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What Our Students have to Say....

Aman Mahajan (CA AIR 19)

I really liked your classes, especially the practical linkages explained with amazing graphics. The full subject test serieshelped a lot in improving my writing speed and presentation skills.

Sundar Sri Renganathan B (AIR 33)

I took Accounting from IndigoLearn and the classes were really good. They emphasized on conceptual clarity over getting things done quickly, which is really vital to score good marks in practical papers. Other resources like Notes, Quizzes and Forum was beneficial too.

Dwarakesh

Thank you IndigoLearn team for the guidance and support throughout the past few months. I had great conceptual clarity in all the subjects and the revision classes by Suraj Sir were very helpful. Study planner and Free resources were very useful. Thank you Team IndigoLearn.

Yug Manoj Kumar Bhattad

I have cleared my CA Foundation examination with the total of 286. And this was not possible without the efforts and support of IndigoLearn. The way of teaching with utmost conceptual clarity is the best thing at Indigolearn.

Prakash Bhatt

Superb, one stop solution for All CA and Accountancy students they serve real Education at very very reasonable price

Naveen Kumar S

Good experience, unlimited views helped a lot in last one month preparation. Looking forward for

Bhagyasree Chougule

It was only because of Indigolearn that my concepts became very clear, and I was able to crack the exam. I wasn't 100% prepared I needed more practice but luckily I got through. I'm definitely choosing IndigoLearn for group 2 preparation. A big thanks!

Mohd Thayyab

Theoretical subjects made easier through story based examples and charts. Concept clarity 100%. Fully exam+practical oriented classes will help not only to retain the concepts during exams but for the longer duration.

Lalit Chetan Sanpal

Indigolearn has been fantastic and brilliant. Helped me alot in my preparations. I cleared both the groups in first attempt with your brilliant classes and notes. Thanks to all the faculties, coordinators, forum admins and everyone at Indigolearn. Really grateful. Will go for CA Finals at Indigolearn For sure. Thank you so much Indigolearn.

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Abishek M

I'd like to thank IndigoLearn for all the support they've provided me with. Modules were great. They were time saving and straight to the point. I extensively used the materials provided before exams, they were so helpful. Also I'd appreciate them for providing unlimited views as I kept looking into the maths modules till the end.

Munnur Nandini Sree

Accounting classes I have taken from IndigoLearn. Now I feel that it's a great choice that I have made (after seeing my result) because only in Accounting I got exemption. Thank you IndigoLearn.

Harshita G

Thank u so much IndigoLearn for your guidance. This is only possible because of u people.... For my finals also my journey will continue with IndigoLearn.

Bharathsha PS

I purchased Economics, IT, FM, EIS and Audit from Indigolearn. All your classes are superb and anyone can easily crack the CA exams. What makes u special is your classes help us to understand the concepts very well.Special thanks to the FM faculty, I studied only 2 chapters in economics,and still managed to score exemption in the 8th paper.

Nayi Mihir kumar

This platform is very helpful in all activity like mcq practise, notes, teaching activities, revisions and the forum interaction with all students which I like the most. If anybody want to clear their exams in first attempt then IndigoLearn is the best platform for them. My all regards to IndigoLearn. Thank you so much.

Rajalaxmi CA Inter

Can't believe I cleared.Sathya Sir, Suraj Sir, Yogita Mam ... thanks to all my faculties. Basically an Eng student with zero accounts knowledge. Thanks IndigoLearn for making me clear in first attempt.

Priyanka Udeshi

All the faculties have excellent knowledge of the subject and deliver it in very crisp & effective manner. Also, quick response at Forums never let any of my doubts go unresolved no matter how small they were. Thank you once again to all the teachers & staff at IndigoLearn!

Naveen Kumar T

It been a great journey with indigo learn team. Thanks to all the facilities and forum friends who support me a lot.

Disclaimer

This book is designed for students pursuing CA Intermediate course, who are appearing for the **Taxation (Income Tax Law)** exams in May 24 or thereafter. Every effort has been made to avoid errors and omissions. Despite this, errors may still occur. Any mistake, error, or discrepancy may be brought to our attention by emailing us at support@indigolearn.com and we shall fix the same in the next edition of the book.

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Chapter 1

Basic Concepts

Before we Begin,

This chapter lays down the Foundation of the Understanding behind the learning of the entire Direct taxation at Intermediate Level

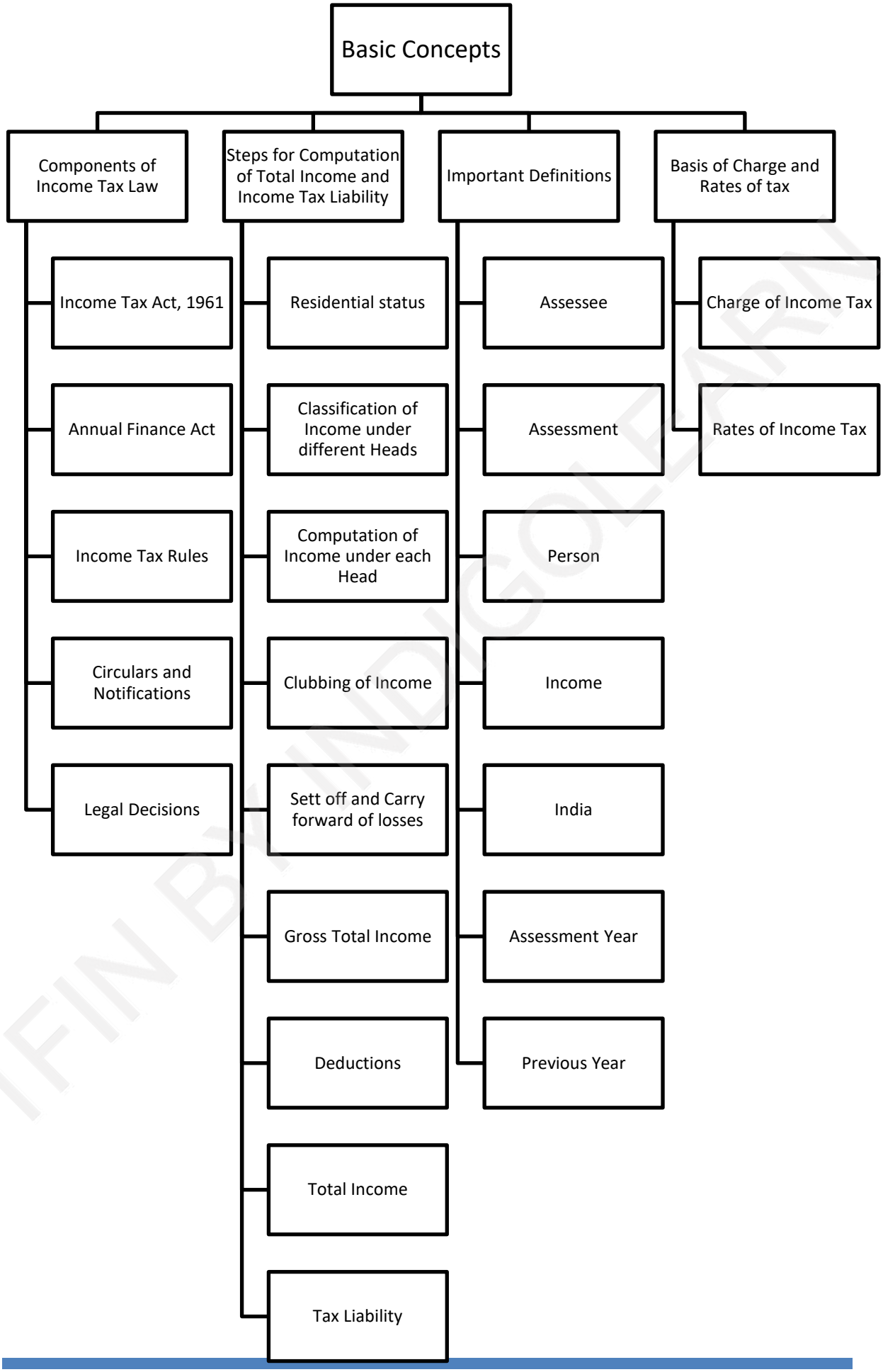
You will learn about the following

- meaning and types of taxes,
- the difference between direct and indirect taxes,
- income-tax law components, and
- the computation of total income for income-tax purposes.
- Insights into the Income-tax Act, 1961,
- Income under the purview of Income Tax Act
- Who is a person?
- Recognize previous year and assessment year for tax computation.
- Explore default and new tax regimes for determining tax liabilities.

Empower yourself with tax knowledge for informed decision-making.

Happy learning!

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1. INTRODUCTION:

1.1. WHAT IS TAX?

- Tax is a compulsory fee charged by the Government on a product, service, income, wealth or activity.
  - Example: Goods and Services Tax, wealth tax, Customs duty etc.

1.2. WHY Taxes are Levied?

- These taxes are the basic sources of revenue to the Government.
- The revenue so raised is utilized for meeting the expenses of Government in relation to defence, provision of education, health care, infrastructure facilities like roads, dams etc.

1.3. Power to Levy Taxes:

- The Constitution of India empowers Central Government to levy tax on income. With the aid of Article 265 of the Indian Constitution.
- Article 265 of the Constitution of India provides that **'no tax shall be levied or collected except by authority of law'**. The Constitution includes three lists in the Seventh Schedule providing authority to the Central Government (CG) and the State Governments (SG) to levy and collect taxes on subjects stated in the lists.

List I (Union list)	List II (State List)	List III (Concurrent List)
• Parliament has the exclusive power to make law in respect of any entry of List	• Any state has exclusive power to make law for such state or any part thereof with respect to any entry of List - II	• The Parliament or the legislature of a state has power to make laws with respect to any entry of List - III

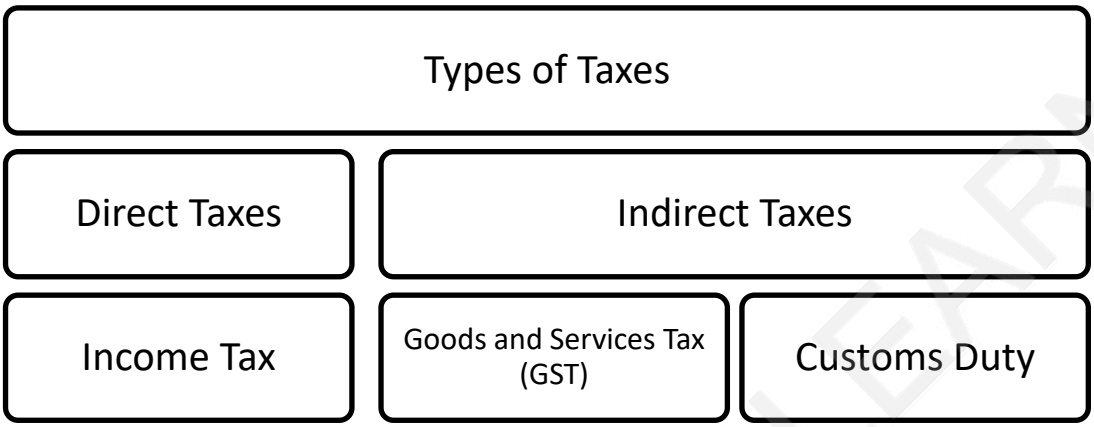
1.4. How Tax is Levied?

- Taxes are levied by the Governments via special acts for such specific taxes that it is going to levy and collect.
- Such acts have to be passed in the Parliament as a bill initially and later becomes an act after it getting signed by the President of India as his assent
- Such approved Act will be published in the Official Gazette of India from which it will be enforced or from the date specified as the case may be.

1.5. TYPES OF TAXES:

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- The taxes are classified on the basis of the Concept of **IMPACT & INCIDENCE**
- **IMPACT** – on whom the tax is levied
- **INCIDENCE** – on whom the burden of tax is falling on
- Based on the above concepts the taxes are divided as the following



- **DIRECT TAXES:** It is a tax where the **IMPACT AND INCIDENCE** lies on the **same** person. Direct taxes are those, which the taxpayer pays directly from his income / wealth etc **[E.g. Income Tax / Wealth Tax, etc.] i.e.,** they will be paid by the persons on whom they are charged / imposed and hence there is no shifting of the tax burden.
- **INDIRECT TAXES:** It is a tax where the **IMPACT AND INCIDENCE** lies on different persons. It is a tax on goods and services, the incidence of which is borne by the consumers who ultimately consume the goods and services, i.e., in the case of indirect taxes, there will be shifting of burden of tax from the person on whom they are levied to the person who has actually consumed the same. [E.g. Goods and Services (GST), Customs Duty]

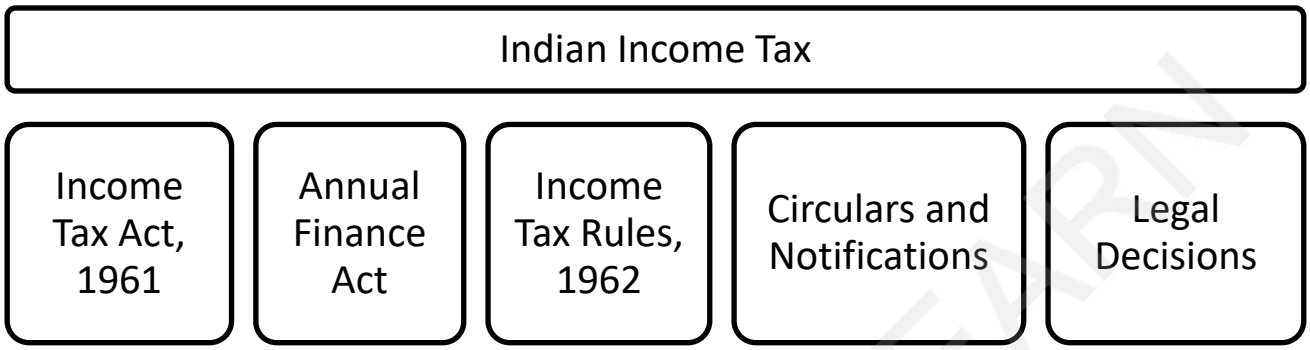
1.6. How Direct taxes are levied?

- Direct Taxes are levied by the enactment of Income Tax Act, 1961 by the Central Govt. of India.
- The main Act was enacted in the year 1961. It came into force from 1 April 1962.
- The Indian taxation structure is a mix of number of provisions either governed by income tax law and at some stages by number of mercantile and corporate laws.
- The Act is amended by the finance Act from year to year based on the Budget presented by Finance Minister in the parliament.

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2. STRUCTURE OF INDIAN INCOME TAX:

The Central Government has been empowered by Entry 82 of the Union List of Schedule VII of the Constitution of India to levy tax on all income other than agricultural income.



The structure or sources of Income Tax Law are as under:

2.1. THE INCOME TAX ACT, 1961:

- Income tax in India is governed by the Income Tax Act, 1961
- It came into force w.e.f. 1.4.1962
- Income Tax Act applies to whole of India (including Jammu & Kashmir)
- The Finance Act shall bring amendment to this Act.
- The Law provides for determination of taxable income, tax liability and procedure for assessment, appeal, penalties and prosecutions.

2.2. ANNUAL FINANCE ACT:

- Finance Minister presents this as Finance Bill in both the Houses of Parliament on first working day of February of every year.
- Part A of the Budget contains proposed policies of the Government in fiscal areas.
- Part B contains the detailed tax proposals.
- Once the Finance Bill is approved by the Parliament and gets the assent of the President, it becomes the Finance Act.
- The Finance Act brings amendments to both the Direct Tax Laws and Indirect Laws.



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

Part	What is specifies?
I	The rates of tax applicable for the current Assessment Year
II	The rates at which tax is deductible at source for the current Financial Year
III	The rates for calculating income-tax for deducting tax from income chargeable under the head "Salaries" and computation of advance tax for F.Y. 2023-24
IV	The rules for computing net agricultural income.

2.3. THE INCOME TAX RULES, 1962:

- The administration of Direct Taxes is vested with Central Board of Direct Taxes (CBDT).
- Under Section 295 of IT Act, CBDT is empowered to frame rules from time to time to carry out the Purpose and proper administration of the Act.
- All forms, procedures and principles of valuation of perquisites prescribed under the Act are provided in the Rules framed by CBDT.

2.4. CIRCULARS & NOTIFICATION:

- In exercise of the powers u/s 119, CBDT issues circulars and notifications from time to time.
- These circulars clarify doubts regarding the scope and meaning of the various provisions of the Act.
- These circulars act as guidance for officers and assesses.
- These circulars are binding on Assessing Officers but not on assesses and Courts.
- The circulars issued by the CBDT shall not be in contrary to the provisions of the Act.
- The rules and regulations enacted by CBDT i.e. Income Tax Rules, the Notifications and circulars issued by CBDT is called Subordinate Legislation.

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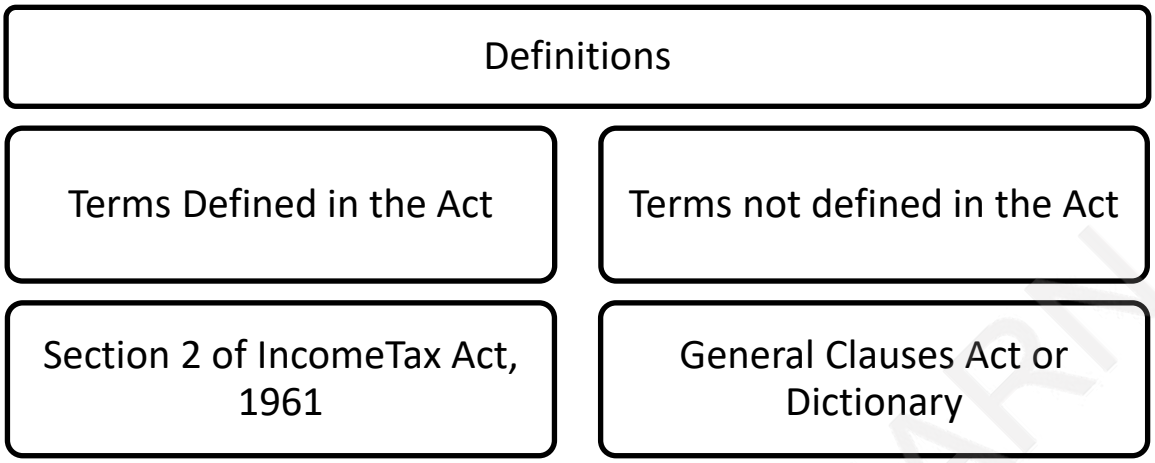
2.5. JUDICIAL PRONOUNCEMENTS OF HIGH COURT / SUPREME COURT:

- It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assessees and the department and give decisions on various issues such decisions are known as Judicial Pronouncements.
- The Supreme Court and the High Court can give judgment only on the question of law.
- The Law laid down by the Supreme Court is the law of the land.
- The decision of High Court will apply in the respective States, within its jurisdiction.

KEY POINTS:

- Income tax act is applicable to whole of India. (including the state of J & K)
- IT act came into force on 1st April, 1962.
- We say Income tax act 1961 & Income tax rules 1962.
- Tax rates for Income are given in Finance act as well as IT act 1961.
  - In IT act, rates are given for causal income (Winning for lotteries, Betting, Card game etc.), rates u/s 111A (STCG), 112 (LTCG) etc.
  - In finance act, Individual tax rates, firms, BOI etc. are given.
- For charging tax on income, Residential status of an "Person" is taken into consideration & not Citizenship
- A finance bill, if gets assent of President of India & approved by Parliament, then it becomes Finance act. Hence it is not mandatory that whatever there in finance bill should be there in Finance act.
- In the parliament, relevant Finance act gets approved. All the changes relating to rules, notification etc., are delegated by parliament to CBDT. This is called "Subordinate Legislation".
- CBDT (Central Board for Direct taxes)
  - Can issue notifications & circulars,
  - Also prepare IT rules from time to time for carrying out the purpose of IT act.
- CBDT circulars are clarificatory in nature i.e., Intention of letter of law is clarified by circulars.
- Whenever there is ambiguity in law, intention of legislation is cleared by CBDT circulars. These Circulars can never override the provisions of IT act.

3. DEFINITIONS AND BASIC CONCEPTS OF INCOME TAX:



- Where the terms defined in the act are mentioned under Section 2 or under any other provision of the Income Tax act as various Clauses.
- Where there is a term that has not defined in the Section 2 of the Income Tax Act, 1961, they shall be interpreted as per the provisions of the General Clauses Act, 1897 or as per the dictionary meaning.

Some of the Definitions defined U/s 2

3.1. ASSESSMENT YEAR:

As per **Sec 2 (9)** of Income tax Act, 1961, Assessment Year **means** the period of 12 months commencing on the 1st April of every year.

In short: The year in which tax is paid for the income earned in previous year.

E.g.: - A.Y. 2024-25 commences on 1st April 2024 and ends on 31st March 2025.

3.2. PREVIOUS YEAR [Section 2(34) and Section 3]:

As per **Sec 3** of Income tax Act, 1961, Previous Year **means** financial year immediately preceding the assessment year.

Proviso: It need not be always 12 months if such assessee is a newly set up business, previous year shall be the period commencing from the date of setting up of business and ending on 31st march of the said financial year.

Eg:- If business commenced on 15th July, 2023, the previous year for this business starts from 15th July, 2023 and ends on 31st march, 2024.

In simple words, the year in which income is earned is known as previous year and the next year in which income is taxable is known as assessment year.

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3.3. ASSESSMENT:

This is the procedure by which the income of an assessee is determined.

It may be by way of a normal assessment or by way of reassessment of an income previously assessed.

3.4. INDIA

As per Section 2(25A), India covers territory, territorial waters, sea bed and subsoil underlying such waters, continental shelf and exclusive economic zone and air space above territory and territorial waters.

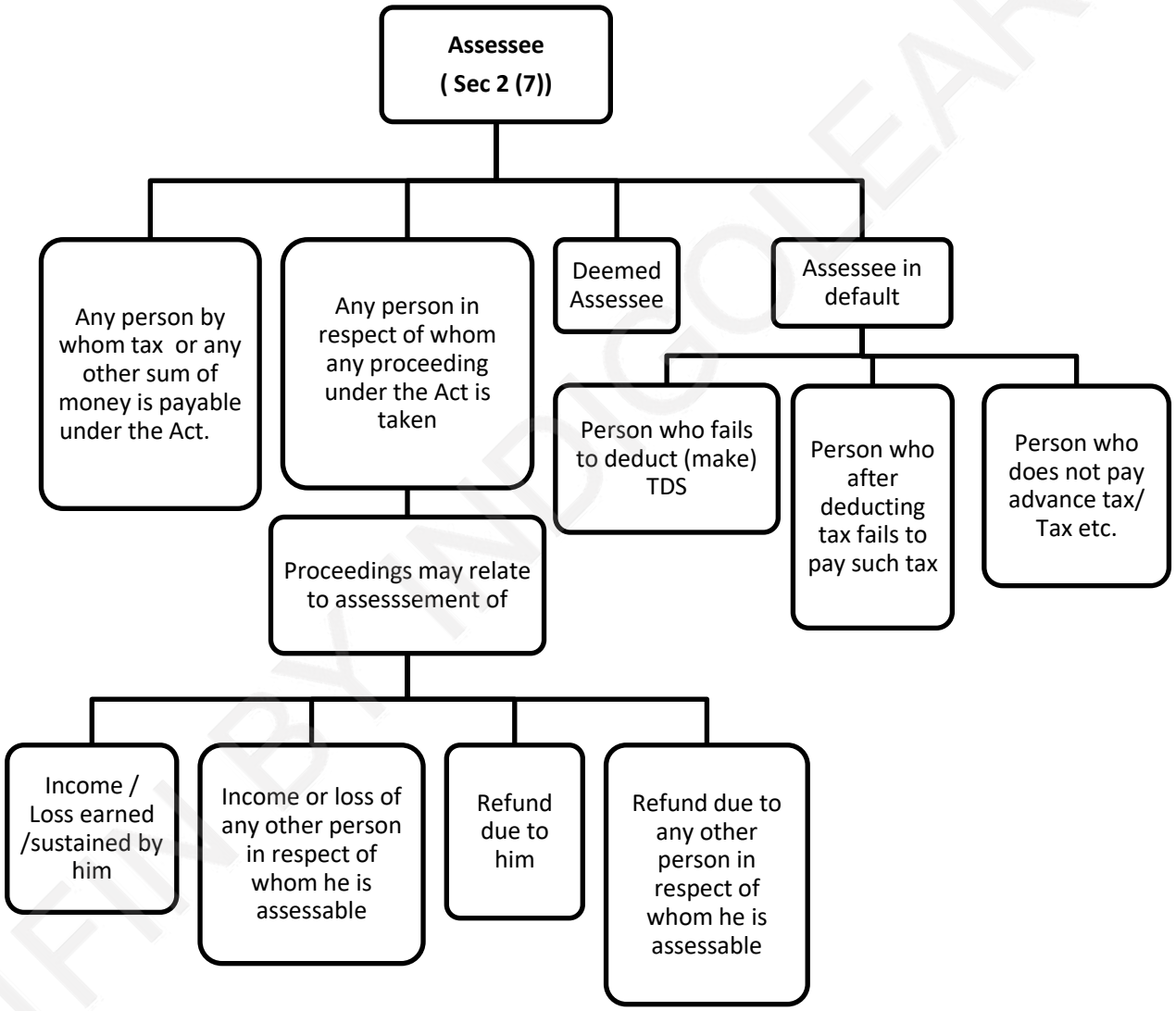
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3.5. ASSESSEE:

Assessee is any person for whom we calculate the total income and ascertain the tax liability in terms of Income Tax

In other words, Assessee is a person whose income and Tax Liability is assessed.

Assessee Defined under Section 2 clause 7 is as follows



3.6. PERSON

As per **Sec 2(31)** of Income tax Act, 1961, Person **includes**

- Individual (Natural person, i.e., Human being, including minor or unsound person),
- Hindu Undivided Family (HUF)
- Company
- Partnership Firm (including a "Limited Liability Partnership" firm)

- An Association of persons (AOP) or Body of Individuals (BOI) (e.g., Trusts, Co-operative societies, social clubs etc.)
- Local Authority (e.g., Municipalities)
- Every artificial Juridical Person not following with in any of above categories, (e.g., Universities, Bar councils, ICAI, ICSI etc.)

