounts are audited then, a copy of audited statement of account and auditor's report has not filed in (Cost Auditors report if any).

Procedure for rectification of mistake

- ◇ The assessing officer may intimate the defect in the return of income within 15 days or such extended period the assessee may be called up to rectify the mistake.
- ◇ If the defect is not rectified within 15 days then AO can treat the return of income as defective
- ◇ If the assessee rectify after the time allowed by the AO but before completion of the assessment, then, AO may at his discretion may disregard the defect.

Permanent Account Number (PAN) [Section 139A]

The following persons are required to apply and have to obtain the PAN number:

- (a) Any person who is assessable to tax in respect of his income or income of any other person in respect of which he is assessable is required to be applied 31st May of the relevant assessment year.
- (b) Any person who is carrying on business or profession whose sales, turn over or gross receipts are likely to be exceeded ₹ 5, 00,000/- in any of the previous year.
- (c) Any person who is required to be furnished a return of income under **Section 139 (4A)** is required to be applied before the relevant assessment year.

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