Note:

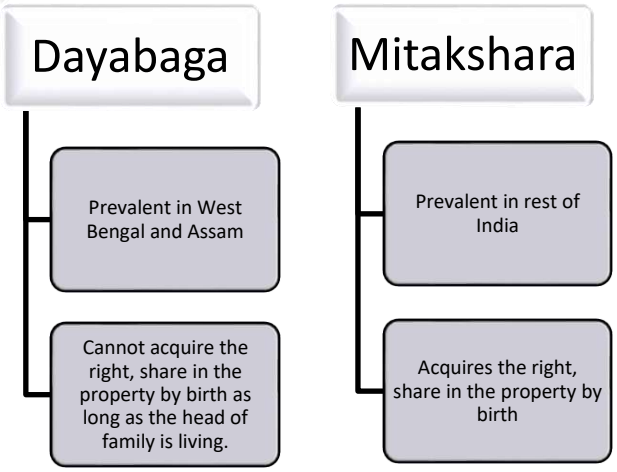
1. HUF

- "Hindu undivided family" is defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.
- A Hindu Coparcenary includes those persons (Sons and daughters) who acquire an interest in joint family property by birth (Wife or daughter-in-law of a coparcener are not eligible for such coparcenary rights).
- The relation of a HUF does not arise from a contract but arises from status.
- Under the Income-tax Act, 1961, Jain undivided families and Sikh undivided families would also be assessed as a HUF.
- **Schools of Hindu Law:**

2. Meaning of partition of HUF:

- Where the property admits of a physical division, then if a physical division is made, it shall be regarded as partition.
- A physical division of income without a physical division of property producing income shall not be deemed to be a partition.

3. Company [Sec 2(17)]



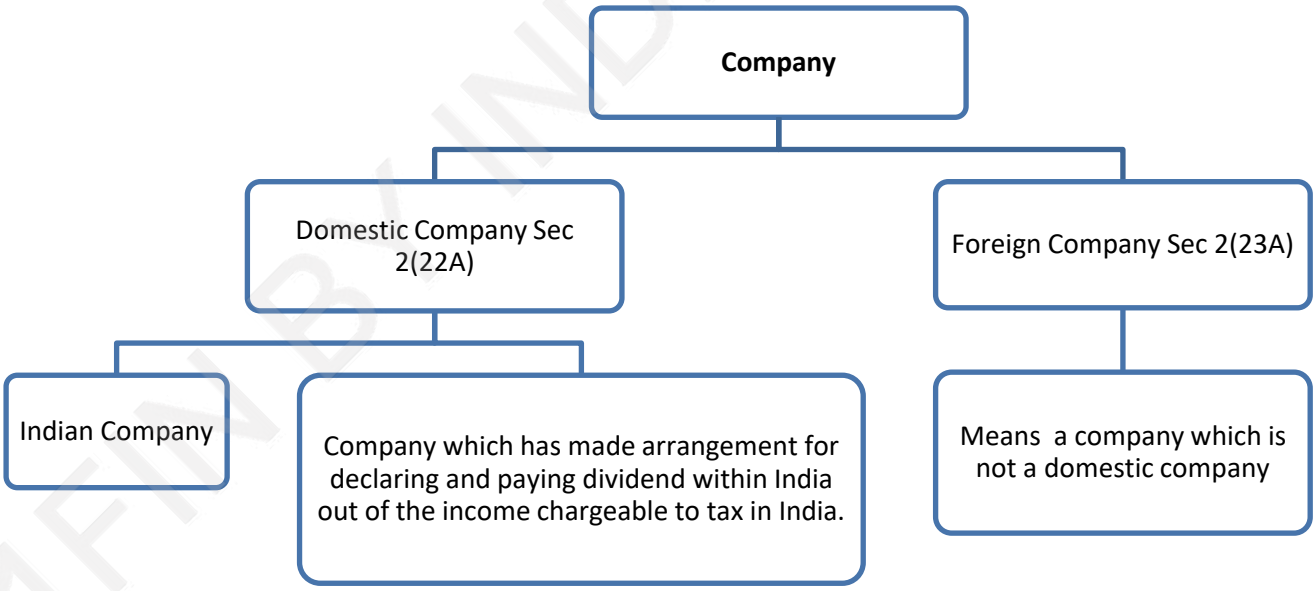
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Company means

1) Any Indian Company (Registered under companies Act + registered/principal office in India)
2) Any body corporate under the laws of a country outside India, i.e., a foreign company.
3) Any institution, association or Body which was company on or before 01.04.1970.
4) Any institution, association or body declared by CBDT to be a company.

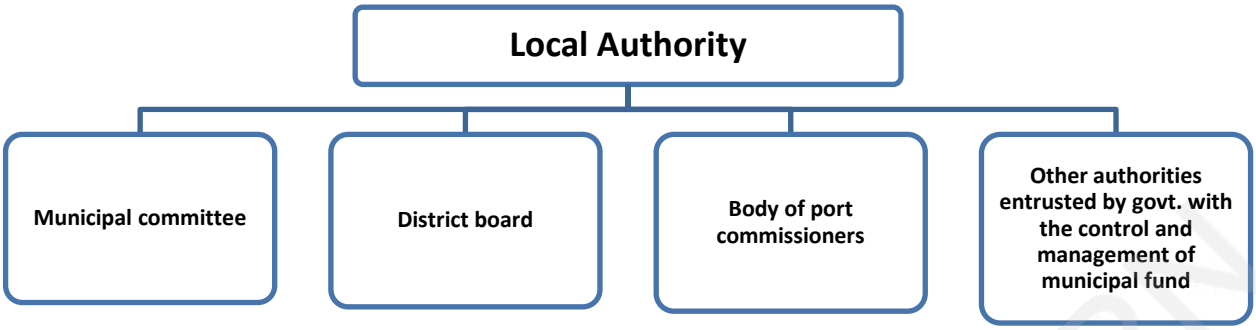
Classification of Companies

4. **Firm (Including LLP)** – Same meaning as in Indian Partnership Act, 1932 (+)Limited Liability Partnership Act, 2008.
5. **An association of persons** means two or more persons voluntarily join together in a **common purpose** or **common action** with an object **to earn income**. Every combination of persons will not constitute an AOP, there must be common desire, common will and meeting minds on common objective to constitute an AOP. Any person can be a member in AOP i.e., company, firm etc. The Supreme Court in the case of ITO Vs Ch. Atchaiah has held that the income of AOP has to be taxed in the hands of AOP only and the members of AOP cannot be taxed individually.



6. **Body of Individual** means a conglomeration of Individuals who carry on some activity with an object of earning some income. In case of BOI, only the individuals can be members and it is formed by operation of Law.

7. Local Authority



Points to be noted:

1) A local authority is taxable in respect of that part of its income which arises from any business carried on by it.
2) But the income arising from supply of a commodity or service within its own jurisdictional area is not taxable.
3) However, the income arising from supply of water and electricity even outside its jurisdictional area is exempt from tax.

8. Artificial Juridical Person

- This is a residue category.
- Deities are to be regarded as artificial juridical person.
- Bar council and Universities are also regarded as artificial juridical person.

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SECTION 4: CHARGEABILITY SECTION:

The income earned by a person who is "Assessee"- which is earned in the previous year (P.Y) is chargeable to Income tax in the immediately following " Assessment year" (A.Y) as per sec.4 of the IT act 1961 - @ the rate specified in the Annual Finance Act for that year.

Hence Section 4 talks about following concepts:

- Income - Sec 2 (24)
- Person - Sec 2 (31)
- Assessee - Sec 2(7)
- Previous Year - Sec 3
- Assessment Year - Sec 2 (9)

SEC 2(24) - INCOME: -

Broad principles clarifying the concept of income



1) Regular and definite source
2) Different forms of income
3) Receipt Vs accrual
4) Illegal income
5) Income should be real and not fictional
6) Disputed title
7) Relief or reimbursement of expenses- not treated as income
8) Diversion of income by over-riding title v application of income
9) Surplus from mutual activity
10) Lump sum receipt
11) Personal gifts
12) Tax free income
13) Same income cannot be taxed twice
14) Dharmada- not taxable
15) Surplus from devaluation of currency
16) Income includes loss- CIT V. Karamchand Premchand Ltd.
17) Pin money

However, income includes any assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement, by whatever name called, received from the Central Government or a State Government or any authority or body or agency in cash or kind to the assesse.

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

In general, the word income covers receipts in the form of money or money worth which arise with certain regularity or expected regularity from a definite source. The source need not necessarily be tangible as the return for human effort is also income. Further, the causal incomes arise without any regularity will also be taxed.

Eg:- Winning from lotteries, cross word puzzles, races etc...

3.1. OTHER POINTS:

- **Application of Income:** The concept of application of income arises only after the receipt of income in the hands of the assessee. An assessee may on his own option or otherwise forego his income. This would amount to an application of income, and this would result in taxation of such income in the hands of the assessee.
- **Diversion of Income:** Whereby an obligation income is diverted before it reaches the assessee, it is "diversion of income" & not taxable in the hand of the assessee.
- **Difference between Diversion of Income and Application of Income:**

	Diversion of Income	**Application of Income**
(a)	By virtue of an obligation the income is diverted at source before it reaches the assessee.	The discharge of obligation takes place after the income reaches the assessee.
(b)	Obligation is on the source of income.	Obligation is on the receipt of income.
(c)	Diversion of income takes place by overriding title.	There is no over riding title in this case.
(d)	The income is not included in the income of the assessee.	Such income is included in the income of the assessee.
(e)	Income cannot be said to have accrued or arisen.	Income is said to have accrued or arisen and therefore is taxable in the hands of assessee.

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REVENUE RECEIPTS AND CAPITAL RECEIPTS

Capital Receipts	Revenue Receipts
Capital receipt is generally referable to fixed capital. E.g., Sale of assets, which the assessee uses as a fixed capital to enable him to carry on his business, is capital receipt.	Revenue receipt is referred to circulating capital or stock in trade. E.g., Sale of stock-in-trade or any trading asset results in revenue receipts.
Payment received towards compensation for extinguishing wholly or partly of a profit earning source is a capital receipt.	Payment made to compensate a person towards loss of profits or earnings is a revenue receipt.
A receipt in lieu of source of income is a capital receipt. E.g., Compensation for loss of employment is a capital receipt.	A receipt in lieu of income is revenue receipt.
Capital receipts are exempt from tax unless they are expressly taxable like in case of capital gains.	Revenue receipts are taxable unless expressly exempt from tax like in case of income exempt u/s 10 to 13 A.
Compensation received for relinquishing interest, whether wholly or partly, in a capital asset of the business is a capital receipt.	Compensation received for relinquishing interest in stock-in-trade of the business is a revenue receipt.

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4. SECTION 4: - CHARGE OF INCOME TAX (BASIC RULE):

Income of the previous year of every person shall be charged in the relevant assessment year.

However, in some cases, the income of a previous year is chargeable to tax in the SAME year. These exceptions have been provided to safeguard the collection of taxes. The exceptions are as follows: -

4.1. EXECPTIONS TO BASIC RULE:

1. Shipping business of the NON- RESIDENT (Sec 172):-



- The assessee should be a "NON- RESIDENT "
- He should be EITHER the owner of the ship (or) he has chartered the ship.
- The ship is carrying passengers, goods, livestock, mail etc. shipped at ANY PORT in India.
- Then non-resident has to pay income tax before the ship is allowed to leave the Indian port.
- Such income of the Assessee shall be deemed to be equal to 7.5% of the freight paid or payable to the owner or the charterer or to any person on his behalf, whether in India or outside India on account of such carriage.

2. Persons leaving India (Sec 174):-

- If it appears to the Assessing officer that any individual may leave India during the current assessment year or shortly after its expiry,
- He has no present intention of returning to India,

The total income of such individual, from the expiry of previous year for that assessment year (i.e from 1st April of the A.Y) up to the probable date of his departure from India shall be chargeable to tax in the same assessment year itself.



3. **Assessment of AOP or BOI or Artificial juridical person formed for a particular event or purpose (Sec 174 A): -**

   - In the case of dissolution of AOP or BOI, the income earned for the period beginning with the previous year in which it is dissolved till the actual date of dissolution is chargeable to tax in the same previous year.

4. **Persons likely to transfer property to avoid tax (Sec 175): -**

   - It appears to the Assessing officer that during the current assessment year any person is likely to charge, sell, transfer, dispose off or otherwise part with any of his assets with a view to avoiding any payment of his tax liability,
   - Then the total income of such person for the period from the first day of that financial year to the date when proceeding is started u/s 175 is taxable in that financial year.



5. **Discontinued Business (Sec 176): -**

   - If any business or profession is discontinued in any assessment year,
   - Income of the business / profession from 1st April of the financial year to the date of discontinuation may be taxable in the same financial year,
   - In the first 4 exception dealt above, tax shall be charged in the previous year itself (i.e., it is mandatory on the A.O). However, in the case of discontinued business or profession, it is at the discretion of the assessing officer.

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6. **Undisclosed Sources of Income: -**

   i. **Cash Credits [Section 68]**
      - any sum is found credited in the books of the assesse

   ii. **Unexplained Investments [Section 69]**
      - Investments made and not recorded in PY

   iii. **Unexplained Money etc [Section 69A]**
      - found to be the owner of any money, bullion, jewellery or other valuable article
      - the same is not recorded in the books of account

   iv. **Amount of investments etc., not fully disclosed in the books of account [Section 69B]**
      - Made investments/ found to be the owner of any money, bullion, jewellery or other valuable article &
      - The amount is recorded at a lower value than the actual value

   v. **Unexplained Expenditure [Section 69C]**
      - Incurred expenditure

   vi. **Amount borrowed or repaid on hundi [Section 69D]**
      - Is repaid otherwise through an account payee cheque

In all the above case, if no explanation/no satisfactory explanation is provided by the assessee about the nature and source of such credits/income/investments etc., such amount shall be deemed to be income of the PY.

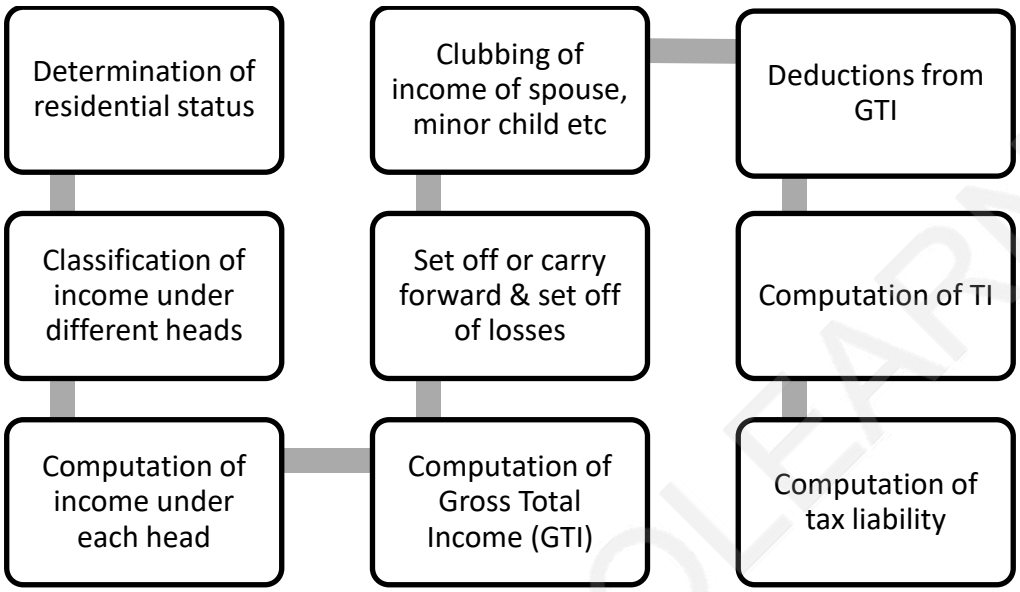
If total income includes any income referred under above sections:

1. Tax payable shall be 78% [Tax@60%+ Surcharge@25% + cess@4%]
2. No basic exemption and no deduction shall be allowed in respect of any expenditure/ allowance under any provision of the Act.
3. No set-off of loss against such income

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5. SECTION 14: GROSS TOTAL INCOME:

Steps for computation of Total and Tax Liability:



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

Head	Chapter	Section	Charging section
Salaries	IV-A	15-17	15
Income from the house property	IV-C	22-27	22
Profits and gains of business or profession	IV-D	28-44DB	28
Capital gains	IV-E	45-55A	45&46(2)
Income from other sources	IV-F	56-59	56

If a particular non-exempted income is not covered by the first four heads, it automatically falls under the head 'Income from other Sources'.

Gross Total Income is the aggregate of the income computed under the above heads after giving effect to the provisions for clubbing of income and set off and carry forward of losses.

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5.1. EXEMPTIONS:

There are certain incomes which are either totally exempt from tax or exempt upto a certain amount. Hence those incomes, which are exempt u/s 10, will not form part of total income of assesse. In case of partial exemptions, the balance income over and above the exemption limits will be included in total income.

5.2. DEDUCTIONS:

There are certain deductions prescribed in the Chapter VI-A of the Income-tax Act i.e., deduction under sections 80C to 80 U. These deductions are of following three types:

- Deduction in respect of certain payments :

  E.g. L.I.C. Premium paid, Medical Insurance Premium paid, etc.

- Deductions in respect of Incomes :

  E.g. Certain incomes of Co-Operative Societies, royalty on patents

- Other deductions: Deduction available in case of a person with disability u/s 80U.

These deductions etc. have to be considered before arriving at the net income chargeable under each head.

5.3. TOTAL INCOME:

The total income of an assessee is computed by deducting all permissible deductions under Chapter VI-A (Sec 80C to 80U) of the Income-tax Act from the gross total income. It is also called the Taxable Income. It should be rounded off to the nearest multiple of ₹ 10 as per section 288A.

As per the Act, total income means the total amount of income referred to in section 5 computed in the manner laid down in this Act – Section 2(45).







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6. RATES OF INCOME TAX:

INDIVIDUAL/ HUF/ AOP/ BOI/ AJP (Optional tax regime)

6.1. Individual (Man or Woman), resident in India and **below the age of 60 years** at any time during the previous year and HUF / AOP/BOI & every artificial judicial person:

Income	Rate of Tax
Upto ₹ 2,50,000	Nil
₹ 2,50,001 To ₹ 5,00,000	5%
₹ 5,00,001 To ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

6.2. An individual (man or woman), resident of India who is of the age of **60 years or more but less than 80 years** at any time during the previous year. [Senior Citizen]

Income	Rate of Tax
Upto ₹ 3,00,000	Nil
₹ 3,00,001 To ₹ 5,00,000	5%
₹ 5,00,001 To ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

6.3. A Resident individual (man or woman), **who is of the age 80 years** or more at any time during the previous year [Super senior citizen]

Income	Rate of Tax
Upto ₹ 5,00,000	Nil
₹ 5,00,001 To ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

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INDIVIDUAL/ HUF/ AOP/ BOI and AJP (Default tax regime):

As per section 115BAC, individuals and HUFs have an option to pay tax in respect of their total income at concessional rates:

6.4.

Income	Rate of Tax
Upto ₹ 3,00,000	Nil
₹ 3,00,000 To ₹ 6,00,000	5%
₹ 6,00,001 To ₹ 9,00,000	10%
₹ 9,00,001 To ₹ 12,00,000	15%
₹ 12,00,001 To ₹ 15,00,000	20%
Above ₹ 15,00,000	30%

Option to opt out of this scheme of tax shall be exercised by:

Individuals or HUF having income from business or profession, on or before the due date specified u/s 139(1) for furnishing ROI and option once exercised shall apply for subsequent AYs. However, he can only once withdraw such option and pay tax under default tax regime and thereafter he shall never be able to exercise option of opting out except when he ceases to have business income

Individuals or HUF, having income other than the Income referred above, along with the return of Income to be furnished u/s 139(1) for a PY relevant to the AY i.e., he may choose to pay tax under default tax regime in one year and exercise the option to shift out in another year.

Conditions: The total income is computed without the following exemption /deduction:

- Leave travel concession as contained in Sec. 10 (5)
- Interest u/s 24 in respect of self—occupied property referred in Sec. 23(2).
- House Rent Allowance as contained in Sec.10(13A)
- Additional depreciation in Sec. 32(1)(iia)
- Some of the allowance as contained in Sec.10(14)
- Various deduction for donation for or expenditure on scientific research contained in section 35 (1)(ii)/(iia)/(iii)/(2AA)
- Allowances to MPs/MLAs as contained in section 10(17)
- Deduction under section 35AD
- Allowance for income of minor as contained in Sec. 10(32)
- Any deduction under chapter VIA except Sec. 80CCD(2), CG contribution towards Agnipath Scheme under Section 80CCH(2) and Sec. 80JJAA (for new employment)

- Exemption for SEZ. unit contained in section 10AA
- Section 16(ii) and Section 16(iii)

Note:

While computing total income, any exemption or deduction for allowances or perquisites by whatever name called, provided under any other law for time being in force in India would not be allowed.

While computing total income, set off of any loss

- Carried forward or depreciation from any earlier AY if such loss or depreciation is attributable to any of the deductions referred above
- Under the head House Property with any other head of income;

would not be allowed.

NOTE:

- A person born on 1st April would be considered to have attained a particular age on 31st March, the day preceding the anniversary of his birthday. Therefore, a resident individual whose 60th birthday falls on 1st April 2024, would be treated as having attained the age of 60 years in the P.Y.2023-24 and would be eligible for higher basic exemption limit of 3 lakh in computing his tax liability for A.Y.2024-25. Likewise, a resident individual whose 80th birthday falls on 1st April 2024, would be treated as having attained the age of 80 years in the P.Y.2023-24, and would be eligible for higher basic exemption limit of Rs. 5 lakh in computing his tax liability for A.Y.2024-25.

- Rebate of up to 12,500 for resident individuals having total income of up to 5 lakh for those paying tax under optional tax regime.

- Rebate of up to ₹ 25,000 for resident individuals having total income of up to ₹ 7 lakh [Section 87A] for those who are paying tax under default tax regime.
    - Section 87A has been inserted to provide a rebate from the tax payable by an assessee, being an individual **resident** in India, whose total income does not exceed ₹ 7,00,000.

- The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of 25,000, whichever is less.

6.5. Firm / LLP / Local authority: On the whole of the total income - 30%

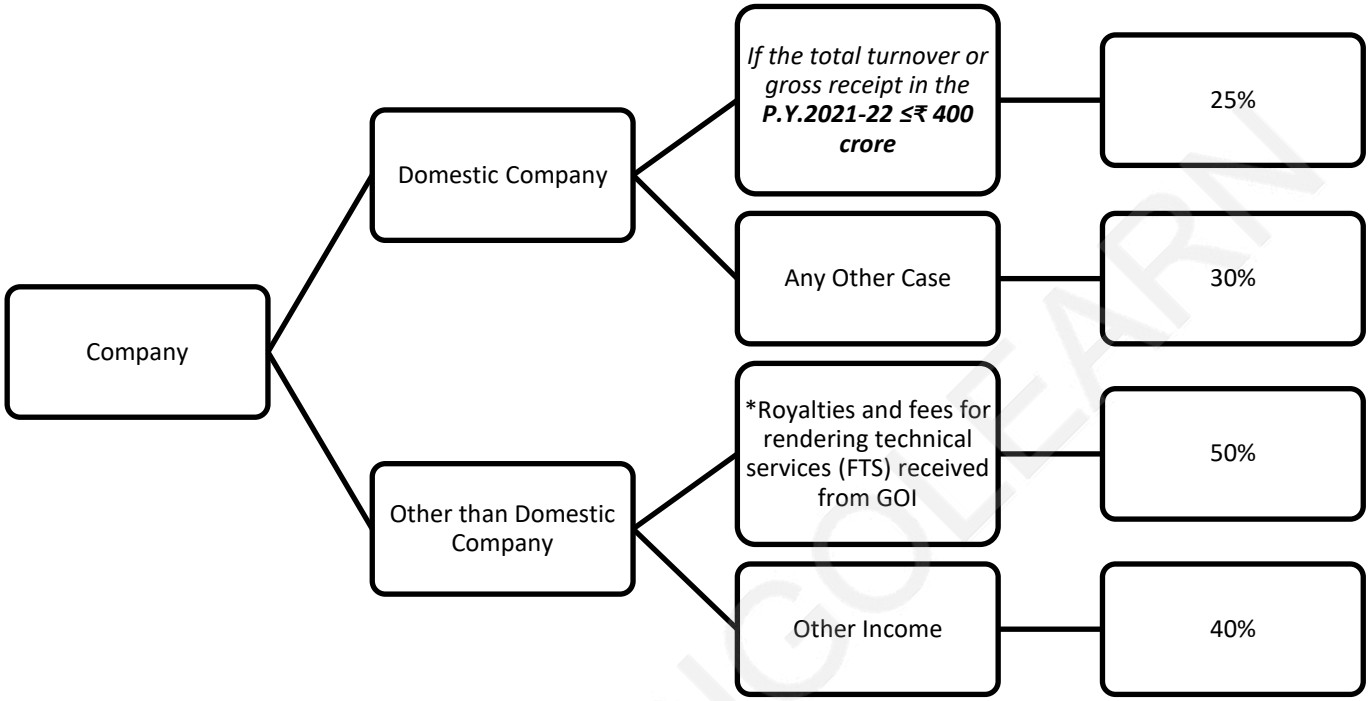
6.6. Co-Operative Society:

Income	**Rate of Tax**
Upto ₹ 10,000	10%
₹ 10,001 To ₹20,000	20%
Above ₹ 20,000	30%

Note - Co-operative society, resident in India, can opt for concessional rate of tax @25.168% (i.e., tax@22% plus surcharge@10% plus health and education cess @4%) under section 115BAD if certain conditions are satisfied (Dealt in CA Final)

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6.7. Company:



Note:

- Domestic manufacturing company (set up and registered on or after 1.10.2019 and commences manufacture of article or thing before 31.3.2024) exercising option u/s 115BAB – 15% of income derived from or incidental to manufacturing or production of an article or thing
- In case of a domestic company exercising option u/s 115BAA: 22% on TI.
- *Agreement must be entered between –
    i. 1.4.1961 and 31.3.1976 - in case of royalties
    ii. 1.3.1964 and 31.3.1976 - in case of FTS

6.8. Marginal Relief

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

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6.9. Surcharge

Type of Person	Total Income	% of Surcharge (Optional Regime)	% of Surcharge (Default Regime)
Individual / HUF / AOP / BOI/ Artificial judicial person	> ₹ 50L but is ≤ ₹ 1 Crore	10%	10%
	> ₹ 1 Crore but is ≤ ₹ 2 Crore	15%	15%
	> ₹ 2 crore but ≤ ₹ 5 crore *	25%	25%
	> ₹ 5 crore *	37%	
An AOP consisting of only companies as members	> ₹ 50 lakhs but is ≤ ₹ 1 crore	10%	10%
	> ₹ 1 crore	15%	15%
Local authority / Firms / LLPs	> ₹ 1 crore	12%	12%
Co-operative societies	> ₹1 Crore but is ≤ ₹10 Crore	7%	7%
	> ₹10 Crore	12%	12%
	No limit (Opting for Sec 115BAD)	10%	10%
Domestic Company	> ₹1 Crore but is ≤ ₹10 Crore	7%	7%
	> ₹10 Crore	12%	12%
	No limit (Opting for Sec 115BAA/115BAB)	10%	10%
Foreign Company	> ₹1 Crore but is ≤ ₹10 Crore	2%	2%
	> ₹10 Crore	5%	5%

*** Where the total income includes dividend, any income chargeable u/s 111A and 112A, the surcharge on the amount of income-tax computed on that part of income shall not exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, income covered u/s 111A and 112A.**

- **Health and Education Cess:** 4% on income tax and surcharge.

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6.10. Alternative Tax Regime (ATR):

The table given below highlights alternative tax regime presently available to different assessees-

	Section 115BA	Section 115BAA	Section 115BAB	Section 115BAC	Section 115BAD
Eligible Assessee	Existing domestic company	Domestic company	New domestic manufacturing company	Individual & HUF	Resident co-operative society
From which AY	2017-18	2020-21	2020-21	2021-22	2021-22
Tax Rate	25%	22%	15%	Refer previous discussion above in the module	22%
Surcharge	Applicable	10%	10%	10%/15%/25%/37%	10%
Marginal Relief	Yes	No	No	Yes	No
HEC	4%	4%	4%	4%	4%
Any specific activity required to avail ATR	Manufacture/Production of goods	No	Manufacture/Production of goods	No	No
Date of set-up and registration	On or after March 1, 2016	-	On or after October 1, 2019	-	-
Date of commencement of manufacture	Not specified	-	On or before March 31, 2024	-	-
Incentive available	A few are not available	A few are not available	A few are not available	A few are not available	A few are not available
Deductions u/s 10AA, 32(1)(iia), 32AD, 32AB, 33ABA, 35(1)(ii)/(iia)/(iii), 35(2AA)/)2AB), 35AD, 35CCC, 3CCD whether available	Not available (Deduction u/s 32AC & 35AC also not available)	Not available	Not available	Not available	Not available
Deductions under chapter VI-A whether available	Deductions available u/s 80G, 80GGA, 80GGB and 80JJAA only.	Deductions available u/s 80JJAA and 80LA(1A), only.	Deductions available u/s 80JJAA & 80M only.	Deductions available u/s 80CCD(2),80JJAA and 80LA(1A), only.	Deductions available u/s 80JJAA and 80LA(1A), only.

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	Section 115BA	Section 115BAA	Section 115BAB	Section 115BAC	Section 115BAD
Deductions/ exemption under sections 10(5)/(13A)/(14)/(17)/(32), 16, 24(b) and 57(iia) whether available	-	-	-	Only deduction u/s 24(b) pertaining to let out property/ deemed to be let out property is available	-
Whether brought forward loss pertaining to above deductions/ exemptions can be set off and carried forward	No	No	No	No	No
Due date to exercise option	On or before due date of furnishing ROI (Form No 10-IB)	On or before due date of furnishing ROI in the year in which assesse wants to opt for new tax regime (Form No 10-IC)	On or before due date of furnishing ROI (Form No 10-ID)	On or before due date of furnishing ROI in the year in which assesse wants to opt for new tax regime (Form No 10-IE)	On or before due date of furnishing ROI in the year in which assesse wants to opt for new tax regime (Form No 10-IF)
After obtaining the option is it possible to withdraw from the same	No (however, one can shift to 115BAA)	No	No	Assessee not having any business/profession income – Fresh option is require every year (See note)	No
Whether provisions of MAT & AMT applicable?	Yes	No	No	No	No

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Computation of Total Income & Tax Liability for the Assessment Year 2024-2025

HEADS	SECTIONS	AMOUNT
1. Salaries. (Sec 15 to 17)	15 to 17	xxx
2. Income from House Property. (Sec 22 to 27)	22 to 27	xxx
3. Profits and gains of Business or Profession. (Sec 28 to 44DB)	28 to 44DB	xxx
4. Capital gains. (Sec 45 to 55A)	45 to 55A	xxx
5. Income from Other Sources. (Sec 56 to 59)	56 to 59	xxx
GROSS TOTAL INCOME		**xxxxx**
Less: deductions under chapter VIA	80C to 80U	xx
TOTAL INCOME OR NET INCOME (Rounded off as per Sec.288A)		xxxxx
Tax on Total Income		**xxx**
Less: Rebate u/s 87A		
Add: 4% Health and Education Cess on Tax		xx
Total Tax Liability		**xxx**
Less: (i) TDS/TCS ii) Advance Tax iii) Self-Assessment Tax		xx
Net Tax Liability (Rounded off as per Sec.288B)		**xxx**

6.11. SPECIFIC RATES / SPECIAL RATES:

The following are the specific tax rates prescribed in the Income Tax Act:

- **Sec 112:** Long term capital gains are taxed at a flat rate of 20% (other than 112A)
- **Sec 112A:** Long term capital gains on transfer of equity share in a company, unit of an equity oriented fund/business trust taxed @ 10% (on amount exceeding 1L, if STT is paid)
- **Sec 111A:** Short term capital gains on transfer of Listed Securities transferred on or after 2004 & has suffered STT taxable at 15%

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- **Sec 115BB:** The flat rate of 30% on winnings from any lotteries, crossword puzzles, races including horse races, cards game and other games of any sort or gambling or betting of any form.
- **Section 115BBJ:** Flat rate of 30% on net winnings from any online game.
- **Sec 115BBE:** Unexplained money, investments etc. to attract tax@60%

6.12. ROUNDING OFF OF TOTAL INCOME - SEC. 288A:

The total income computed under this act shall be rounded off to **nearest multiples of rupees ten.**

6.13. ROUNDING OFF OF TAX LIABILITY - SEC. 288B.

It may be noted that, the aggregate of tax, surcharge and education-cess (including secondary and higher education cess) payable shall be rounded off to **nearest multiples of rupees ten.**

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PROBLEMS

1. X starts a new business on March 29, 2023. He closes down first set of books of accounts on March 31, 2024. He wants that income generated during should be chargeable to tax for the assessment year 2024-25. Is he legally correct?

2. The gross total income of Mr. X, a resident aged 30 years, for the P.Y.2023-24 comprises of salary (₹ 5,05,000) and interest on savings bank (₹ 8,000). Compute his tax liability for the A.Y.2024-25, assuming that he has deposited ₹ 50,000 in public provident fund and he is paying tax under optional tax regime.

3. Mrs. X is resident in India for the assessment year 2024-25. For the previous year 2023-24, her income chargeable to tax in India is ₹ 15,54,810. Find out tax liability in old and new schemes, if the age of Mrs. X is (a) 59 (b) 60.

4. Compute the tax liability of X Ltd., assuming that the total income of X Ltd., is ₹ 1,01,00,000.

5. Write short note on "Income accruing" and "Income due". Can an income which has been taxed on accrual basis be assessed again on receipt basis?

6. Describe average rate of tax and maximum marginal rate under section 2(10) and 2(29C) of the Income-tax Act, 1961.

7. Who is an Assessee? Who is a Deemed Assessee? Who is an Assessee in Default?

8. Explain the concept of marginal relief under Income-tax Act, 1961?

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Chapter 2

Residential Status & Scope of Total Income

Before we Begin,

It has become a human tendency to travel across the boundaries, as they travel, people settled down and started to make their living giving rise to income which at last needs to be taxed in these dynamic times.

Various lands have their own Laws w.r.t taxation, our Indian Tax Laws prescribe to determine the residential Status of the person to for applicable tax Treatment and the Scope of their income(s) based on the place at which it is earned/receivable.

This Chapter clarifies on the aspects of:

- Determining the Residential Status of Various Persons
- Certain situations where they become Deemed to be residents
- Concepts of Accrual and Receipt
- Disseminating the income of a person as Indian Income or Foreign Income

Happy learning!



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1. INTRODUCTION:

The tax incidence of a person depends on two factors:

1. The residential Status of the assessee
2. The time and place of accrual or receipt of income

2. SECTION 6:- RESIDENTIAL STATUS:

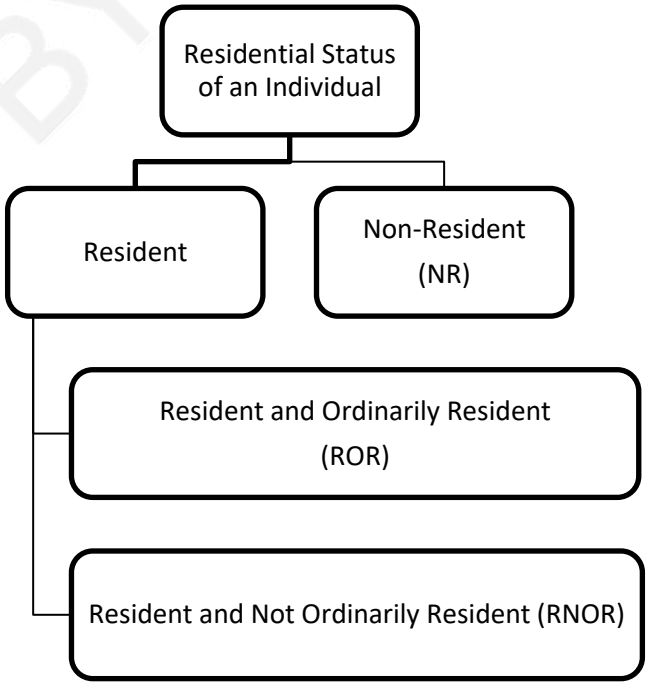
a) The incidence of taxation of any assessee depends upon his residential status under the IT act. The taxability of a particular receipt would thus depend upon not only on the nature of income and place of its accrual or receipt but also upon the assesses residential status.

b) The residential status of an assessee is to be determined for each previous year. In one year, the assessee may be resident while in another year he may be a non-resident or vice-versa.

2.1. Residential status for individuals:

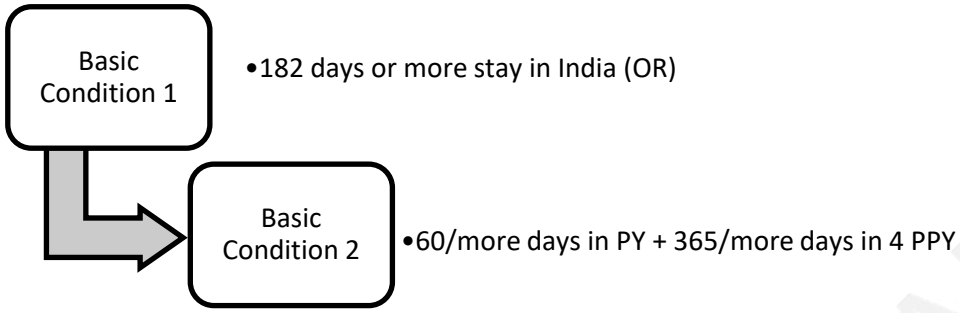
The residential status for an individual is classified into 3 categories:

1. Resident & ordinarily resident (R & OR)
2. Resident but not Ordinarily resident (R & NOR)
3. Non - Resident.



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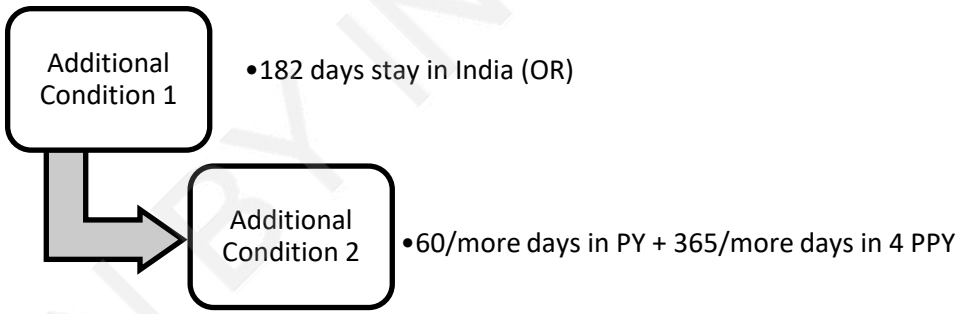
DETERMINATION OF RESIDENTIAL STATUS



If any one of the above conditions are met, such INDIVIDUAL will be considered as Resident and Ordinarily Resident (ROR)

Furthermore, he shall be considered as Resident and Ordinarily Resident if he satisfies BOTH of the Additional Conditions,

Furthermore, he shall be considered as Resident and Not Ordinarily Resident if he satisfies Any one of the Additional Conditions,



If None of the above Basic conditions and Additional conditions are satisfied, then such individual will be considered as Non-Resident

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- **RESIDENT**
  - **Basic conditions: [Sec - 6(1)]**

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

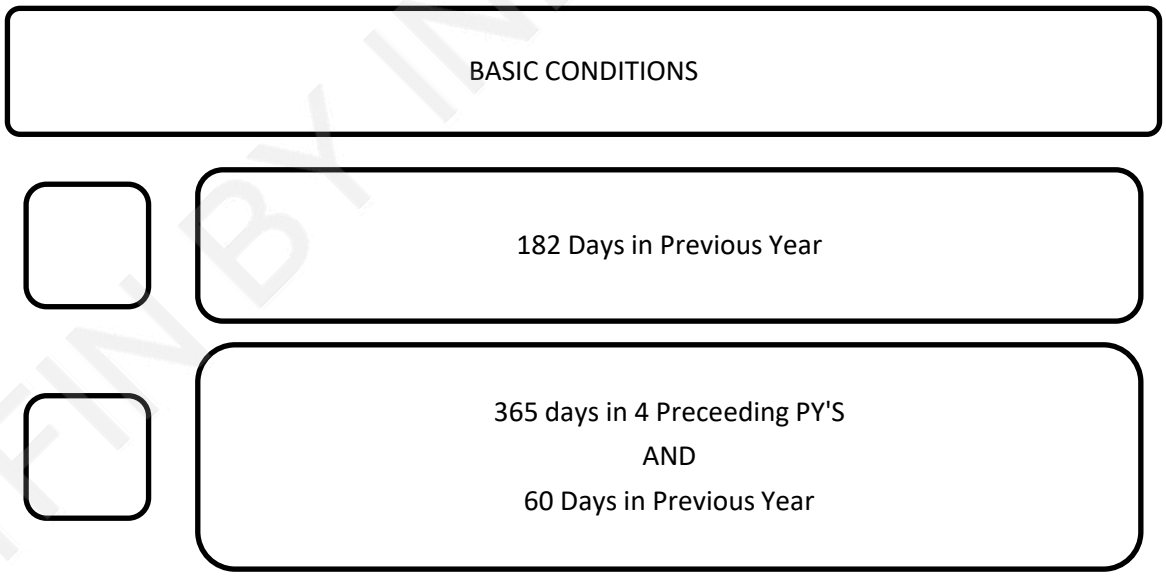
    - He is in India in the previous year for a period of **182 days** or more **[OR]**
    - He has been in India during the **4 years** immediately preceding the previous

      year for a **total period of 365 days** or more **[AND]**

      has been in India for at least **60 days in the relevant previous year**.

      NOTE:

    1. The term "stay in India" includes stay in the territorial waters of India (i.e. 12 nautical miles into the sea from the Indian coastline). Including the stay in a ship or boat moored in the territorial waters of India.
    2. It is not necessary that the period of stay must be continuous.
    3. For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India.
    4. The residence of an individual for income-tax purpose has nothing to do with citizenship, place of birth or domicile.



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- **NON-RESIDENT:**

  If an individual does not satisfy any of the basic conditions, he shall be considered as non-resident.

  - **Exceptions:**

    The above said period of 60 days is extend to 182 days in the following cases

    - An Indian citizen who leaves India during the previous year for the purpose of employment outside India.
    - Indian citizen who leaves India during the previous year as a member of crew of an Indian ship or foreign ship.

      The period or periods of stay in India shall, in respect of an eligible voyage, not include the following period:

      Period commencing from:

      The date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage **and**

      Period ending on:

      The date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of that voyage.

      NOTE:

      - Continuous Discharge Certificate means the meaning assigned to it in the Merchant Shipping (Continuous Discharge Certificate- cum Seafarer's Identity Document) Rules, 2001 made under the Merchant Shipping Act, 1958.
      - Eligible Voyage means:

        A voyage undertaken by a ship engaged in the carriage of passengers or freight in international traffic where –

        (i) for the voyage having originated from any port in India, has as its destination any port outside India; and

        (ii) for the voyage having originated from any port outside India, has as its destination any port in India.

    - An Indian citizen or person of Indian origin who comes on a visit to India during the previous year.

      However, such person having total income, other than the income from foreign sources, exceeding 15 lakhs during the previous year will be treated as resident in India if –

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

➢ **DEEMED RESIDENT {Section 6(1A)}**

An individual shall be treated as a deemed resident if the following conditions are satisfied:

1. Citizen of India
2. Total Income other than income from foreign sources > Rs. 15 lakhs during the P.Y
3. Not liable to pay tax in any other country

For the purposes of this section, the expression "income from foreign sources" means

- Income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and
- Which is not deemed to accrue or arise in India.

Liable to tax means that there is an income-tax liability on such person under the law of that country for the time being in force. It also includes a person who has **subsequently** been exempted from such liability under the law of that country.

NOTE:

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

NOTE:

A person is deemed to be of Indian origin if he or she, or either of his parents or any of his grandparents, was born in undivided India. It may be noted that grandparents include both maternal and paternal grandparents.

❖ **Additional conditions: {Section 6(6)}**

- He has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year; and
- He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year

➢ **RESIDENT AND ORDINARILY RESIDENT (R& OR):**

An individual is said to be R & OR if he satisfies any one of the basic conditions & both the additional conditions.

❖ **NOTES:**

- The place in India, purpose and continuity of stay is not relevant for determining the residential status.
- If an individual is in India for part of a day calculation of physical presence should be made on hourly basis.
- If the data is not available to calculate the period of stay in terms of hours, then the day on which he enters India as well as the day on which he leaves India shall be taken in to account as a stay of individual in India.
- A stay by an individual on a yacht moored in the territorial waters of India would be treated as presence in India for the purpose of this section.

➢ **RESIDENT BUT NOT ORDINARILY RESIDENT**

- An individual is said to be R & NOR if he satisfies any one of the basic conditions & fails to fulfill any one or both the additional conditions, or
- If an individual is an Indian citizen or person of Indian origin (who, being outside India, comes on a visit to India in any previous year) having total income, other than the income from foreign sources, exceeding 15 lakhs during the previous year, who has been in India for 120 days or more but less than 182 days during that previous year, or
- If such individual is an Indian citizen who is deemed to be resident in India under section 6(1A)

Summary of residential status of an individual:

CATEGORY	**BASIC CONDITIONS**	**ADDITIONAL CONDITIONS**
Resident	Any one or both	N/A
Resident & ordinary resident	Any one or both	Both
Resident but not ordinary resident	Any one or both	Any one or none
Non resident	None	None

2.2. RESIDENTIAL STATUS OF HUF {Section 6(2) and Section 6(6)}

The residential status of HUF is classified into 3 Categories:

➢ Resident & Ordinarily resident (R & OR)

➢ Resident but not Ordinarily resident (R & NOR)

- Non - Resident.

- **Resident**

A HUF is said to be resident in India in any previous year if control and management of its affairs is wholly or partly situated in India. (BASIC CONDITION)

- **Non resident**

  A HUF is non-resident in India if control and management of its affairs is wholly situated outside India.

- **Resident and Ordinarily Resident**

  The HUF shall be said to be resident and ordinarily resident in India if control and management of its affairs is wholly or partly situated in India and KARTA of the HUF satisfies both the following conditions (ADDITIONAL CONDITIONS) :-

  - He has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year.
  - He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year.

    (In short, R & OR - Fulfills Basic condition of HUF & both additional conditions of Individual)

- **Resident but not ordinarily resident**

  The HUF shall be said to be resident but not ordinarily resident in India if control and management of its affairs is wholly or partly situated in India And

  KARTA of the HUF **does not** satisfy **both** of the Additional conditions.

2.3. RESIDENTIAL STATUS OF FIRM, AOP, BOI & OF OTHER PERSONS (EXCEPT COMPANIES) {Section 6(2) and Section 6(4)}:

There are only 2 residential statuses, i.e., Resident & Non- Resident.

- A firm, AOP, BOI etc. is said to be resident in India if the control and management is wholly or partly situated in India.
- If the control and management is wholly situated outside India then they said to be non-resident.

NOTE:

Control and Management means-

- The central control and management and not the carrying on of day-to-day business by servants, employees or agents.
- The business may be done from outside India and yet its control and

management may be wholly within India.

- The place of control may be different from the usual place of running the business and sometimes even the registered office of the assessee.
- But control and management do imply the functioning of the controlling and directing power at a particular place with some degree of permanence.

2.4. RESIDENTIAL STATUS OF COMPANY {Section 6(3)}

➢ **Resident:**

❖ Indian company **[OR]**

❖ Its place of effective management [POEM], in that year, is in India.

➢ **Non – resident:**

In any other case, the company shall be considered as non-resident.

Points to be noted:

❖ For determining whether HUF is resident or not, the Place of stay in India of Karta has no relevance.

❖ There are two types of control: Dejure control & De Facto control.

❖ Dejure controller means the person who is supposed to have control. De Facto controller means the person who actually controls.

❖ For determination of residential status the situs of Defacto control is only relevant.

The term **"Control and Management"** refers to the central controlling power and not the day-to-day affairs of the company. (i.e., HEAD & BRAIN)

"Place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

SECTION 5: SCOPE OF TOTAL INCOME:

➢ **"TAX INCIDENCE (or) Scope of TI":** means who has to pay Indian income tax on Income Accrued (or) Received "IN INDIA" (or) "OUTSIDE" India.

- **"RECEIVE":** When the money actually 'reaches" the assessee. (or his Representative)

- **"ACCRUE" (or) "ARISE":** When the "right to receive" vests in the hands of the assessee.
  - Accrue means to arise or spring as a natural growth or to come by way of increase.
  - Arise means coming into existence. .

- **Determining the nature of Income:**

Whether income is received (or deemed to be received) in India during the previous year	Whether income accrues (or arises or is deemed to accrue or arise) in India during the previous year	Nature of the Income
Yes	Yes	Indian income
Yes	No	Indian income
No	Yes	Indian income
No	No	Foreign income

Thus tax incidence depends on 3 things:

- Assessee **residential status**.
- The **place of Accrual** of income.
- The **place of receipt** of income.

Particulars	**R& OR**	**R & NOR**	**NR**
1) Income Received or Deemed to be received in India	Taxable	Taxable	Taxable
2) Income accruing or arising or deemed to accrue or arise in India	Taxable	Taxable	Taxable

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3) Income accruing or arising outside India (i.e., foreign Income) from: -			
a) Business controlled in India or Profession set up in India	Taxable	Taxable	No tax
b) Any Other Source	Taxable	Not taxable	Not taxable
4) Past untaxed profits brought to India	Not taxable	Not taxable	Not taxable

NOTE: - Only an individual and HUF can be "Resident but not ordinarily Resident".

Observation:

- R & OR is taxable on Global income. (For him receipt / remittance makes no difference).
- Non- resident is not taxable in respect of foreign income.

NOTE:

- Income received or deemed to be received in India is taxable in all cases irrespective of its place of accrual. Even if the income accrue or arise outside India, if it is received for the first time in India it is taxable in India.

- If income accrue or arise outside India and also received there it-self, subsequently remitted to India is not taxable in the hands of R & NOR and NR. (Receipt ≠ remittance)

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3. SECTION 7:- INCOMES DEEMED TO BE RECEIVED IN INDIA:

The following incomes shall be deemed to be received in India in the previous year even in the absence of actual receipt

- Employer's contribution to recognized provident fund in excess of 12% of salary.
- Interest credit to the recognized provident fund balance at the credit of the assessee in excess of 9.5%.
- Transfer balance from the unrecognized provident fund to recognized provident fund (**ONLY** employers' contribution Plus interest there on)
- The contribution by Central Government or any employer in the previous year under a pension scheme referred to in sec. 80CCD.

4. SECTION - 9 INCOME DEEMED TO ACCRUE OR ARISE IN INDIA

1. Income from a business connection in India

Any income which arises, directly or indirectly, from any activity or a business connection in India is deemed to be earned in India.

"Business Connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident:

- has an authority to conclude contracts and habitually exercises such authority in India, or

  habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and such contracts should be

  - in the name of the non-resident; or
  - for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or
  - for the provision of services by that non-resident,
- 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 the non-resident, or
- habitually secures orders in India mainly or wholly for the non-resident or for that non- resident along with other non-residents who are subjected to the same common control as that non -resident.

  Further, there may be situations when the person acting on behalf of the non-resident secures order for other non-residents. In such situation, business connection for other non-residents is established if,

  (a) such other non-resident controls the non-resident or

(b) such other non-resident is controlled by the non-resident or
(c) such other non-resident is subject to same control as that of non-resident.

In all the three situations, business connection is established, where a person habitually secures orders in India, mainly or wholly for such non-residents and only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.

Agents having independent status are not included in Business Connection:

There shall be **NO BUSINESS CONNECTION** where the non-resident carries on business activity through a broker, general commission agent or any other agent having an ***independent status***, if such a person is acting in the ordinary course of his business.

- **The agent is said to have** independent status where he does not work mainly or wholly for the non- resident

Significant economic presence [Explanation 2A to section 9(1)(i)]

Significant economic presence of a non-resident in India shall also constitute business connection in India.

Significant economic presence means-

	Nature of transaction	Condition
(a)	in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India	Aggregate of payments arising from such transaction or transactions during the previous year should exceed ₹ 2 crores.
(b)	systematic and continuous soliciting of business activities or engaging in interaction with users in India	The number of users should be atleast 3 lakhs.

Further, the above transactions or activities shall constitute significant economic presence in India, whether or not, —

(i) the agreement for such transactions or activities is entered in India;

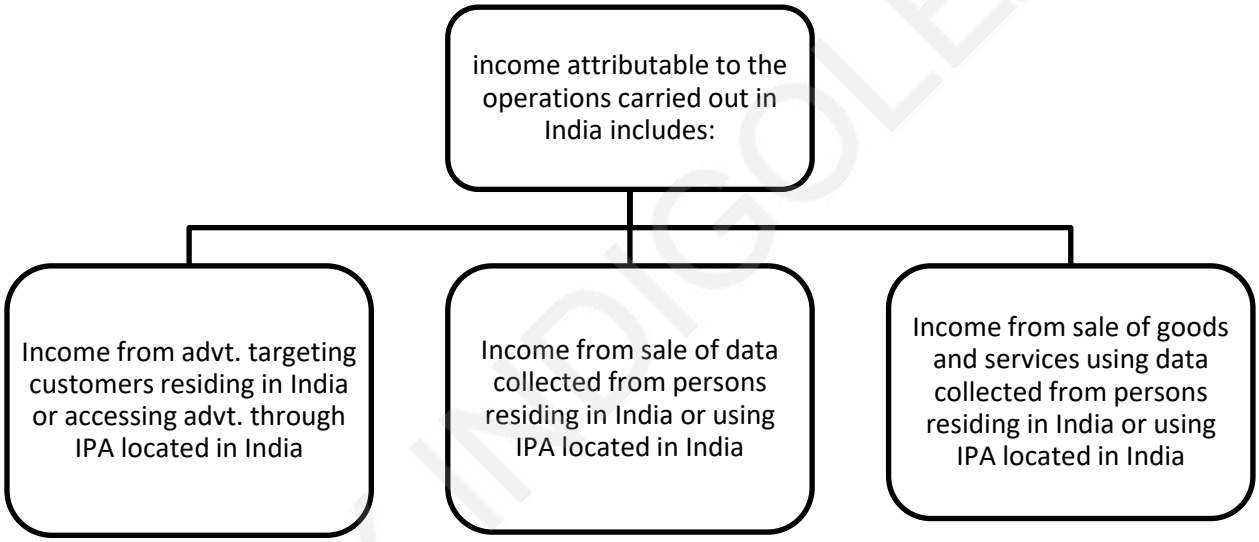
(ii) the non-resident has a residence or place of business in India; or

(iii) the non-resident renders services in India:

However, where a business connection is established by reason of significant economic presence in India, only so much of income as is attributable to the transactions or activities referred to in (a) or (b) above shall be deemed to accrue or arise in India.

Business connections may be in "several forms." They may be in the form of branch office or agent or organization or subsidiary company in India of a non resident and carrying business of non resident in India. However the following shall not be treated as business connection in India:

- The income which cannot be reasonably attributed to the operations in India, is not deemed to accrue or arise in India (For business, other than the business having business connection in India on account of significant economic presence).



- Purchase of goods in India for the purpose of exports.
- Collection of news and views for transmission outside India by or on behalf of non-resident who is engaged in the business of running news agency or of publishing newspapers, magazines or journals.
- Shooting of cinematograph film in India if such non – resident is:
  - **An Individual:** He should not be a citizen of India.
  - **A Firm:** The firm should not have any partner who is a citizen of India or who is resident in India.
  - **A Company:** The Company does not have any share holder who is a citizen of India or who is resident in India.
- In the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through

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or from the activities which are confined to display of uncut and unassorted diamonds in any Special Notified Zone (SNZ).

Only such part profit/income of non-resident, which can be reasonably attributable to operations carried in India through business connection in India, are deemed to be accrued or arised in India.

2. **Income from any property, asset, or source of income situated in India.**

   Income arises from any property movable or immovable, tangible, intangible which is situated in India is deemed to accrue or arise in India.

3. **Income from transfer of capital asset situated in India.**

   Any capital gain earned by a person by transfer of any capital asset situated in India, is deemed to accrue or arise in India.

   Any asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

   *However, the **dividends declared and paid by a foreign company outside India** in respect of shares which derive their value substantially from assets situated in India would **NOT** be deemed to be income accruing or arising in India*

4. **Income under the head salaries.**

   Any income payable for services rendered in India shall be regarded as income **EARNED** in India though it may be paid in India or outside. It will also include salary of the rest period or leave period which is preceded and succeeded by service rendered in India.

5. **Salary payable by the Government to an Indian citizen /national for services rendered outside India.**

   This income is treated as deemed to accrue or arise in India if the following conditions are satisfied: -

   - Income should be chargeable under the head "salaries" and the recipient (resident or non resident) should be Indian citizen.
   - The services should be rendered outside India and the payer should be government of India.
   - However, all the allowances and perquisites paid abroad are exempt u/s 10(7).

6. **Dividend paid by an Indian company outside India.**

   - Dividend paid by the Indian company outside India is deemed to accrue or arise in India.

7. **Income by way of interest, Royalty and fees for technical services.**

Type of Income	Payable by Government	Payable by Resident	Payable by Non-Resident
Interest	Deemed to accrue or arise in India.	Deemed to accrue or arise in India except when used for the purpose of business or profession carried on outside India or earning any income from any source outside India.	Deemed to accrue or arise in India only when used for the purpose of business or profession carried on in India.
Royalty is payable in respect of any right / information/ property used	-do-	-do-	Deemed to accrue or arise in India only when used for the purpose of business or profession carried on in India or earning any income from any source in India.
Fees for technical services	-do-	-do-	-do-

The following said payments are not taxable

- ANY AMOUNT [INTERST, ROYALTY, TECHNICAL FEE] PAID BY RESIDENT TO NON RESIDENT FOR CARRING BUSINESS OR PROFESSION OUTSIDE INDIA
- ANY AMOUNT [INTERST, ROYALTY, TECHNICAL FEE] PAID BY NON RESIDENT TO NON RESIDENT FOR CARRING BUSINESS OR PROFESSION OUTSIDE INDIA

IMPORTANT POINTS:

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

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

(i) the transfer of all or any rights (including the granting of licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property;

(iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property;

(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

(v) the use or right to use any industrial, commercial or scientific equipment[2];

(vi) the transfer of all or any rights (including the granting of licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting.

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

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

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

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

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

(4) Consideration in respect of any right, property or information – Is it royalty?

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

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

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

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

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

PROBLEMS

1. An individual, who is an Indian resident, is allowed to hold two different citizenships simultaneously. Is citizenship a determining factor for residential status of an individual?

2. Brett Lee, an Australian cricket player visits India for 100 days in every financial year. This has been his practice for the past 10 financial years.
   a) Find out his residential status for the assessment year 2024-25.
   b) Would your answer change if the above facts relate to Srinath, an Indian citizen
      who resides in Australia and represents the Australian cricket team?
   c) What would be your answer if Srinath had visited India for 120 days instead of 100
      days every year, including P.Y.2023-24?

Solution:

(a) Determination of Residential Status of Mr. Brett Lee for the A.Y. 2024-25:-

Period of stay during previous year 2022-23 = 100 days

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

2022-23	100 days
2021-22	100 days
2020-21	100 days
2019-20	100 days
Total	**400 days**

Mr. Brett Lee has been in India for a period more than 60 days during previous year 2023-24 and for a period of more than 365 days during the 4 immediately preceding previous years.

Therefore, since he satisfies one of the basic conditions under section 6(1), he is a resident for the assessment year 2024-25.

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

2022-23	100 days
2021-22	100 days
2021-22	100 days
2020-21	100 days
2019-20	100 days
2018-19	100 days
2017-18	100 days
Total	**700 days**

Since his period of stay in India during the past 7 previous years is less than 730 days, he is a not-ordinarily resident during the A.Y. 2024-25. (See Note below)

Therefore, Mr. Brett Lee is a resident but not ordinarily resident during the previous year 2023-24 relevant to the assessment year 2024-25.

Note:

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

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

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

In this case, since Mr. Brett Lee satisfies condition (ii), he is a not-ordinarily resident for the A.Y. 2024-25.

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

(c) In this case, if Srinath's total income (excluding income from foreign sources) exceeds 15 lakh, he would be treated as resident but not ordinarily resident in India for P.Y.2023-24, since his stay in India is 120 days in the P.Y.2023-24 and 480 days (i.e., 120 days x 4 years) in the immediately four preceding previous years.

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If his total income (excluding income from foreign sources) does not exceed 15 lakh, he would be treated as non-resident in India for the P.Y.2023-24, since his stay in India is less than 182 days in the P.Y.2023-24.

3. During the previous year 2023-24, X, a foreign national (not being a person of Indian origin), visits India for 100 days. Determine his residential status for the assessment year 2024-25 on the basis of the following information:

- ❖ During 2022-23, X is present in India for 350 days.
- ❖ During 2021-22 and 2020-21, X is in India for 15 and 366 days respectively.

4. X was born in Pune in 1980. Later on, he migrated to Australia in December 2022 and took the citizenship of that country with effect from January 1, 2023. His parents were born in Nasik in 1950 but his grandparents were born in Sydney. He comes to India on February 15, 2024, for a visit of 190 days. Find out the residential status of X for the assessment year 2024-25 on the assumption that before 2023, he was present in India for at least 275 days every year.

5. X is a foreign citizen. He, his parents and grandparents were not born in undivided India. However, his relatives (like brothers of his father, sisters of his mother and brothers and sisters of his grandfather and grandmother) were born in undivided India. He is in India as follows-

Previous year	Presence in India
2023-24	147 days
2022-23	140 days
2021-22	300 days
2020-21	25 days
2019-20	32 days
Before 2019-20	Nil

Find out the residential status of X for the assessment year 2024-25.

6. X (44years) is a citizen of India. He leaves India for the first time on September 20, 2022 for the purpose of working on an overseas project of his employer-company: ABC ltd., an Indian company. He will come back on October 10, 2023. Find out his residential status for the assessment years 2023-24 and 2024-25.

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7. X is a citizen of Pakistan. His maternal grandfather was in a village near Karachi in 1933. He comes to India on April 7, 2023 to complete a foreign assignment of his employer-company. He goes back on June 4, 2023.

Mrs. X is a resident in India for the previous year 2023-24. Prior to April 7, 2023, X was in India as follows

Previous year	Number of days when X was in India
2022-23	179
2021-22	182
2020-21	180
2019-20	72
2018-19	175
2017-18 (and before 2017-18)	Nil

Income of X for the previous year 2023-24 is as follows—

Salary from a Pakistani company (received in Pakistan) (for rendering service in Pakistan)	14,34,000
Salary from a Pakistani company (received in Pakistan) (for rendering service in India)	6,63,000
Business income (Business is situated in UAE, it is partly controlled from Pakistan and partly from India and entire income is received in UAE)	9,95,000
Rental income from a property situated in Mumbai (income is received in Pakistan)	2,10,000
Business income (business is situated in UK and it is partly controlled from UK and partly from Pakistan) (income is received in UK and later on ₹ 50,000 is remitted to India)	10,72,000
Birthday gift, received cash gifts in India from his friends, (some of them have sent gift cheques from Pakistan)	74,000

Find out residential status and taxable income of X for the assessment year 2024-25.

8. X is a citizen of South Africa. He comes to India for the first time for a visit of 250 days on December 10, 2023. During the previous year ending 2023-24, he gets the following fees for technical services

Technical fees from the Government of South Africa (received in UK)	8,00,000
Technical fees from the Government of South Africa (received in Chennai)	9,00,000
Technical fees from the Government of India (received in UK)	10,00,000
Technical fees from the government of India (received in Chennai)	11,00,000
Technical fees from Y (a resident in India) (this fees is paid to him outside India for providing technical service outside India, however, the benefit of technical service is utilized by Y for carrying on a business in India)	2,00,000
Technical fees from Z (a resident in India) (this fees is paid to him outside India for providing technical service outside India, however, the benefit of technical service is utilized by Z for carrying on a business in Bhutan)	3,00,000
Technical fees from A (a resident in India) (this fees is paid to him outside India for providing technical service outside India, however, the benefit of technical service is utilized by A for carrying on a business in India)	2,10,000
Technical fees from B (a resident in India) (this fees is paid to him outside India for providing technical service outside India, however , the benefit of technical service is utilized by B for carrying on a business in Bhutan)	3,10,000

Determine the amount of net income chargeable to tax in the hands of X for the assessment year 2024-25.

9. Mrs. Geetha and Mrs. Leena are sisters and they earned the following income during the F.Y. 2023-24. Mrs. Geetha is settled in Malaysia since 1985 and visits India for a month every year. Mrs. Leena is settled in Indore since her marriage in 1994. Compute the total income of Mrs. Geetha and Mrs. Leena for the assessment year 2024-25.

	Particulars	**Mrs. Geetha (₹)**	**Mrs. Leena (₹)**
1.	Income from profession in Malaysia (set up in India), received there	15,000	-
2.	Profit from business in Delhi, but managed directly from Malaysia	40,000	
3.	Rent (computed) from property in Malaysia deposited	1,20,000	-

	in a Bank at Malaysia, and later on remitted to India through approved banking channels.		
4.	Dividend from PQR Ltd, an Indian company	5,000	9,000
5.	Dividend from a Malaysian company received in Malaysia	15,000	8,000
6.	Cash gift received from a friend on Mrs. Leena's birthday	-	51,000
7.	Agricultural income from land in Maharashtra	7,500	4,000
8.	Past foreign untaxed income brought to India	5,000	-
9.	Fees for technical services rendered in India received in Malaysia	25,000	-
10.	Income from a business in Pune (Mrs. Geetha receives 50% of the income in India)	12,000	15,000
11.	Interest on debentures in an Indian company (Mrs. Geetha received the same in Malaysia)	18,500	14,000
12.	Short-term capital gain on sale of shares of an Indian company	15,000	25,500
13.	Interest on savings account with SBI	12,000	8,000
14.	Life insurance premium paid to LIC		30,000

10. Determine the taxability for the AY 2024-25 of the following incomes in the hands of an individual whose residential status is

- Resident and ordinarily resident,
- Resident but not ordinarily resident and
- Non-resident

S.no	Particulars	Amount (in ₹)
1	Salary received in Canada for rendering service in Bangalore	50,000
2	Capital gain on sale of house situated in Surat (sale consideration received in Canada)	2,00,000
3	Dividend from foreign company received in Canada	8,000
4	Income earned from business in London which is controlled from Mumbai (₹ 1,00,000 is received in India)	4,00,000
5	Profits from business in Indore but managed entirely from Canada	1,25,000
6	Rental income (computed) from house property situated in Canada (rent is deposited in a bank at Canada and later on remitted to	1,20,000

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	India)	
7	Interest received in London from the Government of India for project situated in London	35,000
8	Royalty from a non-resident company received in London in connection with business situated outside India	5,00,000
9	Past foreign untaxed income of 2021-22 earned and received there and brought to India during the previous year	25,000
10	Interest on savings bank deposit in Bank of India, Bhopal	10,000
11	Share of income received in India from a partnership firm situated in Dubai	80,000

11. From the following particulars of income furnished by Mr. Anand pertaining to the year ended 31.3.2024, compute his total income for the assessment year 2024-25, if he is:

(i) Resident and ordinarily resident;

(ii) Resident but not ordinarily resident;

(iii) Non-resident

	Particulars	₹
(a)	Short term capital gain on sale of shares in Indian Company received in Japan	25,000
(b)	Dividend from a South African company received in South Africa	20,000
(c)	Rent from property in UK deposited in a bank in UK, later on remitted to India through approved banking channels	1,50,000
(d)	Dividend from SK Ltd., an Indian Company	12,000
(e)	Agricultural income from land in Madhya Pradesh	56,000

12. (a) The business of a HUF is transacted from India and all the policy decisions are taken here. Mr. Aryan, the karta of the HUF, who was born in Mumbai, settled in London, since 1999. He visits India every year for 95 days. Determine the residential status of Mr. Aryan and the HUF for A.Y. 2024-25.

(b) Mr. Sachin settled in Australia in the year 1990, earned the following incomes during the financial year 2023-24. Compute his total income for the assessment year 2024-25.

Sr. No.	**Particulars**	**Amount (₹)**

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1.	Fees for technical services rendered in India, but received in Australia	75,000
2.	Interest on Savings Bank Deposit in Indian Bank	12,000
3.	Interest on Australia Development Bonds (only 50% of interest received in India)	55,000
4.	Dividend from Indian company received in Australia	28,000
5.	Profit from a business in Nagpur, but managed directly from Australia	95,000
6.	Short term capital gain on sale of shares of an Indian company received in India	90,000
7.	Agricultural income from a land situated in Punjab	55,000
8.	Rent received in respect of house property at Bhopal	1,25,000

13. Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6th June, 2023. From the following details for the P.Y. 2023-24, determine the residential status of Mr. Anand for A.Y. 2024-25, assuming that his stay in India in the last 4 previous years (preceding P.Y. 2023-24) is 400 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6th June, 2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9th December, 2023

Solution:

In this case, since Mr. Anand is an Indian citizen and leaving India during P.Y. 2023-24 as a member of the crew of the Indian ship, he would be resident in India if he stayed in India for 182 days or more.

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

Therefore, the period beginning from 6th June, 2023 and ending on 9th December, 2023, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India.

Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y. 2023-24 would be 178 days [i.e., 365 days – 187 days].

Since his period of stay in India during the P.Y. 2023-24 is less than 182 days, he is a non- resident for A.Y. 2024-25.

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

Solution:

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

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

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

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

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Chapter 3

Agricultural Income

Before we Begin,

Indian Economy has major proportion for Agricultural Sector, most of the rural India is engaged in Agricultural Activities. Such Agricultural activities give rise to Income to the persons engaged with it.

This Chapter further more clarifies on the aspects of:

- Definition of Agricultural income
- Determination of Agricultural Land
- Disseminating Agricultural and Non-Agricultural Incomes
- Computation of Tax on Agricultural Income

Happy learning!



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1. DEFINITION OF AGRICULTURAL INCOME [SECTION 2(1A)]:

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

- **"AGRICULTURAL INCOME" MEANS: (EXHAUSTIVELY DEFINED)**
  - Any rent or revenue derived from agricultural land which is situated in India and is used for agricultural purpose.
  - It may be income derived from such Land through
    - agriculture (or)
    - the performance of a process ordinarily employed by a cultivator (or)
    - receiver of rent in kind to render the produce fit to be taken to the market (or) through the sale of such agricultural produce in the market.
  - Therefore, as per section 2, if following three conditions are satisfied, income derived

    from land 'can be termed as income "agriculture income".
    - Rent or revenue should be derived from agricultural land (may be in cash or in kind):
    - The land is one which is in India; and
    - The land is used for agricultural purpose.

      Note:

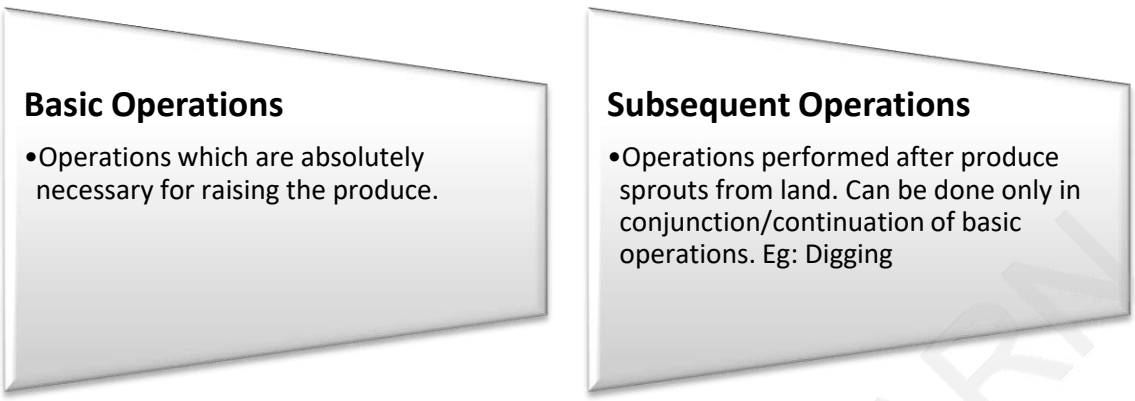
      - The rent can either be received by the owner of the land or by the original tenant from the sub-tenant. It implies that ownership of land is not necessary.
  - Agricultural income may be derived from any farm building required for agricultural operations.
- As per clause (c) of section 2(1A), income derived from any building which is on or in the immediate vicinity of land in India, used for agricultural purposes, and is occupied as a dwelling house, store house or other outbuilding by -

  (1) the receiver of rent or revenue of any such land or

  (2) the cultivator or receiver of rent-in-kind

  Would be treated as agricultural income.

➢ **The following points are to be noted:**



❖ Land has to be situated in India. So, if agricultural land is situated in a foreign state, the entire income would be taxable.

❖ "Agriculture" and "Agricultural purposes":

These terms have not been defined in the Act. However, if any income derived after basic operations of agriculture, which involve expenditure of human skill and labour on the land & requires subsequent operations, then it forms part of agricultural income.

❖ The income from the ordinary process employed to render the produce fit to be taken to the market would be agricultural income and the produce must retain its original character even after the processing.

Eg: Procedure of obtaining rice from paddy

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

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SL. No	AGRICULTURAL-INCOME	SL. No	NON - AGRICULTURAL-INCOME
1.	Rent for agricultural land received from tenant or sub- tenant.	1.	Income from supply of water for irrigation process.
2.	Income from sale of replanted trees.	2.	Income from mining royalties.
3.	Share or profit or salary received by partner from partnership firm engaged in agricultural operations.	3.	Income from breeding of livestock, poultry farming, fisheries, dairy farming.
4.	Rent received from land used for grazing of cattle required for agricultural activities	4.	Income from sale of earth for brick making
5.	Income derived from the sale of seeds, growing of flowers and creepers & bamboo.	5.	Income from sale of forest trees of spontaneous growth of wood bark, leaves, fruits etc.
6.	Any income derived from saplings or seedlings grown in a nursery though basic operations are not performed.	6.	Income from stone quarries.
7.	Income from growing mulberry leaves	7.	Dividend/Any commissions paid by company out of its agricultural income.
8.	Compensation received from insurance company due to damage of tea garden from hailstorm.	8.	Income from sale of salt produced by flooding of land with sea water.
9.	Income from sale of rural agricultural land.	9.	Interest on arrears of rent payable in respect of agricultural land.

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2. INCOME FROM FARM BUILDING:



Basic Conditions:

a) The building should be on or in the immediate vicinity of the land; **[AND]**

b) The receiver of the rent or revenue or the cultivator or the receiver of rent in kind should, by reason of his connection with such land require it as a dwelling house or as a store house

Additional Conditions:

a) The land should either be assessed to land revenue in India or be subject to a local rate assessed.

b) If land is not so assessed to land revenue in India or is not subject to local rate it should not be an Urban Land.

Urban Land:

- The land situated in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than 10,000 according to last preceding census of which the relevant figures have been published before the first day of previous year.
- Further, the following also would be considered as urban agricultural land:

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

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3. AGGREGATION PROVISIONS:

- Entry 82 to List I of VII schedule to the constitution gives power to the Union Government to levy tax only on income other than agricultural income. The power to levy tax only on agricultural income is vested only with the State Government.
- Section 10(1) of the Income Tax Act exempts agricultural income from income tax.
- Even though agricultural income is fully exempt, net agricultural income is added to the total non-agricultural income computed as per the Income tax act, for the purpose of determining the income tax on non-agricultural income.
- This concept is known as partial integration of taxes. It is applicable to individuals, HUF, AOP, BOI and artificial judicial persons.
- ***The aggregation provisions do not apply to company; firm assessed as such (FAS), co-operative society and local authority.*** The object of aggregating the net agricultural income with non-agricultural income is to tax the non-agricultural income at higher rates.

The integration (Clubbing) is applicable if the following two conditions are satisfied: -

- The net agricultural income should exceed ₹ 5,000 p.a., and
- Non- agricultural income should exceed the maximum amount not chargeable to tax.

4. COMPUTATION PROCESS:

Step 1: Tax on [Agricultural Income (AI) + Non - agricultural income (NAI)]

Step 2: Tax on [Agricultural Income (AI) + Basic exemption limit]

Step 3: Tax on NAI = Step 1-Step 2

Step 4: Add surcharge, if applicable, to the amount obtained in Step 3 above/ reduce rebate u/s 87A if applicable.

Step 5: The sum so arrived-at step 4 shall be increased by health and education cess @4%.

5. APPORTIONMENT OF INCOME:

Where the agricultural produce like tea, cotton, tobacco, sugarcane etc. are subjected to a manufacturing process and the manufactured product is sold, the profit on such sales will consist of agricultural income as well as business income.

That portion of the profit representing agricultural income will be exempted. For this purpose, rules 7, 7A, 7B & 8 of Income Tax Rules, 1962 provides the basis of apportionment.

Activity	Rule	% of Agricultural Income (Exempt)	% of Business Income
Rubber Plantations (latex, cenex etc)	7A	65% of Total income	35% of Total income
Coffee grown , cured , grounded & roasted	7B	60% of Total income	40% of Total income
Coffee grown & cured	7B	75% of Total income	25% of Total income
Growing, manufacturing and trading of TEA	8	60% of Total income	40% of Total income

- Salary and interest received by a partner from a firm (growing leaves and manufacturing tea or any other activity) is taxable only to the extent of 40 or 35 or 25 percent and the balance is treated as agricultural income.

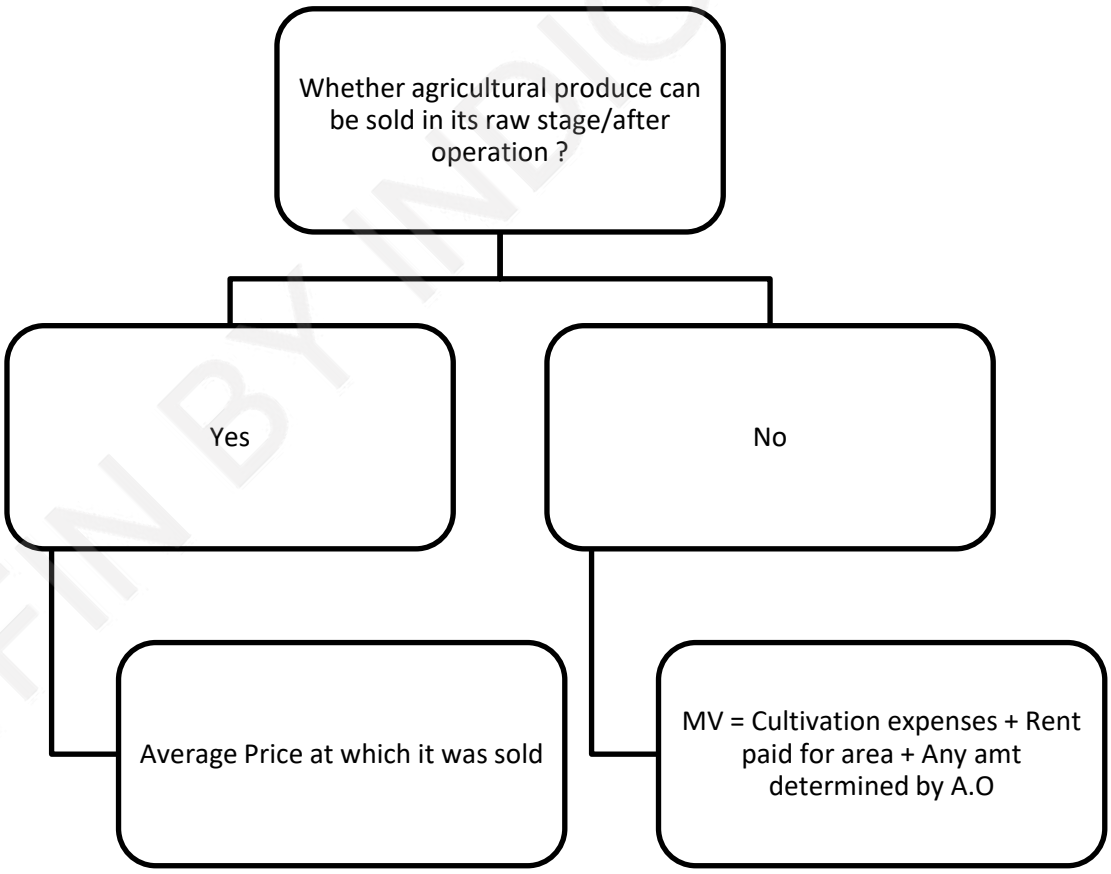
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6. RULE 7: INCOME FROM GROWING AND MANUFACTURING OF ANY PRODUCT OTHER THAN COFEE, TEA, RUBBER:

Where income is partially agricultural income and partially income chargeable to income tax under the head 'profits and gains of business', the market value of any agricultural produce which has been raised by the assessee or received by him as rent in kind and which has been utilized as raw material in such business shall be deducted.

No further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent in kind.

Determination of Market Value:



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Problems

1. From the following information, find out whether X (Age: 56 years) is liable to pay income tax for the assessment year 2024-25:

Particulars	₹
Non-agricultural income for the year ending March 31, 2024	2,00,000
Agricultural income for the previous year ending March 31, 2024	52,00,000
Non-agricultural income for the year ending March 31, 2024	2,00,000

2. For the assessment year 2024-25, net agricultural income of Mrs. X is ₹ 13,79,000.

   Her non-agricultural income is ₹ 7,40,000.

   Determine her tax liability. None of the parent of Mrs. X is a senior citizen.

3. For the assessment year 2024-25, Mrs. X (Date of birth: September 6, 1962), furnishes the following information:

Particulars	₹
Gross agricultural income	18,00,000
Expenditure on earning agricultural income	2,10,000
Non-agricultural income	26,57,000

   Determine the tax liability of Mrs. X for the assessment year 2024-25.

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4. Mr. B grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for ₹ 10 lakhs, and the cost of cultivation of such sugarcane is ₹ 5 lakhs. The cost of cultivation of the balance sugarcane (70%) is ₹ 14 lakhs and the market value of the same is ₹ 22 lakhs. After incurring ₹ 1.5 lakhs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹ 25 lakhs.

   Compute B's business income and agricultural income.

   Solution:

Computation of Business Income and Agriculture Income of Mr. B

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

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Chapter 4

Income from Salaries

Before we Begin,

This chapter serves as a detailed exploration of the intricacies involved in computing income from salaries for tax purposes.

Throughout this chapter, we will navigate through

- **ascertaining** the point of time when salary income is chargeable to tax;
- **comprehending** the meaning of salary, profits in lieu of salary, allowances, perquisite and various retirement benefits;
- **identifying** the allowances which are exempt and perquisites which aretax free under default tax regime under section 115BAC and under the optional tax regime (i.e., the normal provisions of the Act);
- **determining** the taxable portion of retirement benefits, allowances and other benefits which form part of salary;
- **determining** the value of perquisite chargeable to tax under the head "Salaries";
- **identifying** the admissible deductions from salary under the default tax regime under section 115BAC;
- **identifying** the admissible deductions from salary under the optional tax regime (i.e., the normal provisions of the Act)
- **computing** the income chargeable to tax under the head "Salaries" under both the default tax regime and the optional tax regime.

This Chapter further more clarifies on the aspects of:

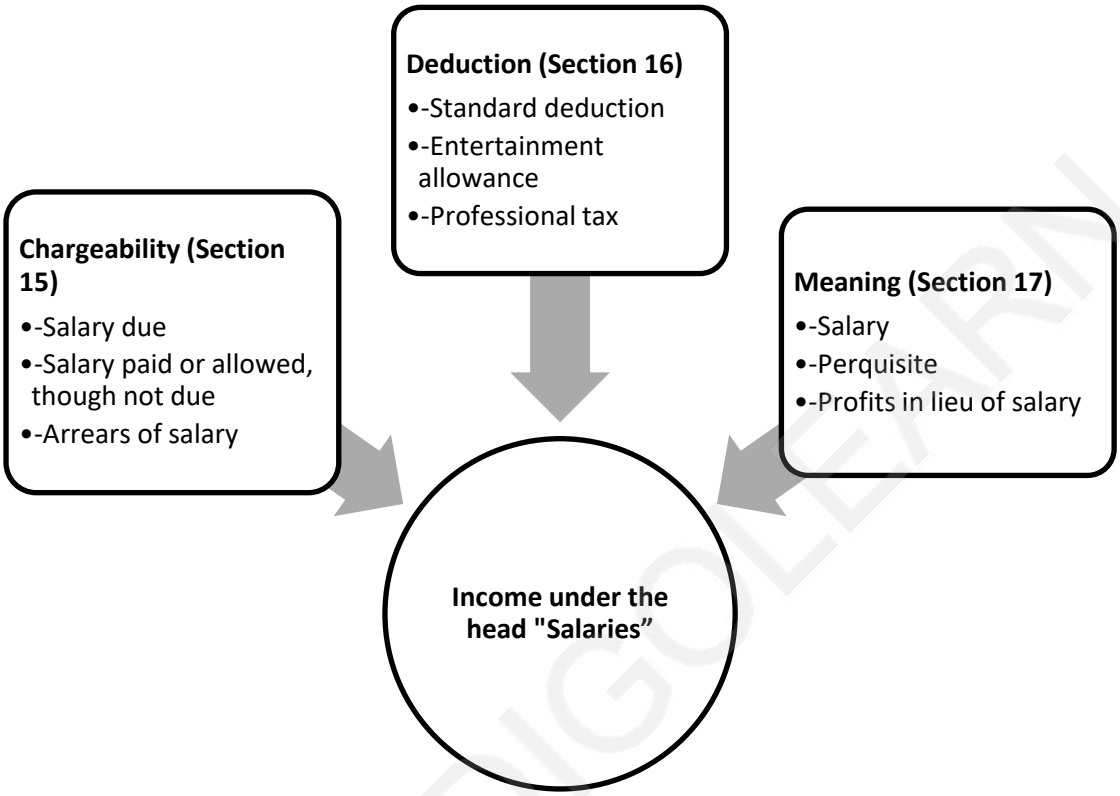
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INTRODUCTION

The provisions pertaining to Income under the head "Salaries" are contained in



section 15, 16 and 17 in the following manner.

1. SEC 15: CHARGEABILITY OF SALARY INCOME

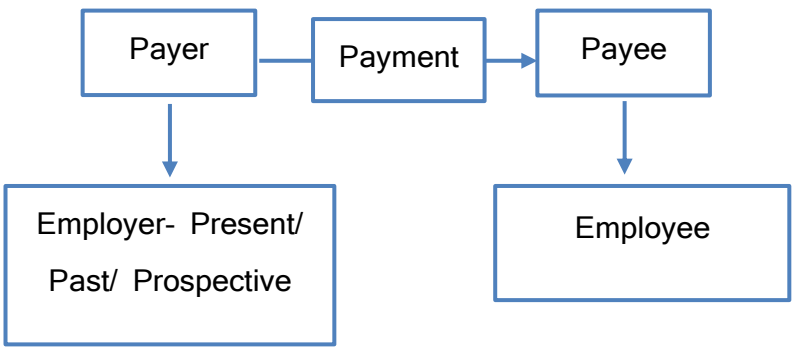
- Any amount due to or received by an employee from an employer and falling within the definition of 'Salary' is chargeable to tax under the head "Salaries".
- The term Salary is not exhaustively defined, but it is defined in an inclusive manner u/s 17(1).
- For the purpose of chargeability, "Salary" consists of:
  - Any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not.
  - Any salary paid or allowed to him in the PY by or on behalf of an employer or a former employer, whether due or not.
  - Any arrears of Salary paid or allowed to him by an employer or former employer if not charged to income tax in any PY.

Points:

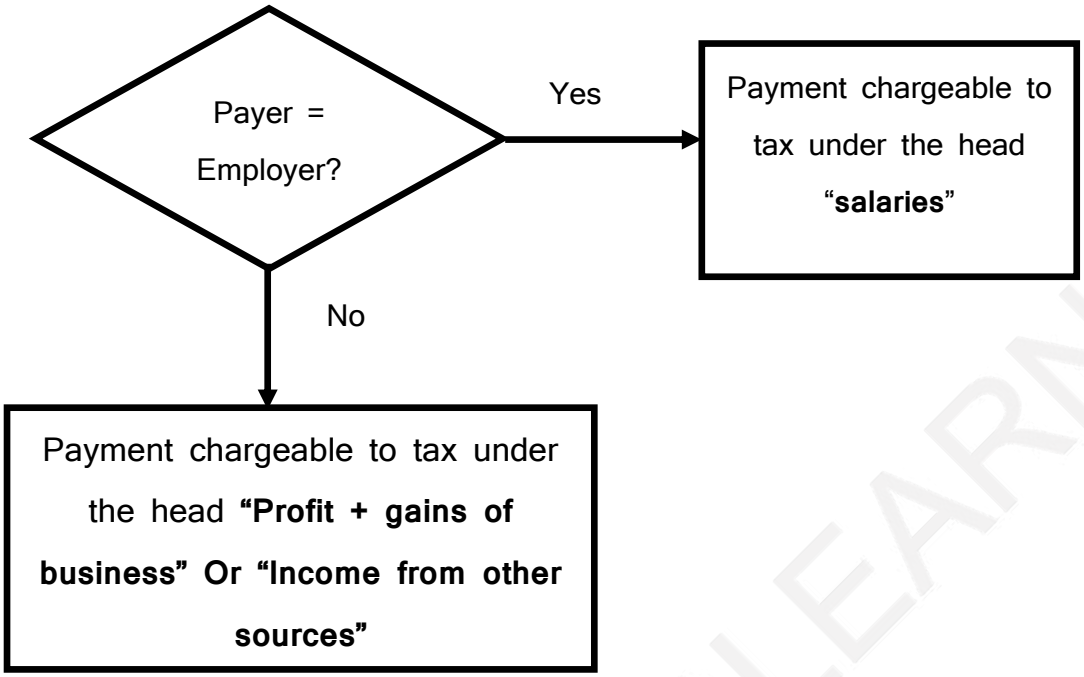
- Salary is taxable on due basis or on receipt basis whichever is earlier.
- It was held by the SC in CIT Vs Sardar Arjun Singh Ahluwalia (deed.) (1999) 240 ITR 693 that arrears of salary are chargeable to tax on receipt basis only.

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- Where any salary paid in advance is included in the total income of the any person in any PY it shall not be included again in total income when the salary becomes due.
- If the salary paid in arrears is included in the total income of the any person in any PY it shall not be included again in the total income when the salary becomes paid.
- **Advance Salary:**
  - The employee can claim relief u/s 89(i)
  - Loan taken by the employee from employer is not treated as Advance Salary. However notional interest on such advance is taxed as perquisites.
  - Similarly, advance against salary is different from advance salary. It is an advance taken by the employee from his employer. This advance is generally adjusted with his salary over a specified time period. It cannot be taxed as salary.
- **Arrears of Salary:**
  - It is taxable on receipt basis if not taxed earlier on accrual basis.
  - The employee can claim relief u/s 89(i)
- **Surrender of salary:**
  - Any amount of salary surrendered by the employee (whether Private sector or Govt. Sector employee) to Central Govt, under the voluntary surrender of Salaries (exemption from taxation) Act 1961, is not taxable.
- **Foregoing of salary:**
  - The salary foregone/voluntary waiver by employee is fully taxable in the hands of employee because it amounts to application of income.
  - However, if the employee foregoes his salary before it accrues is not taxable.
- **Employer-Employee relationship:**
  - Any income can be taxed under the head "Salaries" only if there is employer and employee relationship between the payer and the payee. The relationship of employer and employee should be of master and servant.
  - Salary to a partner of a firm is taxed under PGBP.
  - Guarantee commission to Director is taxed under other sources.



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- **Full-time or part-time employment:**
  - Once the relationship of employer and employee exists, the income is to be charged under the head "salaries". It does not matter whether the employee is a full-time employee or a part- time one.
  - If, for example, an employee works with more than one employer, salaries received from all the employers should be clubbed and brought to charge for the relevant previous years.

- **Salary paid tax-free:**
  - The employer bears the burden of the tax on the salary of the employee. In such a case, the income from salaries in the hands of the employee will consist of his salary income and also the tax on this salary paid by the employer.
  - However, as per section 10(10CC), the income-tax paid by the employer on non-monetary perquisites on behalf of the employee would be exempt in the hands of the employee.

- **Place of accrual of salary**:
  - Under section 9(1)(ii), salary earned in India is deemed to accrue or arise in India even if it is paid outside India or it is paid or payable after the contract of employment in India comes to an end.
  - If an employee is paid pension abroad in respect of services rendered in India, the same will be deemed to accrue in India. Similarly, leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.

- **Remuneration received by MPs and MLAs:** MPs and MLAs are not treated as employees of government. Hence the amounts received by them will be taxable as income from other sources.

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- **Is MD an employee?**

  Yes. MD of a company is an employee and accordingly whatever remuneration he gets from the company is assessable under the head 'salaries'. (Ram Prasad Vs. CIT).

- **Are Judges Employees?**

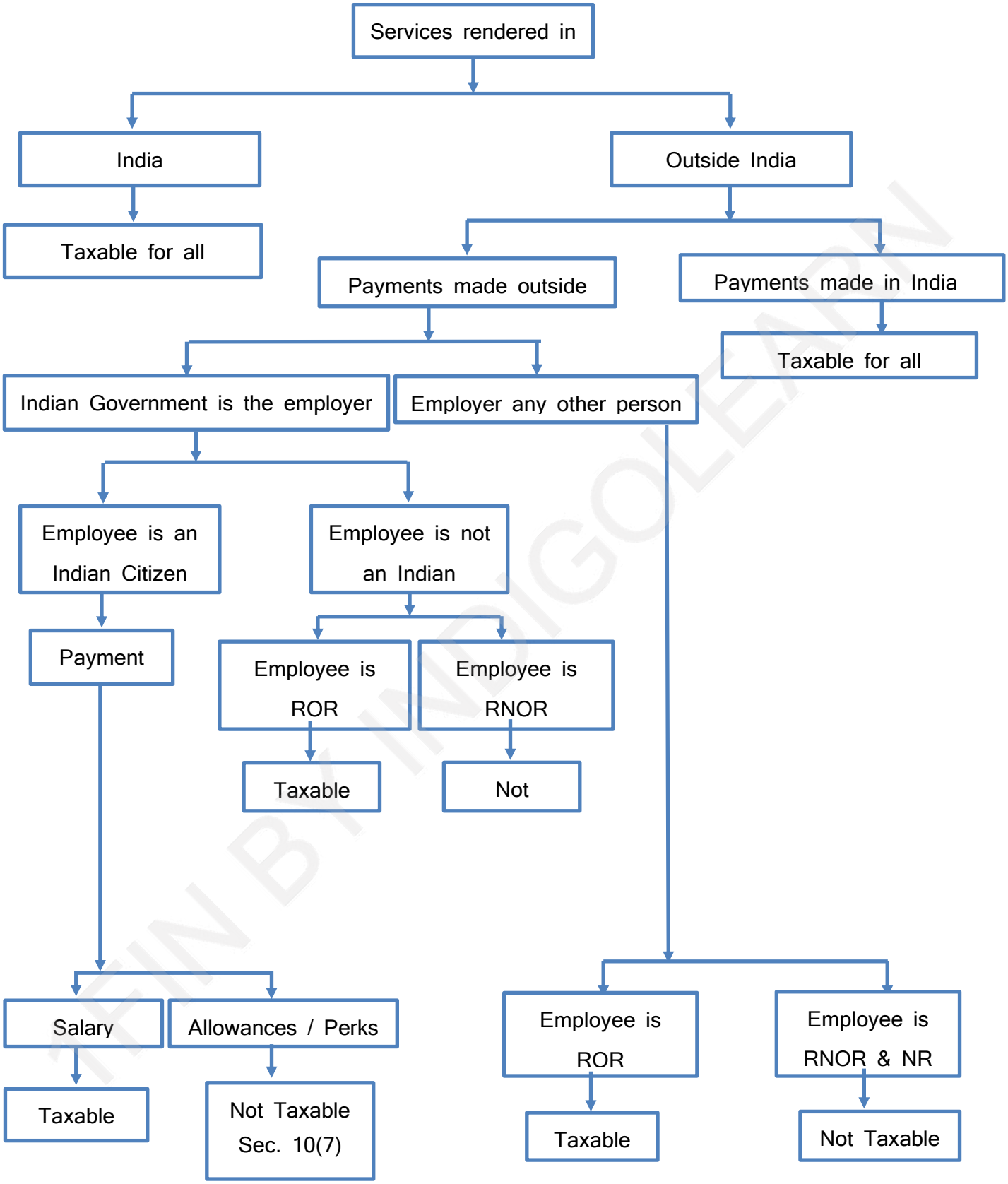
  Though judges have no employer, they are constitutional functionaries and their income is taxable under the head salaries as the salary of any other citizen. (Justice Deoki Nandan Agarwal Vs. UOI).

- **Principal and Agent:** Any income received by a person in the capacity of an agent from his principal is not taxable under the head income from salaries.
- Income by way of interest, bonus, commission or any remuneration from a firm to its member is not taxable under the head salaries. However, it is taxable under the head business or profession under section 28.
- Unless specifically provided, the Directors of a company are not employees of the company. Hence Commission, share in profit, sitting fees etc. received by directors from company is taxable under the head income from other sources and not under the head salaries.

- **Contract of service and contract for service:**
  - In the case of Contract of service, payer can direct the work to be done and employer and employee relationship is brought into existence. Hence, the amount received in pursuance of a contract of service is taxable under head income from salaries.
  - If an amount is received in pursuance of a contract for service, then the amount is taxable as either PGBP or income from other sources.

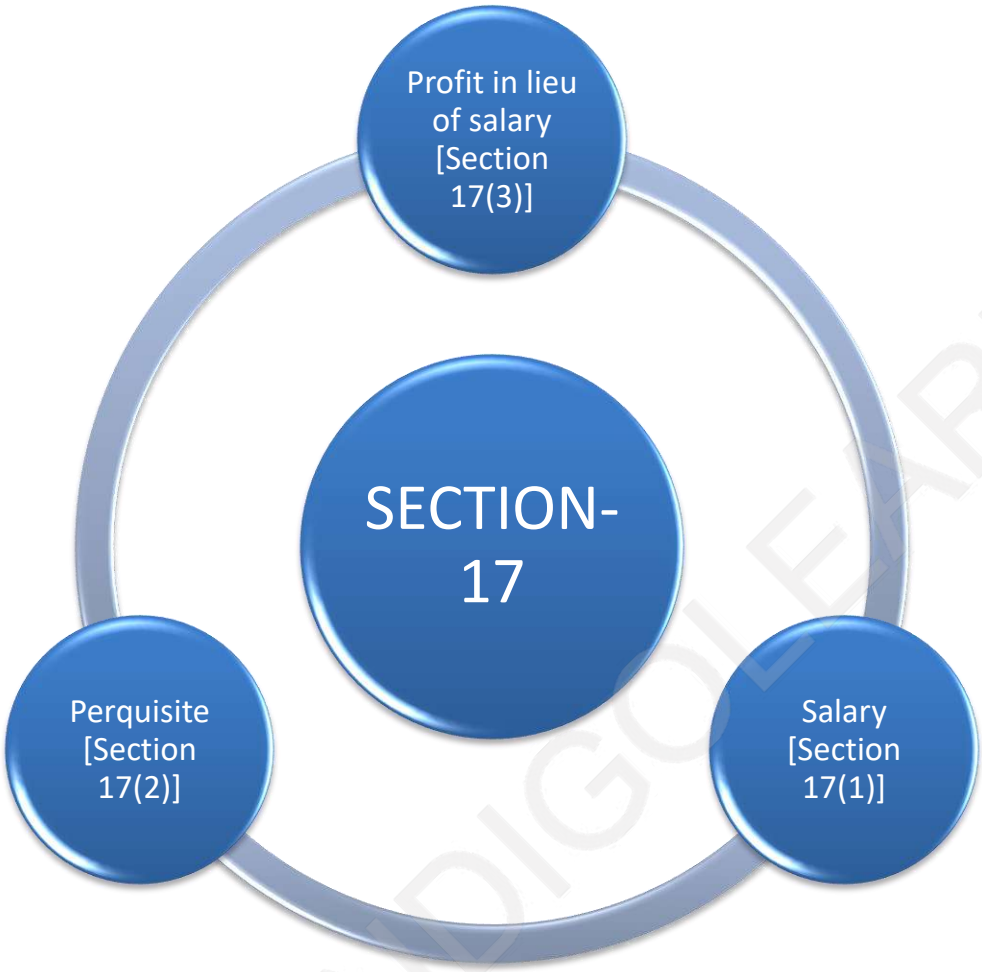
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Pictorial representation of tax incidence on salary income



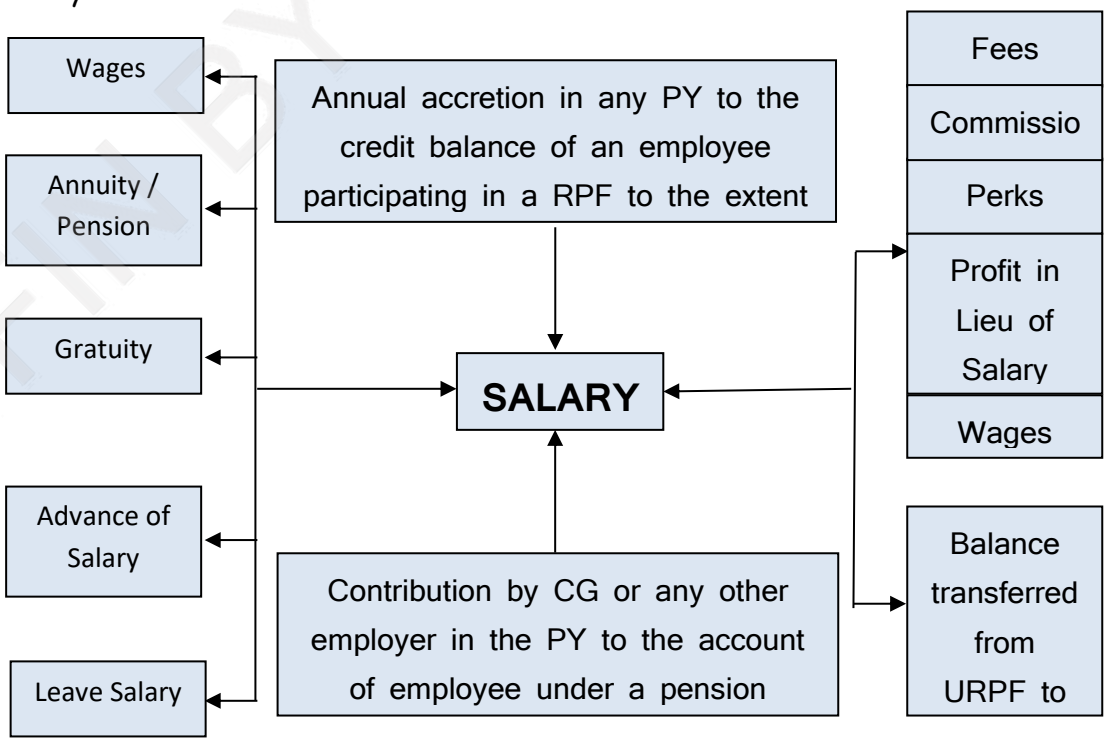
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2. DEFINITIONS (SECTION 17):



Salary - Section 17(1)

Salary includes: -



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FORMS OF SALARY:

2.1. SEC 10(10AA): LEAVE SALARY OR LEAVE ENCASHMENT

- Leave salary received during the course of employment is fully taxable in the hands of Government employees as well as Non-Government employees.
- The payment received on account of encashment of unavailed leave would form part of salary.
- Leave salary received at the time of retirement, whether on superannuation or otherwise is exempt as follows: -

Non-Government Employees

The **least** of the following is exempt from tax: -

- The actual leave salary received.
- 25,00,000
- 10 months Average salary
- (1 month leave for every completed year of service **Less** leave availed in no. of months) * Average salary.

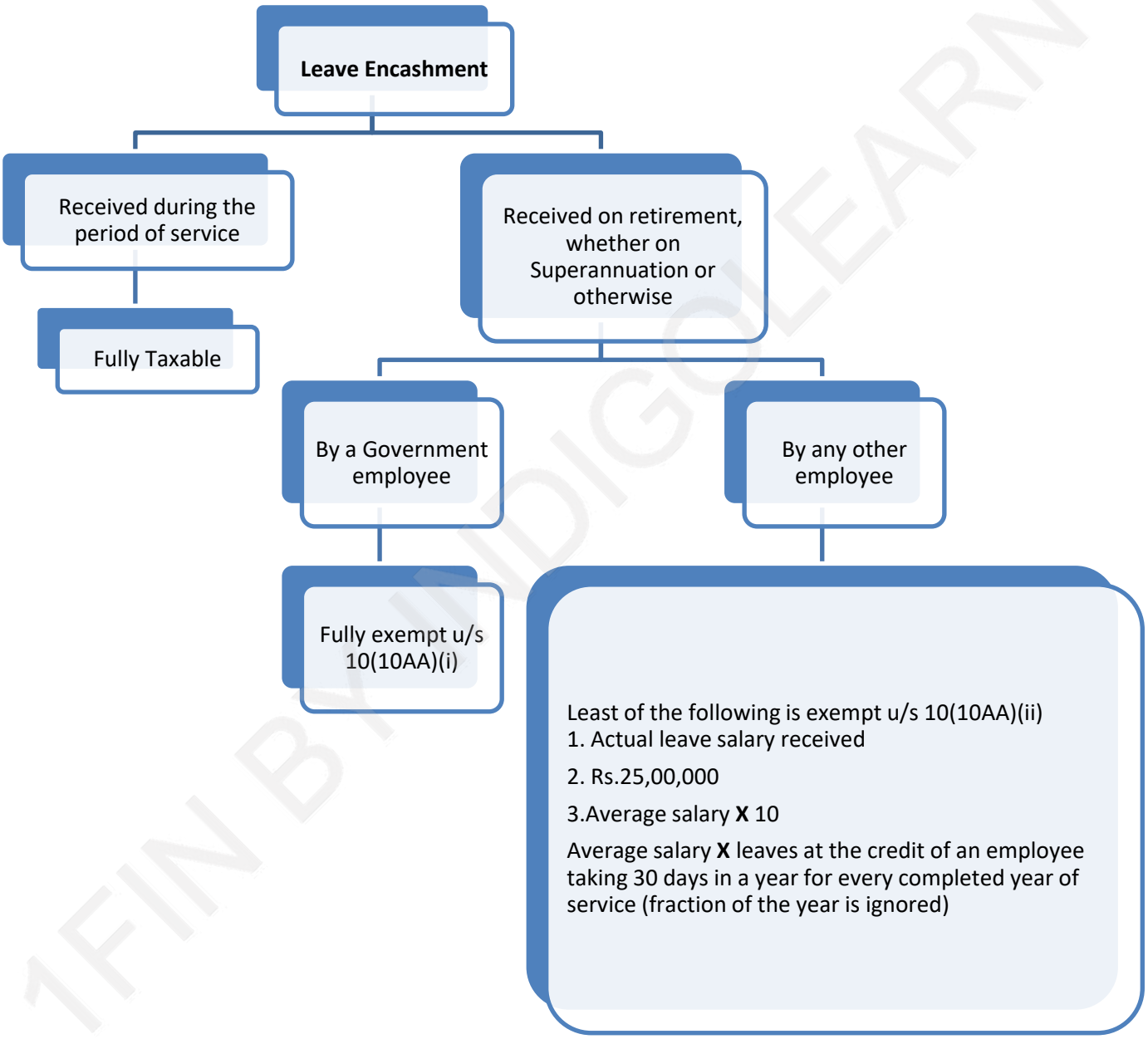
Government Employees

Leave salary received at the time of retirement by Government Employees {Central/ State Govt, only) is **fully exempt** from tax.

- **Other Points: -**
  - Leave salary received during the period of service is fully taxable.
  - Where leave salary is received from more than one employer in the same P.Y the aggregate maximum amount of leave salary exempt cannot exceed ₹ 25,00,000.
  - Where an employee has received leave salary in earlier year from his former employer and also receives leave salary from his present employer in a later year, the maximum exemption limit of ₹ 25,00,000 shall be reduced by the amount of exemption already claimed.
  - Salary for this purpose means basic salary and dearness allowance, if provided in the terms of employment for retirement benefits and commission which is expressed as a fixed percentage of turnover.

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SUMMARY OF LEAVE SALARY OR LEAVE ENCASHMENT



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2.2. SEC 10(10): GRATUITY

- Gratuity received by an employee on his retirement is taxable under the head "Salary".
- Gratuity received by a legal heir of the deceased employee is taxable under the head Income from Other Sources.
- In the above two cases gratuity is exempt subject to the provisions of section 10(10)

A. In the case of government employees: -

- Retirement gratuity received under the Pension Code or Regulations applicable to members of the Defence Service is fully exempt from tax.
- Any Death cum Retirement Gratuity received by the Government Employees (Central Govt., state Govt or Members of Civil Services or employees of local authority but not employees of Statutory Corporation) is fully exempt from tax u/s 10(10)(i)

B. Employees covered by the payment of Gratuity Act, 1972: -

In case of any gratuity received by Employees covered by the payment of Gratuity Act, **Least** of the following is exempt from tax: -

i. Actual gratuity received
ii. ₹ 20,00,000
iii. (15 Days * last drawn salary per month) * No. of completed years of service or part thereof in excess of Six months.

In case of piece rated employee, daily wages (other than overtime wages) shall be computed on the average of total wages received by him for a period of 3 months ending on the date of retirement. Salary = Basic + DA (Whether or not terms of employment so provide)

In case of seasonal establishment, 7 days' salary will be considered instead of 15 Days'.

C. Other employees: -

In this case, the least of the following is exempted.

i. Actual gratuity received
ii. ₹ 20,00,000
iii. 1/2 month's average salary for each completed year of service.

Average salary =10 months average salary preceding the month of retirement or death.

Salary = Basic + D.A (if the terms of employment so provide) + forming part of salary and commission which is expressed as a fixed percentage of turnover

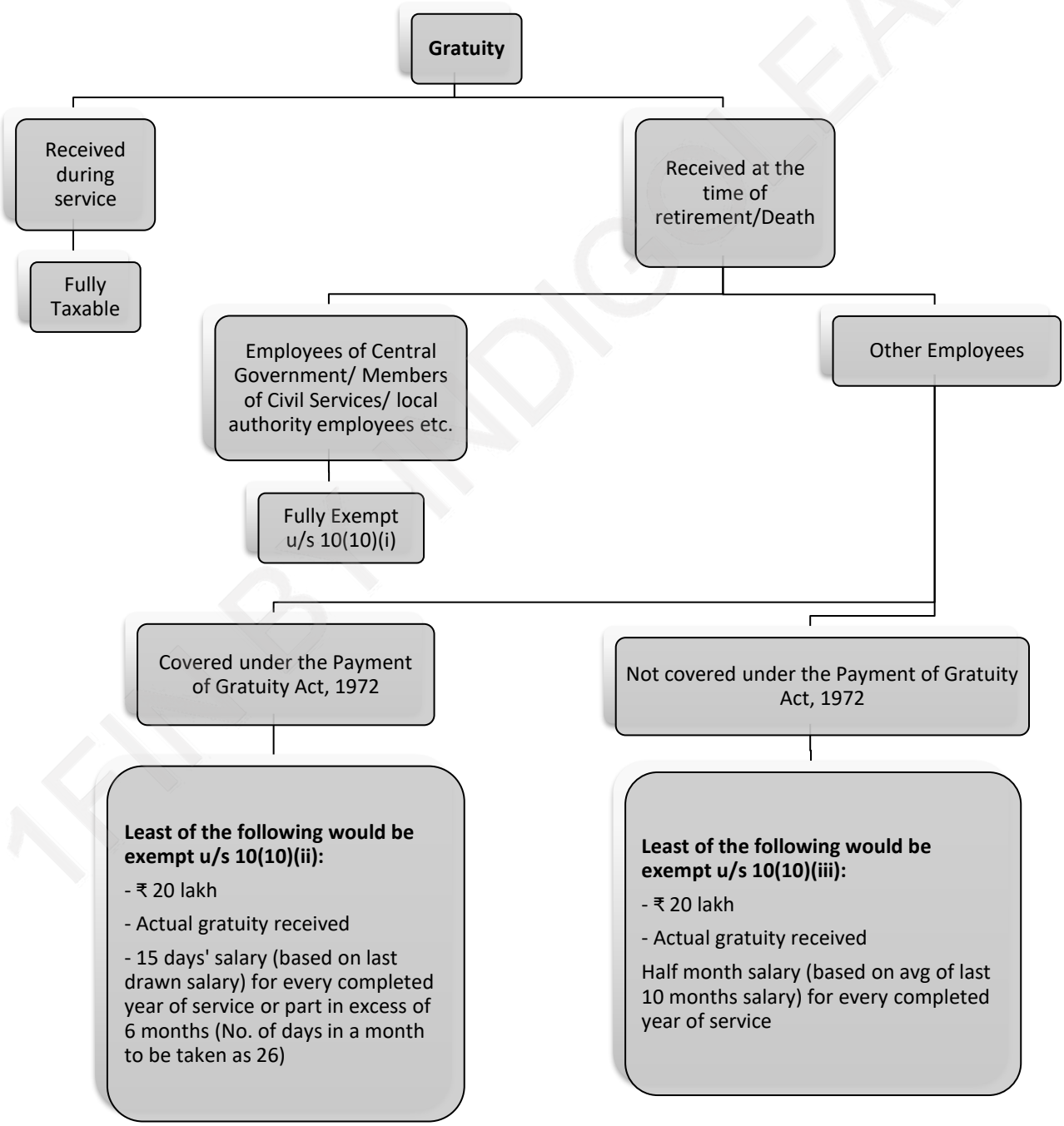
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Other Points: -

- ❖ Gratuity received during the course of employment is fully taxable.
- ❖ Where gratuities are received from more than one employer in the same P.Y the aggregate maximum amount of gratuity exempt cannot exceed ₹ 20,00,000/-
- ❖ Where an employee has received gratuity in earlier previous year from his former employer and also receives gratuity from another employer in a later previous year, the maximum exemption limit of ₹20,00,000/- shall be reduced by the amount of exemption already claimed.

SUMMARY OF GRATUITY

2.3. SEC 10(10A): ANNUITY OR PENSION



- Pension is a periodical amount received from the employer after retirement.
- Annuity received by a present employer is to be taxed as salary. It does not matter whether it is paid in pursuance of a contractual obligation or voluntarily.
- Annuity received from a past employer is taxable as profit in lieu of salary.
- Annuity received from person other than an employer is taxable as "Income from other sources".
- **Un-commuted Pension:** It refers to pension received periodically, and it is fully taxable in hands of all employees (Both government & other employees).
- **Commuted pension:** It means a lump sum amount taken by commuting the whole or part of the pension. Its tax treatment is as follows:

A. Government Employees: The Commuted pension is fully exempt from tax in the hands of Govt, employees (Central Government/ Local authority/ statutory corporations/ members of the Civil Services/ Defence Services).

B. Non-Government Employees:

i. **If the employee does not receive gratuity:** 1/2 of the total value of commuted pension is exempt from tax.

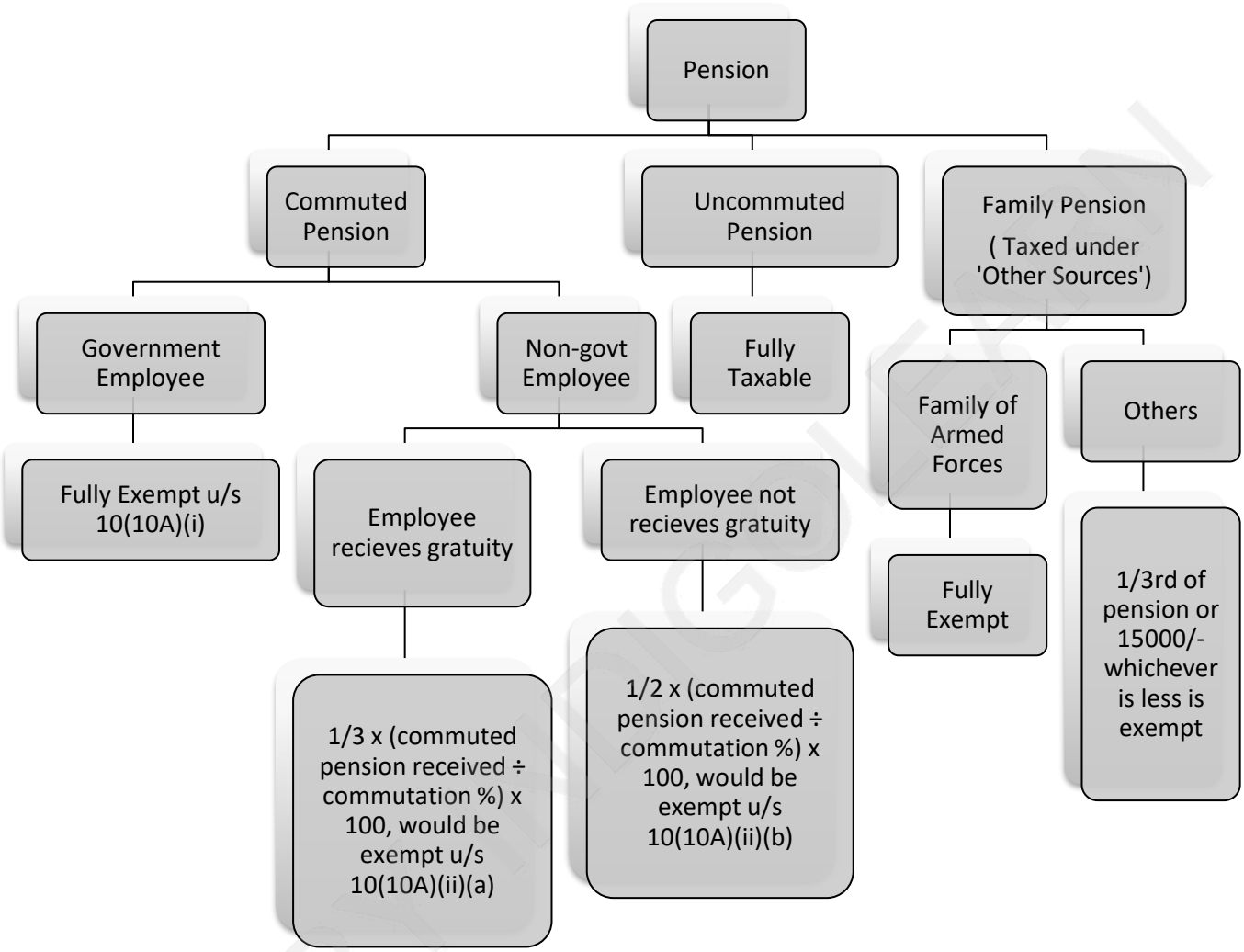
ii. **If the employee received gratuity:** 1/3 of the total value of commuted pension is exempt from tax.

C. Other Points:

- Pension received from UNO by the employee, or his family members is not taxable.
- Judges of the Supreme Court and High Court will be entitled to exemption of the entire commuted portion.
- Any commuted pension received by an individual out of annuity plan of the Life Insurance Corporation of India (LIC) from a fund set up by that Corporation will be exempted.
- Family pension received by the family members after the death of employee is taxable U/S 56 under the head Income from Other Sources in the hands of recipient. However, 1/3 of such family pension or ₹ 15000/- whichever is lower is allowed as standard deduction u/s 57.

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SUMMARY OF ANNUITY OR PENSION



2.4. SEC 10(5): LEAVE TRAVEL ASSISTANCE (LTA)

- This clause exempts the leave travel concession (LTC) received by employees from their employers for proceeding to any place in India,
  - either on leave or
  - after retirement from service or
  - after termination of his service

- Family includes spouse and children of the individual and parents, brothers and sisters of the individual or any of them wholly or mainly dependent on the individual.
- The value of travel concession or assistance received by an individual from his employer or former employer for himself and his family can be claimed as an exemption.
- **The least of the following is exempt from tax: -**
    - The amount received from the employer.
    - The actual expenditure incurred by the employee on traveling.
    - The expenses computed as per the Income tax rules.
- This exemption is available only for 2 journeys in a block of 4 years. The blocks are taken on the basis of calendar year. They are as follows: -

  2018-21 and 2022-25 etc.
- If the assessee has not availed the travel concession during, one year or two years in a block of 4 years and performs journey in the first year of the next block, then such journey will be treated as journey performed in the previous block and eligible for exemption. In the next block, the assessee can claim two times exemption in the remaining 3 years. This is called carry over concession.
- The exemption can be obtained only when the assessee performs journey. The traveling Expenses in respect of the assessee and his family only will qualify. Other Expenses like local conveyance, pasturage, lodging & boarding expenses will not qualify.
- Children for the purpose of computing expenses on children, two surviving children of individual who were born after October 1st, 1998, will qualify. However, this restriction does not apply in respect of children born before 1-10-1998 and multiple births after one child. That means: -
    - ❖ All surviving children born before 1-10-1998
    - ❖ Two children born on or after 1-10-1998.

  Note: - while considering the limit of two children, children born out of multiple births after the first child will be treated as one child only.

- **Computation of expenses as per the Income tax rules: -**

Journey Performed by	Exemption
1. Air	Air economy fare {National carrier}.
2. Rail	First class AC Rail fare
3. Where rail service is not available	

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(i) a recognised public transport system.	First class or deluxe class fair on such transport (Dealer charge per K.M)
(ii) no recognised public transport system.	First class AC Rail fare

Note: - For all the above journeys, the shortest route to place of destination will be considered.

- **Important Points:**
  - Only 2 journeys in 4 years block are exempted: 2018-2021 (Jan to Dec), 2022-2025.
  - If any employee does not avail LTC (either one or both), then exemption can be carried in first year of next block (only for one journey). It is called Carry over Concession.
  - Exemption in all cases is restricted to actual expenditure incurred.
  - Exemption is restricted to only fare. No other expenditure is eligible for exemption.
  - Exemption is available for shortest route possible. If different places of journey are covered, exemption is restricted to shortest route from originating point to farthest destination point.
  - Exemption is restricted for only 2 children born on or after 01.10.98.
  - Fixed Allowance is not exempted.

2.5. SEC 10(7): ALLOWANCES OR PERQUISITES PAID OR ALLOWED BY THE GOVERNMENT

- The allowances or perquisites paid or allowed by the Government of India to its employees who are citizens of India, for rendering services outside India is exempt from tax.

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2.6. SEC 10(10B): RETRENCHMENT COMPENSATION

- Compensation paid under Industrial Disputes Act, 1947 or under any Act, Rule, Order or Notification issued under any law.
- Amount exempted u/s 10(10B) - Least of the following: -
  - i. The retrenchment compensation actually received.
  - ii. ₹ 5,00,000
  - iii. The amount calculated as per the provisions of the industrial disputes Act.
- **Calculation of amount as per the industrial disputes Act:** 15 days' salary (based on average salary of last 3 months) for every completed year of service or any part thereof in excess of 6 months.
- The above limits will not be applicable to cases where the compensation is paid under any scheme approved by the Central Government for giving special protection to workmen under certain circumstances.
- Notice pay is fully taxable.
- Average Pay:

Average pay means average of the wages* payable to a workman	
In the case of monthly paid workman,	In 3 complete calendar months
In the case of weekly paid workman	In the 4 calendar weeks
In the case of daily paid workman,	In the 12 full working weeks
If he has not worked for the above period	Average of the wages payable during the period he actually worked

- Wages:

Wages includes
- All remuneration capable of being expressed in terms of money,
- Any value of non-monetary benefits like the value of any house accommodation, or of supply of light, water, medical attendance or other amenity etc.,

Wages excludes
- Any bonus.
- Contribution to a retirement benefit scheme
- Any gratuity payable on the termination of his service

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2.7. SEC 10(10C): VOLUNTARY RETIREMENT

- The exemption is allowed only once in the lifetime of the employee.
- The exemption is the least of the following 3 points: -
  i. Actual compensation received
  ii. ₹ 5,00,000
  iii. Last drawn salary x 3 x No. of years of completed service.
  iv. Last drawn salary x Balance no. of months of service left.

- Salary = Basic salary + DA (if the terms of employment so provide) + Fixed % of commission on turnover achieved by employee.

- **Conditions to satisfy**
  - Such compensation should be at the time of his voluntary retirement or termination of his service, in accordance with any scheme of voluntary retirement.
  - Rule 2BA prescribes the following guidelines for the purposes of the scheme
    1. It applies to an employee who has completed 10 years of service or completed 40 years of age.
       However, this requirement is not applicable in case of an employee of a public sector company under the scheme of voluntary separation framed by the company.
    2. It applies to all employees by whatever name called, except directors of a company or a cooperative society.
    3. The scheme of voluntary retirement or separation must have been drawn to result in overall reduction in the existing strength of the employees.
    4. The vacancy caused by the voluntary retirement or separation must not be filled up.
    5. The retiring employee of a company 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 of the employee must not exceed
       - the amount equivalent to three months' salary for each completed year of service or
       - salary at the time of retirement multiplied by the balance months of service left before the date of his retirement or superannuation
- No exemption u/s 10(10C) if the employee has already taken relief u/s 89
- Exemption will be available even if such compensation is received in instalments.

2.8. SEC 10(10CC): Tax paid by the employer on behalf of the employee on perquisites in kind is exempt from tax.

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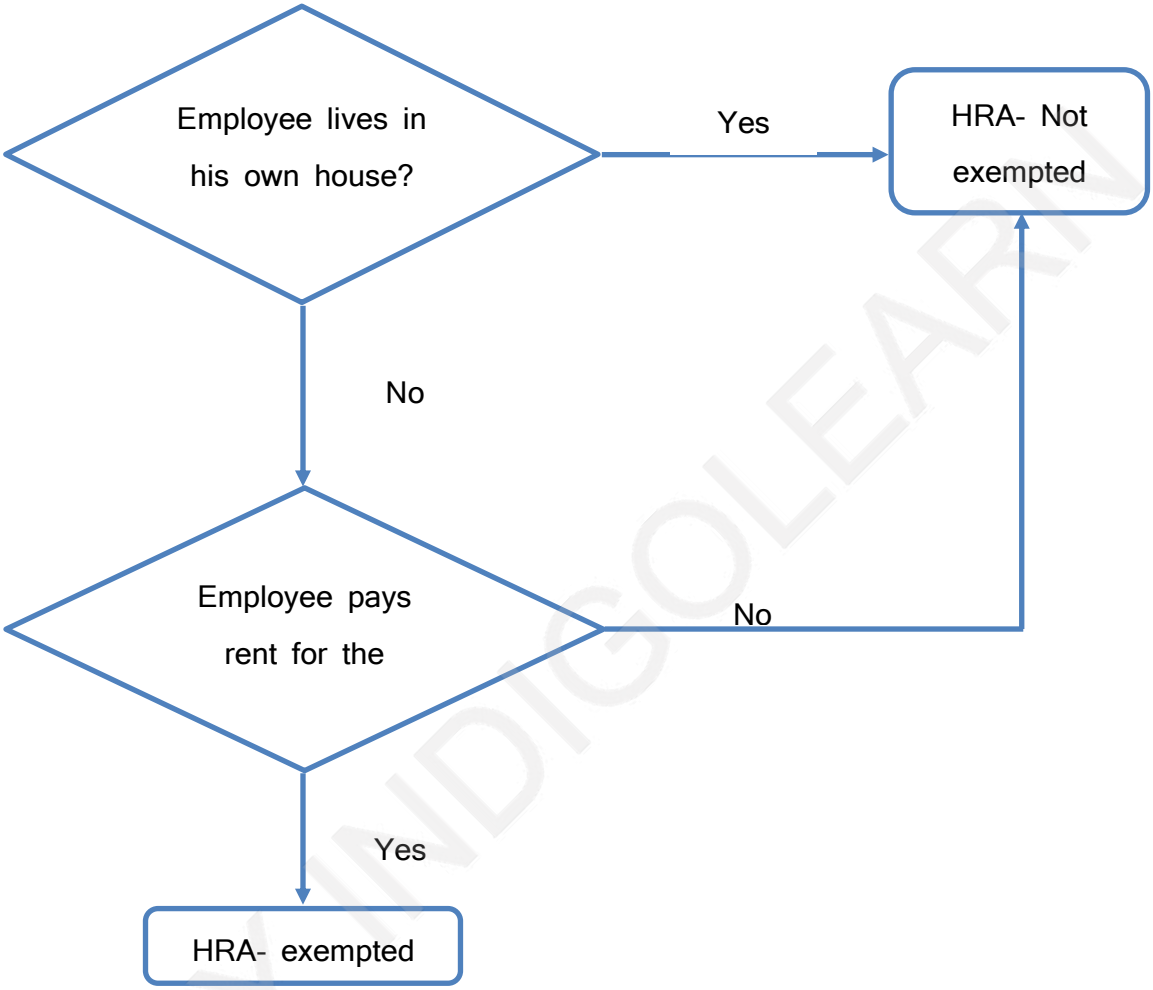
3. ALLOWANCE

3.1. SEC 10(13A): HOUSE RENT ALLOWANCE (HRA)

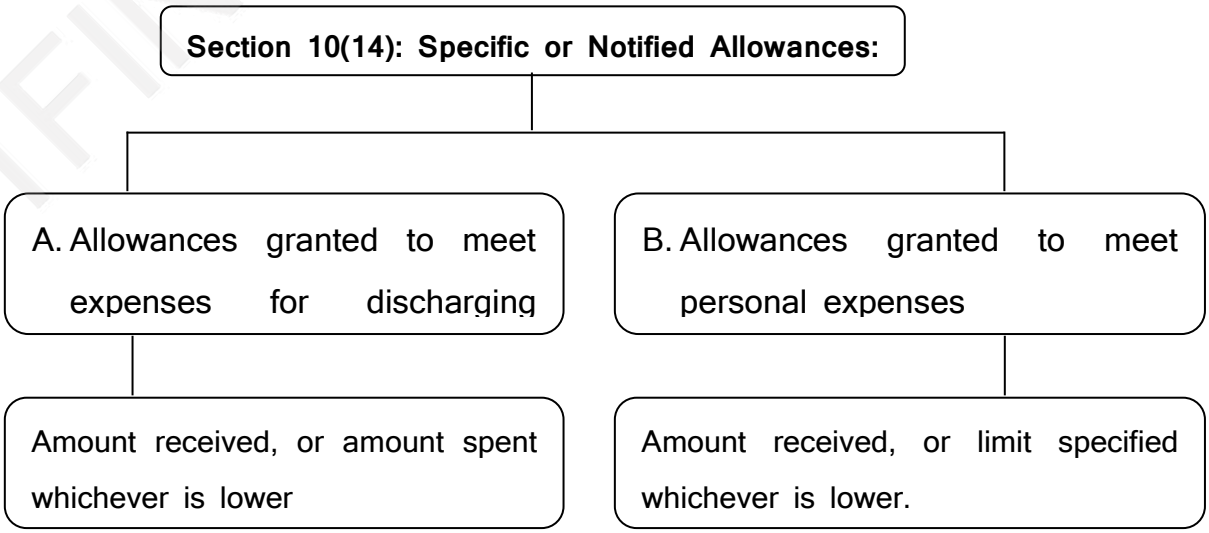
- An employee who receives House rent allowance from the employer can claim exemption from tax subject to provisions of Sec 10(13A).
- If the employee receives HRA and resides in a house, for which he pays rent, then only he can get exemption i.e. this exemption is not available to an assessee who lives in his house own house, or in a house for which he pays no rent.
- **The least of the following is exempt from tax:**
  i. HRA received in respect of the period during which the accommodation is occupied by the employee during the PY
  ii. Actual rent paid less 10% of salary.
  iii. 50% of salary where residential house is situated at Bombay, Calcutta, Delhi, or Madras; 40% of salary where residential house is situated at any other place.
- Salary shall be determined on due basis only.
- Salary = Basic + DA (if forms part of retirement benefit) + Turnover based Commission.
- It is mandatory for employee to report PAN of the landlord to the employer if rent paid is more than Rs. 1,00,000.
- If employee opts for 115BAC, exemption of HRA cannot be claimed.
- The amount of exemption depends on the basis of salary, HRA, rent paid and the place where house is taken on rent. If there is no change throughout the PY, then the exemption shall be calculated on "Annual Basis" else monthly basis.

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Pictorial representation of Tax incidence in relation to HRA Received



3.2. SEC 10(14): SPECIFIC OR NOTIFIED ALLOWANCES



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A. Allowances granted to meet expenses for discharging official duties: The amount of exemption is, the least of amount received or amount spent.

Nature of Allowance	Amount of Exemption
Traveling allowance	Allowance granted to meet the cost of travel on transfer, and it includes any sum paid in connection with transfer, packing and transportation of personal effects on such transfer.
Daily allowance	Any daily allowance, granted on tour or for the period of journey in connection with transfer, to meet the ordinary daily expenses incurred by an employee on account of absence from his normal place of duty.
Conveyance allowance	Any conveyance granted to meet the expenditure incurred on conveyance in performance of duties of an office or employment of profit, provided that free conveyance is not provided by the employer.
Helper allowance	Any allowance granted to meet the expenditure incurred on a helper where such helper is engaged for the performance of the duties of an office or employment of profit.
Research allowance	Any allow, granted for encouraging academic, research & training pursuits in educational and research institutions.
Uniform allowance	Any allowance granted to meet the expenditure incurred on the purchase or maintenance of uniform for wear during the performance of the duties of an office or employment of profit.

B. Allowances granted to meet personal expenses:
The amount exemption is, the least of amount received or Limit specified. In this case, actual expenditure spent/incurred is no relevance.

Nature of Allowance	Amount of Exemption
Children Education Allowance	Actual amount received per child or ₹ 100 p.m per child upto a maximum of 2 children.
Hostel expenditure Allowance	Actual amount received per child or ₹ 300 p.m per child upto a maximum of two children.
Transport allowance	To meet his expenditure between the place of his residences and the place of his duty is fully taxable. In case of blind/ deaf and dumb or orthopedically handicapped with disability of lower extremities, ₹3200 per month.
Underground allowance	Exempt to the extent of ₹ 800 p.m
Allowance allowed to transport employees	If any fixed allowance is given by the employer to the employee who is working in any transport system, to meet his personal expenditure during his duty performed in course of running such transport from one place to another, the amount of exemption shall be 70% of such allowance or

		₹ 10,000 p.m, whichever is less. Exemption will be allowed to the transport employees only when they are not receipt of daily allowance.	
S. No	**Nature**	**Taxable / Exempted**	**Remarks**
1.	City Compensatory Allowance	Taxable	Always taxable regardless of the purpose.
2.	House Rent Allowance (HRA)	Partly	**1. Least of the following is exempted u/s 10(13A)** (a) Amount received (b) 40% of Salary (50% is situated at Bombay / Kolkata / Delhi/Chennai) (c) Actual Rent paid - 10% of salary **2. Salary [On due basis]** Basic, DA, Commission (% of turnover) No exemption if employee leaves in his own house.
3.	Entertainment Allowance	**Govt:** Partly Taxable **Non Govt:** Fully Taxable	**1. Least of the following is deducted** (a) Received (b) ₹ 5000/- (c) 20% of salary **2. Salary = Basic (Allowances / perquisites excluded)** 3. First EA is included in salary head and then deduction u/s 16(ii) is allowed.
4.	**Special/Other Allowances**	**Place**	**Maximum amount exempted from tax**
(i)	Tribal Area Allowance	Limited	₹ 200/- per month
(ii)	Compensatory Field Area Allowance	Limited	₹ 2600/- per month
(iii)	Compensatory modified field Area Allowance	Limited	₹ 1000/- per month
(iv)	Special allowance to armed forces as counter insurgency	Any	₹ 3900/- per month

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(v)	Underground allowance	Any	₹ 800/- per month
(vi)	High Altitude Allowance to armed forces	Limited	₹ 1060/- per month: 9000 to 15000 ft ₹ 1600/- per month: Above 15000ft
(vii)	Special Allowance to armed forces (highly active field)	Any	₹ 4200/- per month
(viii)	Island Allowance to armed forces	Limited	₹ 3250/- per month
5.	Government employees outside India	Exempted	For rendering services outside India [10(7)]
6.	Tiffin Allowance	Taxable	
7.	Fixed Medical Allowance	Taxable	
8.	Servant Allowance	Taxable	
9.	Allowance to Judges	Exempted	
10.	Allowances received from UNO	Exempted	

Notes:

1. An employee, being an assessee, paying tax under default tax regime as per section 115BAC would be entitled for exemption only in respect of transport allowance granted to an employee who is blind or deaf and dumb or orthopedically handicapped with disability of the lower extremities of the body to the extent of ₹ 3,200 p.m.

3.3. PROFITS IN LIEU OF SALARY [SEC. 17(3)]

It includes the following:

- The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the
  - (a) termination of employment, or
  - (b) modification of terms and conditions of his employment.
  - (c) Payment from provident fund or other fund

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- Any payment due to or received by an assessee from his employer or former employer **except** the following:
  - Gratuity exempted u/s 10(10).
  - House rent allowance exempted u/s 10(13A).
  - Commuted pension exempted u/s 10(10A).
  - Retrenchment compensation exempted u/s 10(10B).
  - Payment from an approved Superannuation Fund u/s 10(13).
  - Payment from statutory provident fund or public provident fund u/s 10(11).
  - Payment from recognised provident fund to the extent it is exempt u/s 10(12).

- Any payment from unrecognized provident fund or such other fund to the extent it consists of employer's contribution or interest on such contribution.
- Any sum received under a key man insurance policy including the sum allocated by way of bonus, on such policy.
- Any amount received (in lump sum or otherwise) prior to employment or after cessation of employment.

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4. DEDUCTIONS FROM SALARY INCOME

4.1. Sec 16(ia): Standard deduction

A standard deduction of 50,000/- or the amount of salary, whichever is lower, is to be provided to the employees.

4.2. Sec 16(ii): Entertainment allowance- deduction:

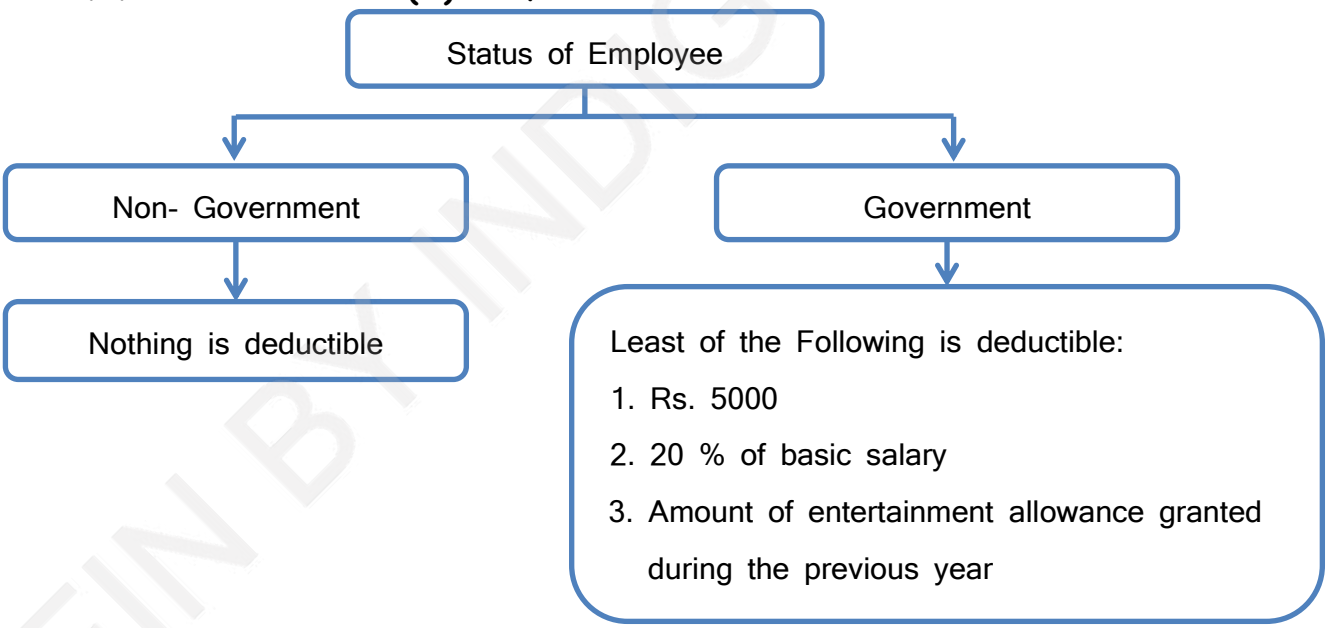
If entertainment allowance is given to the employee, then the amount so received is to be included in the gross salary of employee.

This deduction is available only for Govt, employees (i.e. Central & State Govt, employees).

The least of the following is allowed as deduction:

i. Actual entertainment allowance granted during the PY.
ii. ₹5000
iii. 20% of Basic salary means only basic salary.

4.3. Sec 16(iii): Professional tax:



Professional tax is a tax which is levied on employment. It is a state subject. Professional tax levied by Govt, will be allowed as deduction to the assessee only on payment basis.

- If it is paid by employer on behalf of the employee: It will first be included in the gross salary of employee as a perquisite and then, allowed as deduction u/s 16(iii).
- If it is paid by employee himself: It is allowed as deduction u/s 16(iii).
- It shall not exceed 2500/- p.a.

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PERQUISITES

- Perquisite includes any benefit or amenity due to or received by the employee from the employer which is usually attached to a position by virtue of employment.

1) According to Sec 17 (2), perquisite includes:

- The value of rent-free accommodation provided by the employer.
- The value of accommodation provided by employer at concessional rate.
- The value of any benefit or amenity granted or provided free of cost or at concessional rate in the case of specified employees.
- Any sum paid by employer in respect of any obligation which but for such payments would have been payable by assessee.
- Any sum payable by an employer to effect assurance on the life of the assessee or to affect a contract for an annuity.
- The value of specified securities or sweat equity shares allotted or transferred to employees by an employer or former employer free of cost or at concessional rate.
- Any contribution to an approved superannuation fund by the employer in respect of an employee to the extent it exceeds ₹ 7.5 lakh.
- Value of any other Fringe benefits or Amenities as may be prescribed.

2) Other Points:

- Perquisite may be in cash/kind and in lump sum or otherwise.
- It results in personal advantage/benefit to the employee.
- The perquisite may be a regular one or casual.
- If perquisite is not provided by the employer but it is availed by employee without proper authorization, it is not a perquisite under Act.
- Income tax paid by the employer on behalf of employee is a perquisite in the hands of employee.
- Perquisite will become taxable only if it has a legal origin. An unauthorised advantage taken by an employee without his employer's sanction cannot be considered as a perquisite under the Act.

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3) Taxability of Perquisites:

- Perquisites taxable in the hands of all employees.
- Perquisites taxable in the hands of Specified employees.
- Perquisites not taxable in the hands of all employees.

4) Specified employee:

As per sec 17(2) (iii) specified employee means:

- **Director employee:** An employee who is, a whole-time director or part time director, nominee director, alternate director, representative director etc.

  Such Director need not be a director of the company throughout the PY.

- ***A person having Substantial interest in the company:*** A person is said to be having Substantial interest in the company, if he is a beneficial owner of equity shares carrying 20% or more of the voting power in the employer company.

- **Employee drawing Cash salary exceeding ₹50,000:** An employee who is drawing cash salary exceeding ₹50,000/-. While calculating Cash Salary the following are to be excluded: -
  - All Non-Monetary benefits
  - Monetary benefits which are exempt U/s 10.
  - Deductions under sections 16(ia), 16 (ii) and 16(iii).

Note: If an employee is employed with more than one employer, the aggregate of the salary received from all employers is to be taken for calculating the cash salary.

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4.4. VALUATION OF RENT-FREE ACCOMMODATION (Sec 17(2)(i))

Rent free accommodation is regarded as a perquisite. It could be rent free or concessional rent accommodation. Value of perquisite is based on whether accommodation is owned or hired.

Even though accommodation is provided by one employer, Salary from all employers in respect of the period during which the accommodation is provided will be taken in to consideration. Salary is taken on accrual basis. Any advance salary or arrears of salary shall not be considered.

❖ **Definition of salary**

Includes all allowances, bonus and commission and Excludes

(a) Dearness allowance if it does not form part of retirement benefit (only DA* is included)

(b) Employer's contribution to the provident fund account of the employee.

(c) Allowances which are exempted u/s 10

(d) The value of perquisites u/s 17(2)

(e) Any payment or expenditure specifically excluded under proviso 17(2)

However, the term monetary benefit includes other cash payments by employer to employee which are not covered by perquisites. E.g. leave encashment for the year.

4.4.1. Value of Furnished Rent-Free Accommodation and accommodation provided by employer at concessional rate: (Sec 17(2)(ii))

➢ If furniture is also provided by the employer, the value of rent-free furnished accommodation is computed as below.

Value of rent-free unfurnished accommodation (As per above valuation)	xxxx
Add: If furniture is owned by the employer: - 10% pa of the cost of the furniture (or) If the furniture is hired by the employer: - Actual hire charges paid by employer	xxx xxx
Value of rent-free furnished accommodation	**xxxx**
Less: Any amount paid by the employee to the employer	(xxxx)
Value of rent-free concessional accommodation	**xxxx**

4.4.2. Accommodation provided in a Hotel:

➢ If accommodation is provided in a hotel, least of the following is taxable:

i. 24% of Salary paid or payable for the period for which such accommodation is provided in the PY (or)

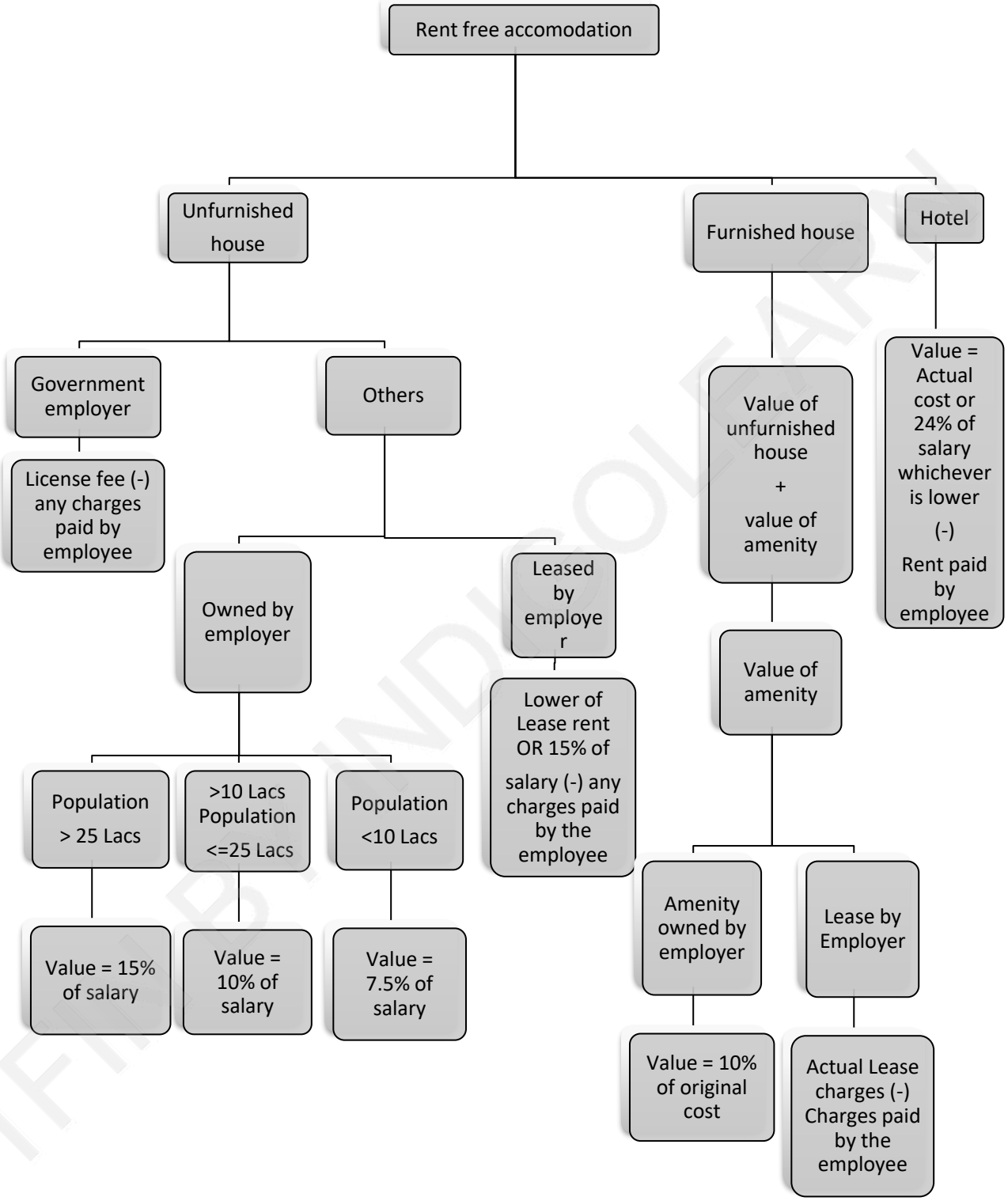
ii. Actual hire charges paid by employer to such hotel Accommodation.

- However, in the following two cases nothing is chargeable to tax in the hands of the employee:
  - The total accommodation is provided for a total period not exceeding in aggregate 15 days in a previous year and
  - Such accommodation is provided on the employees transfer from one place to another place.
- Salary definition is same as per RFA. If any rent paid by employee, then such amount is to be reduced from value so determined as above.
- **Other points:**
  - "Accommodation" includes a house, flat, farmhouse or part thereof, or accommodation in a hotel, motel, service apartment, guest house, caravan, mobile home, ship or other floating structure;
  - The term "Hotel" includes licensed accommodation in the nature of motel, service apartment or guest house.
  - If the hotel accommodation is provided for more than 15 days, then the perquisite is not taxable for the first 15 days. After that it is chargeable to tax.
  - If the accommodation is located in a "Remote Area' is provided to an employee working at a mining site or an onshore oil exploration site, or a project execution site or an accommodation provided in offshore site of similar nature, then nothing is taxable in respect of such accommodation.
  - "Remote area", means an area that is located at least 40 kilometers away from a town having a population not exceeding 20,000 based on latest published all India census.
  - If temporary accommodation having plinth area not exceeding 800 sq.ft located at 8 Kms away from the local limits of municipality or contentment board is provided to an employee working at mining site or an onshore oil exploration site, or a project execution site or a dam site or a power generation site or an accommodation provided in offshore site, then nothing is taxable in respect of such accommodation.

4.4.3. Accommodation provided at the time of Transfer:

Where on account of transfer of an employee from one place to another, the employee is provided with accommodation both at existing place of working and in the new place of posting, the value of perquisite lower of accommodation for 90 days and after that both shall be taxable.

Rent Free Accommodation



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Note: With effect from 1st September 2023

As per 2011 census

10% of salary in cities having a population > 40 lakh

7.5% of salary in cities having a population > 15 lakh but not exceeding 40 lakh

5% of salary in cities having a population < 15 lakh

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4.5. VALUE OF PERQUISITE IN RESPECT OF GAS, ELECTRICITY AND WATER SUPPLY (Rule 3(4))

Circumstances	Value of benefit
If payment is made to agency supplying of gas, electricity etc.	sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water
If supply is made from resources owned by the employer	manufacturing cost per unit incurred by the employer

- Any payment made by employee in respect of such service shall be deducted from the above value so arrived

4.6. VALUE OF PERQUISITE IN RESPECT OF FREE EDUCATION (Rule 3(5))

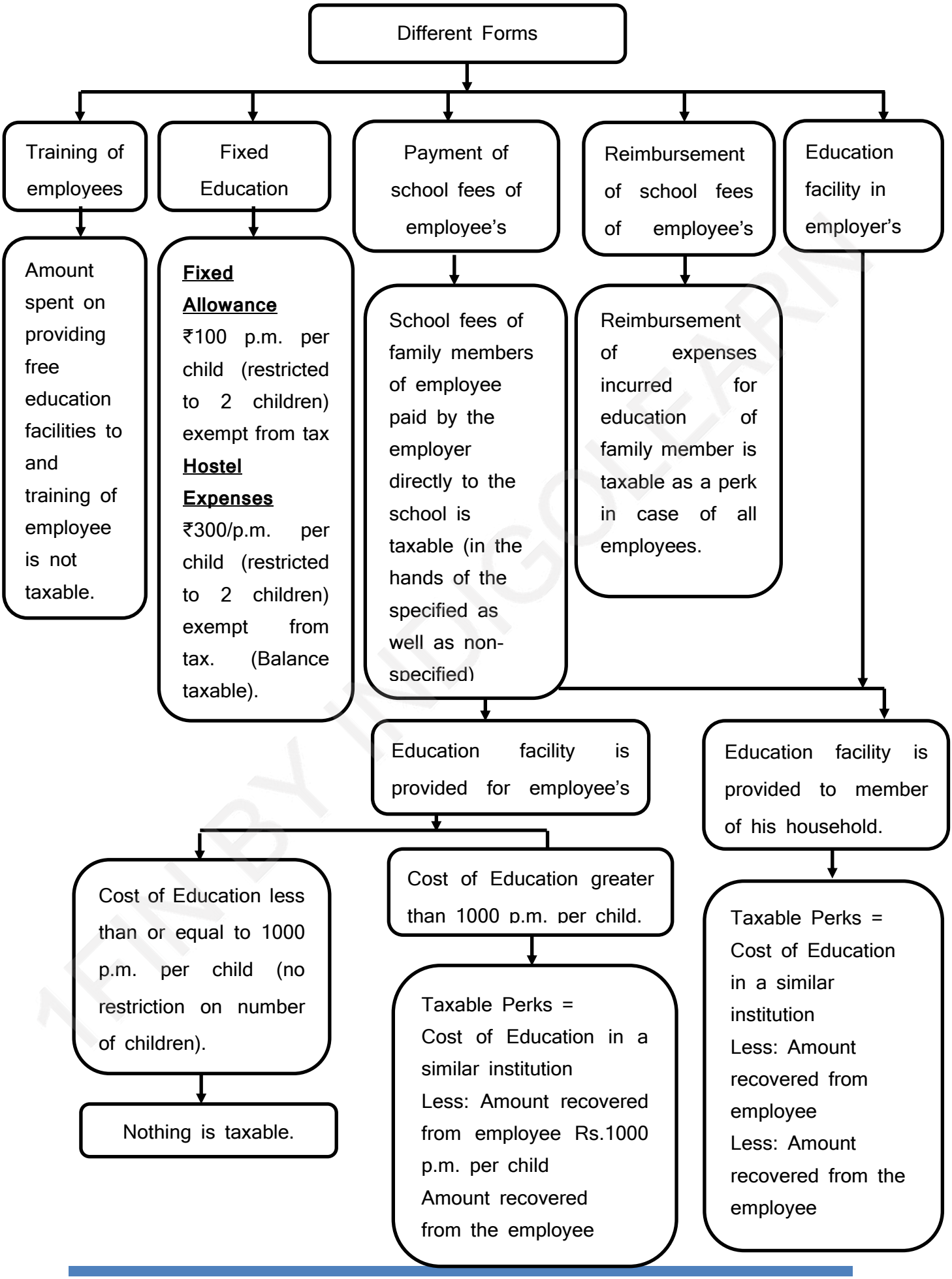
- If the employer incurs any expenditure on the training of employees, then it is not taxable in the hands of employees.
- Payment/reimbursement of school fees of children of employees is taxable in the hands of all employees
- The value of benefit to the employee resulting from the provision of free or concessional educational facility for any member of his household shall be determined as follow:

Circumstances	Value of benefit
If the educational institution is maintained and owned by the employer	cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education or the value of such benefit per child does not exceed ₹ 1,000 p.m.
If free educational facilities are allowed in any other educational institution by reason of his being in employment of that employer	
Others	amount of expenditure incurred by the employer in that behalf

Note: The exemption of Rs.1,000 p.m is allowed only in case of education facility provided to the children of the employee not to other household members.

- Where any amount is paid or recovered from the employee on that account, the value of benefit shall be reduced by the amount so paid or recovered.
- Child includes Step child as well as the adopted child of the employee.
- Household member shall include spouse, children and their spouses, parents, servants, and dependents.

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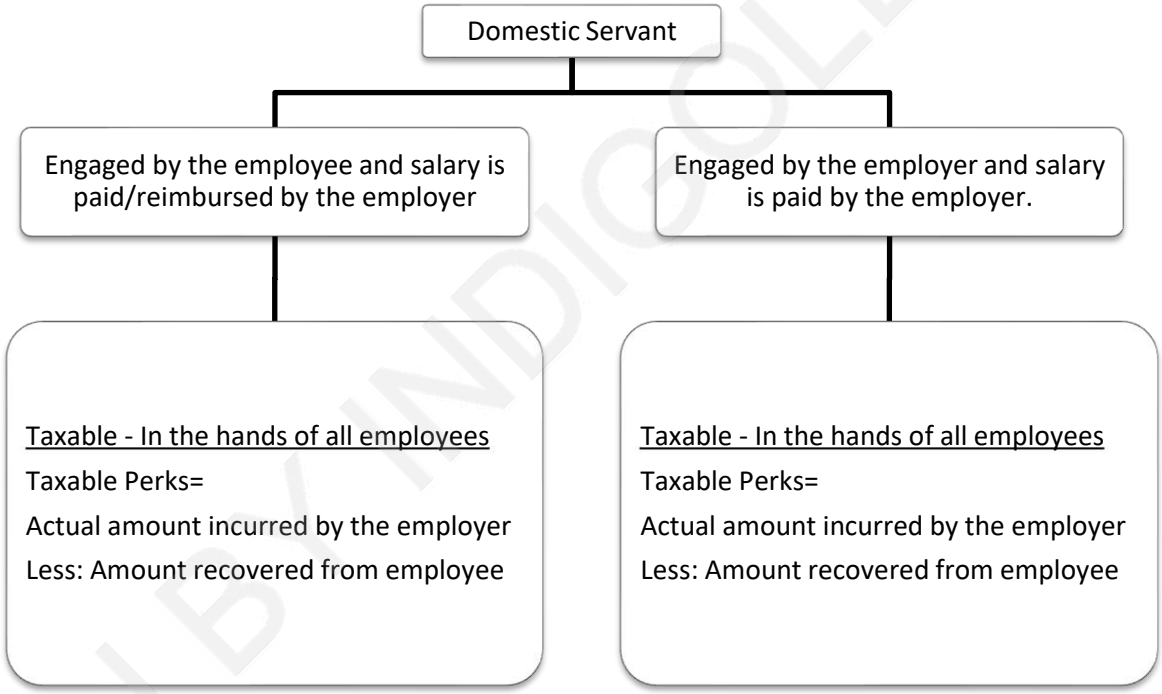


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PERQUISITE IN RESPECT OF DOMESTIC SERVANTS: (Rule3(3))

(i.e., sweeper, watchman, gardener or personal attendant)

- If the domestic servant is appointed by the employee and salary of that servant is paid or reimbursed by the employer, then the salary paid by employer less amount collected from employee is taxable in the hands of all employees.
- If domestic servant is provided by employer, then the salary paid by employer less amount collected from employee is taxable only in the hands of Specified employees
- If rent free accommodation which is owned by employer, is provided to his employee, expenses (inclusive of salary of a gardener) incurred by the employer on maintenance of garden and ground attached to the house, is not taxable separately.



4.7. VALUATION OF MEDICAL FACILITIES

- Fixed medical allowance given by the employer to the employee is fully taxable.
- The following medical facilities will not amount to a perquisite

1. Value of medical treatment in any hospital maintained by the employer
2. Reimbursement of expenditure actually incurred on medical treatment in
   - any hospital maintained by the Government/Local Authority and
   - in respect of the prescribed disease or ailments in any hospital approved by the Principal Chief Commissioner
   - in respect of any illness relating to COVID-19 subject to conditions

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notified by the Central Government (with effect from the AY 2020-2021) (Amended by Finance Bill,2022)

(The exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to Rs.10 Lakh in aggregate for the amount received from any other person.)-*Press Statement.*

The employee shall attach with his return of income a certificate from the hospital specifying the disease

3. Premium paid to affect an insurance on the health of employee under a scheme approved by the Central Government or IRDA for the purposes of section 36(1)
4. Payment of premium on personal accident insurance policies – because it is taken in their business interest only
5. Reimbursement of premium paid to affect an insurance on the health of employee or for the family of an employee under a scheme approved by the Central Government or the IRDA for the purposes of section 80D
6. <u>Amount paid towards expenditure incurred outside India on medical treatment</u>

Medical treatment of the employee or any member of the family	Exempt only to the extent permitted by the RBI
Travel and stay abroad for such treatment	Exempt only to the extent permitted by the RBI
Travel and stay abroad of one attendant who accompanies the patient	Exempt if the employee's gross total income as computed before including the said expenditure does not exceed Rs. 2 lakhs

- Family = Spouse + children + Parents & siblings if wholly dependent on the assessee.
- Hospital includes a dispensary or a clinic or a nursing home.

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4.8. PERQUISITE IN RESPECT OF INTEREST FREE LOAN OR LOAN AT CONCESSIONAL RATE

(Rule 3(7)(i))

- Interest on loans is calculated as under:

  Step 1: Calculate maximum monthly o/s balance (aggregate of all loans at the end of each month)

  Step 2: Calculate SBI rate of interest on the first day of the previous year.

  Step 3: Calculate interest for each month (Step 1 x Step 2)

  Step 4: Deduct amount recovered from employees if any from Step 3

  Step 5: Balance amount is treated as perquisite.

- **Other Points**
  - No perquisite if loan is given for medical treatment of specified disease. No exemption is available if reimbursed to employee under any medical insurance scheme
  - If original loan amount does not exceed ₹ 20,000/-: Nil Perquisite
  - If a loan is given by an employer to the employee (or any member of his household) and charged interest rate equal to or higher than SBI Rates, it is not a taxable perquisite.

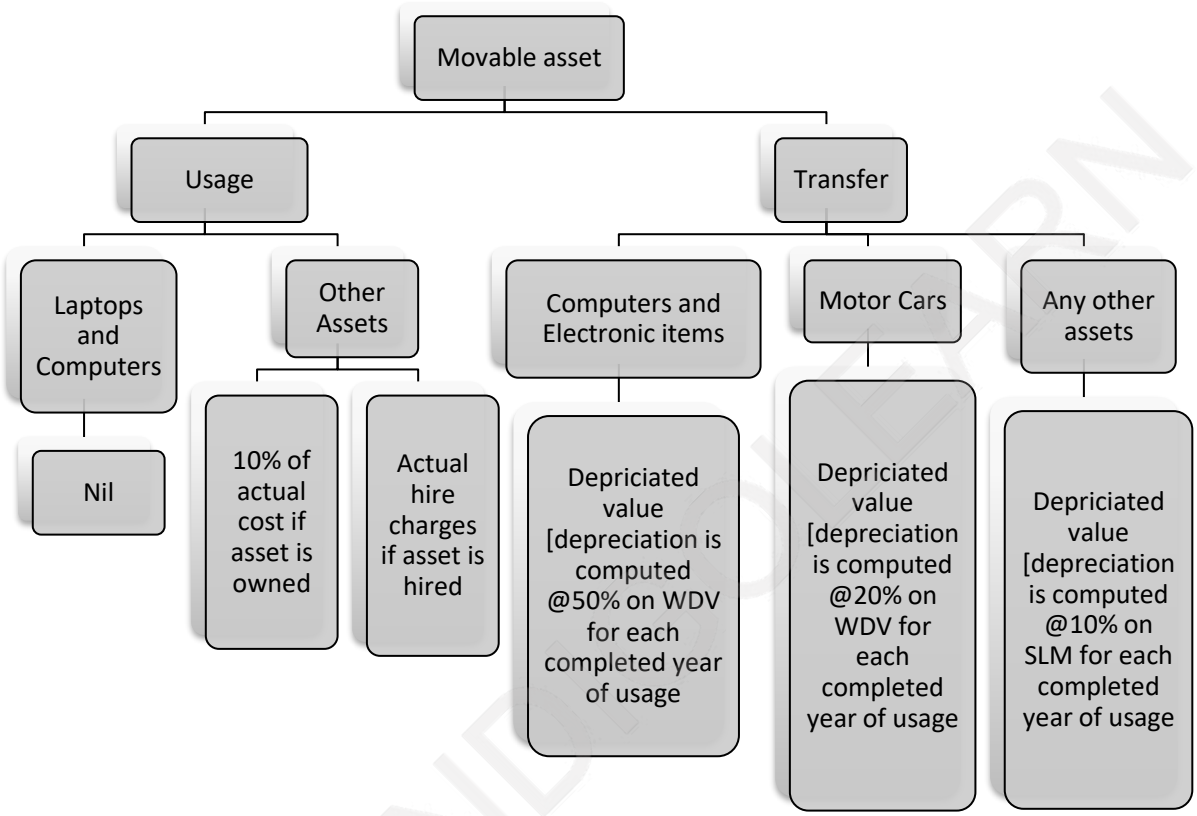
    However, if he charges lower than SBI rates, then it is chargeable to tax as follows:

    (MOMB on the last day of each month x Lending rate of SBI on the first day of relevant PY for similar purpose) less interest paid to employer
  - *Maximum Outstanding Monthly Balance* (MOMB): means the aggregate outstanding balance for each loan as on the last day of each month.
  - If a loan is made available for medical treatment in respect of diseases specified in Rule 3A, then it is not taxable.

    This exemption is, however, not applicable to so much of the loan as has been reimbursed to the employee under any medical insurance scheme.

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4.9. PERQUISITE IN RESPECT OF USEAGE OR TRANSFER OF MOVABLE ASSETS (Rule 3(7)(vii) & (viii))

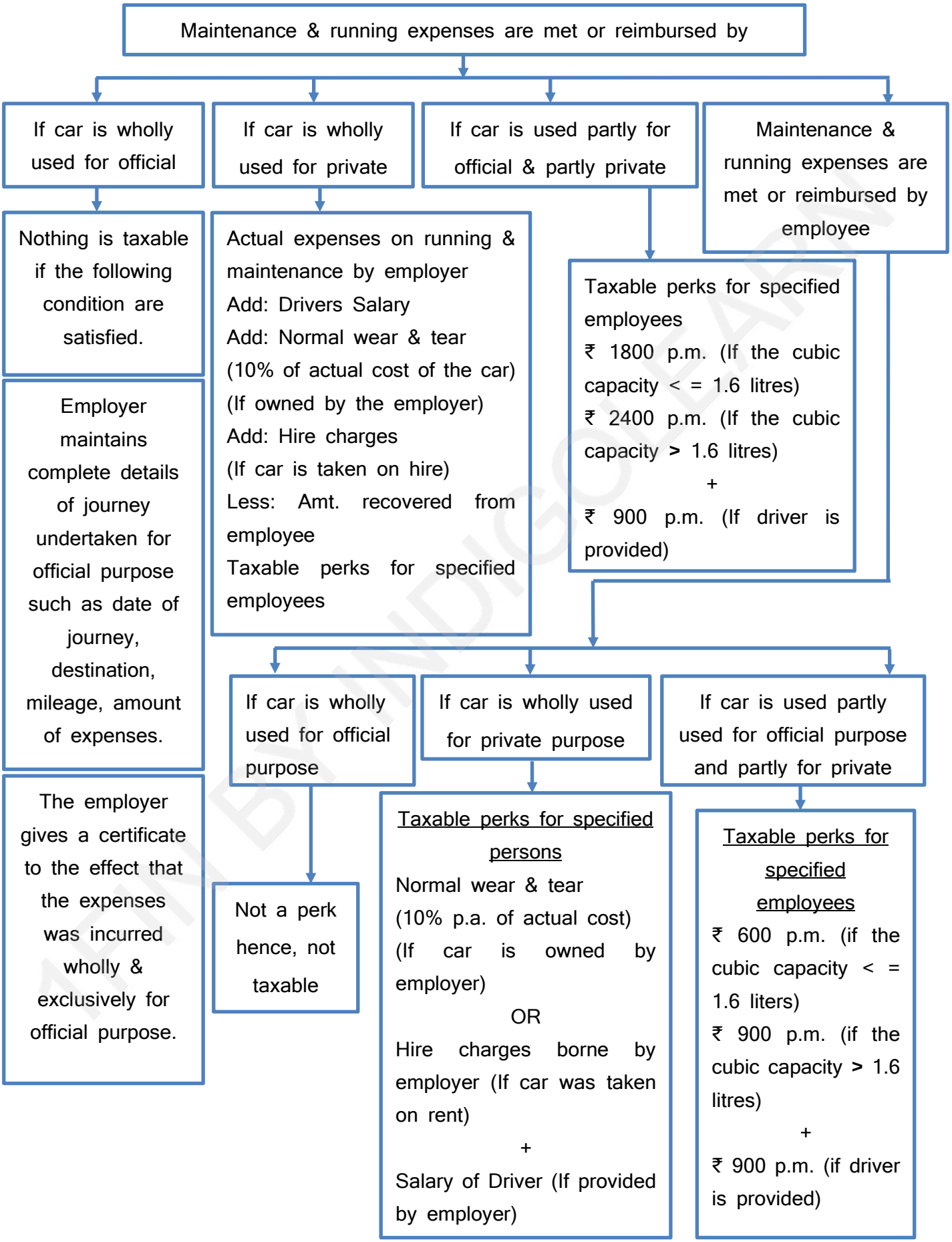


Notes:

- Any payment made by employee in respect of such perquisites shall be deducted from the above respective values so arrived.
- The depreciation is to be computed for EACH completed years during which the asset was put to use by the employer for his business purposes, i.e each completed year of usage but not financial year or calendar year.
- Household member shall include spouse, children and their spouses, parents, servants and dependents.

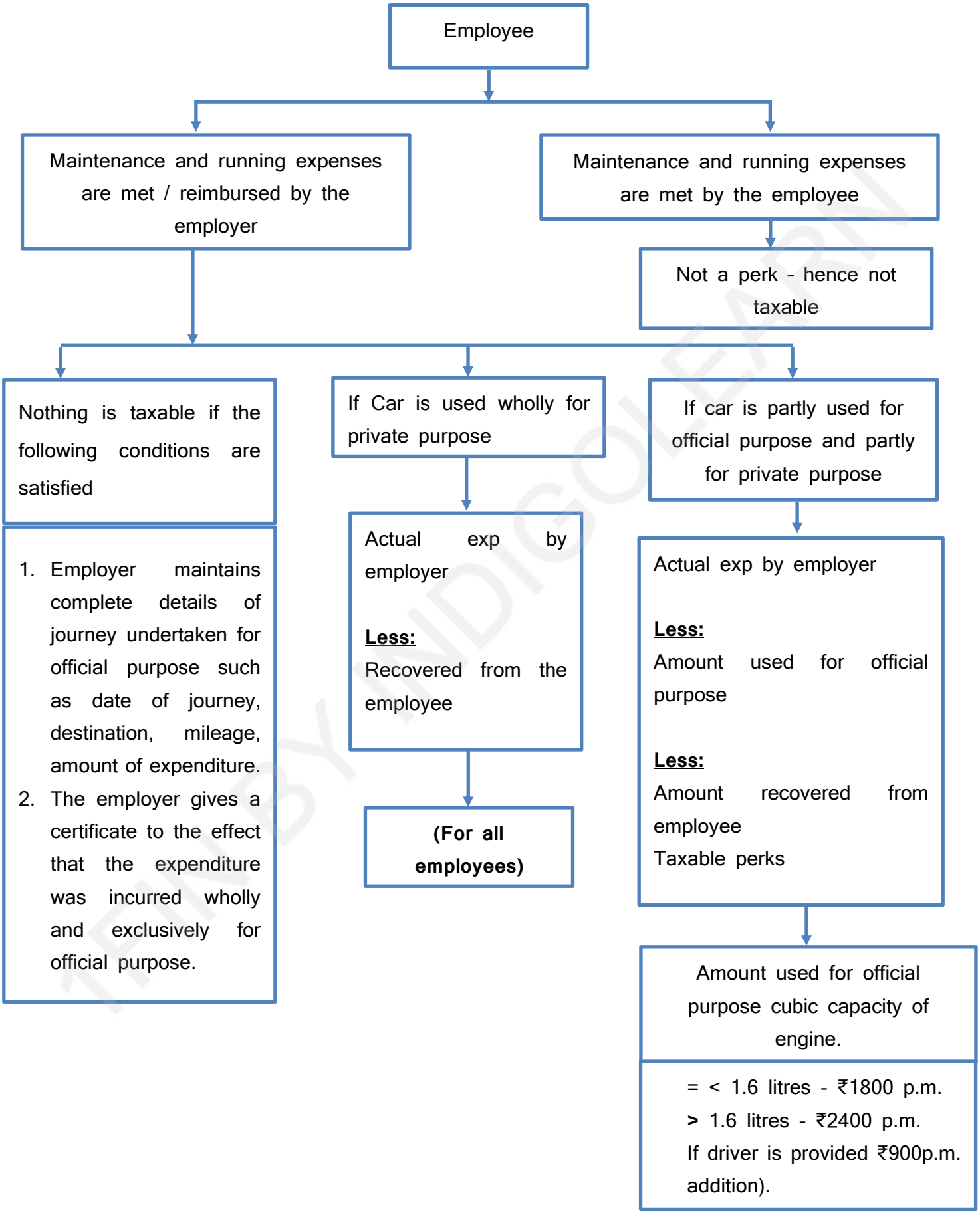
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4.10. TAXABLE VALUE OF PERQUISITE - MOTOR CAR (RULE 3(2)(A):



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Situation 2: - Motor car is owned by the employee



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Situation 3: - Employee owns any automotive other than motor car:

Exp. on running & maintenance met/reimbursed by	Usage or purpose of the motor car	Taxable value of perquisite
(a) Employer	Wholly and exclusively official purpose	Not Taxable, provided the documents specified in rule 3(2)(A) are maintained by employer.
(b) Employer	Partly for official and partly for personal purpose of the employee or any member of his household	Actual Exp. incurred by employer less 900 p.m, subject to maintenance of documents specified in Rule 3(2)(A)

Other Points: -

- The following Documents to be maintained as per Rule 3(2)(A):
  - Employer should maintain complete details of journey undertaken for official purpose, which includes date of journey, destination, mileage, and amount of expenditure incurred thereon.
  - Certificate of supervising authority of the employee, wherever applicable, to the effect that the expenditure was incurred for wholly and exclusively for performance of official duties, should be provided.
    - The word "month" means completed month according to the English calendar and part of the month is left out of consideration.
    - Conveyance facility to judges of High court u/s 22B of the High Court judges (condition of service) Act and to judges of Supreme Court u/s23A of the Supreme Court judges (condition of service) Act is not taxable.
- The car facility provided by employer between office and residence of employee is not chargeable to tax.

4.11. ISSUE OF RIGHT SHARES TO EMPLOYEE SHARE HOLDER

- If Employer Company issues right shares to employee shareholder at concessional rate, and not at FMV, then such discount is treated as perquisite in the hands of the employee

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4.12. VALUATION OF SPECIFIED SECURITY OR SWEAT EQUITY SHARE (Sec 17(2)(vi))

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

- **If shares are listed in only one stock exchange**
  - Average of opening and closing value of stock exchange if shares are traded in the stock exchange as on the date of exercising the option by the employee.
  - If there is no trading on the date of exercise of option in stock exchange, then above average will be taken of immediately preceding day.

- **If shares are listed in more than one stock exchange**
  - In above situation (i) or (ii) as the case may be, will be taken of that stock exchange which has recorded the transaction in highest volume as on the particular date.

- **If shares of the company are not listed**
  - Value on specified date as determined by a category I Merchant banker registered with SEBI.
  - Specified date means: The date of exercise of option or any date earlier than the date of exercise of option not being a date which is more than 180 days earlier than the date of exercise of option.

Note: Where any amount has been recovered from the employee, the same shall be deducted to arrive at the value of perquisites.

4.13. CONTRIBUTION TO SUPERANNUATION FUND

- If employer contributes to superannuation fund of an employee, amount in excess of ₹ 7.5 lakh is taxable as perquisite.

4.14. CERTAIN PERQUISITES

- Club Facility except one-time payment and provided at the premises of the employer. (Rule 3(7)(vi)),
- Facility of providing lunch / dinner in excess of ₹ 50/- per meal.
- Gifts / vouchers etc. in excess of ₹ 5000/-. (Rule 3(7)(iv))

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- Travelling, Tour (if no LTC is given)
- Credit Card to the extent utilized for personal purpose. (Rule 3(7)(v))
- Free Transport (value will be amount charged from general public)
- All other perquisites provided by employer except for telephone expenses.
- **Notes:**
  - Where employee is on official tour and the expenses are incurred in respect of any member of his household accompanying him, the amount of expenditure so incurred shall also be a fringe benefit or amenity.
  - Where any official tour is extended as vacation, the value of such fringe benefit will be limited to the expenses incurred in relation to such extended period of stay on vacation
- **Free meals during the office hours:** Actual cost to employer in excess of ₹ 50 per meal is the taxable perquisite. However, the following are not chargeable to tax:
  - Tea or similar non-alcoholic beverages and snacks during the work hours.
  - Free meals in remote area or offshore installation area.
- **Value of any gift or voucher or token other than gifts made in cash on convertible into money (like gift cheques) on ceremonial occasion:** value of such gift (during the PY in aggregate) in excess of ₹ 5000 per annum is taxable perquisite.
- **Expenditure incurred on credit card or add on card including membership fees and annual fees:** The actual expenditure incurred by the employer is taxable perquisite.

  However, it is incurred for official purpose and supported by necessary documents then it is not taxable.
- **Expenditure incurred on club other than health club or sports club, or similar facilities provided uniformly to all employees:** The actual expenditure incurred by the employer is taxable perquisite. However, it is incurred for official purpose and supported by necessary documents then it is not taxable. Initial fee of corporate membership of a club is not taxable.
- **Any other benefit or amenities or service or right or privilege provided by the employer other than telephone/mobile phone:** The actual cost to employer is taxable perquisite.

  Note: If any amount is recovered from employee in respect of the above perquisites, then the taxable perquisite will be the value so determined as above less the amount recovered from employee.

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4.15. OTHER PERQUISITES:

- If Transportation of goods/passengers at free or concessional rate provided by the employer engaged in that business (other than railways / airways), then the value offered to other public is the taxable perquisite.
- If travelling, touring, accommodation and other expenses met by employer (only for the period of vacation) other than LTA u/s 10(5), then the amount incurred, or value offered to other public is the taxable perquisite.

4.16. EMPLOYEE'S OBLIGATION MET BY EMPLOYER

- Amount paid by employer is chargeable as perquisite.

4.17. LIFE INSURANCE PREMIUM OF EMPLOYEE (Sec 17(2)(v))

- Any amount paid towards life insurance of employee is chargeable.
- No perquisite in case of employer's contribution to recognized provident fund, superannuation fund.
- No perquisite if premium paid under different schemes (Group Gratuity, ESI etc.)

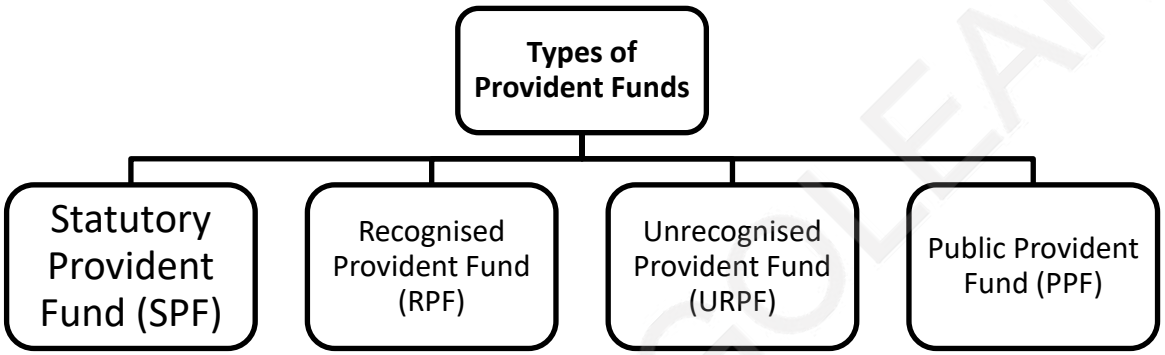
4.18. LIST OF PERQUISITES EXEMPT IN THE HANDS OF ALL EMPLOYEES

- Amount spent on training of employees.
- Goods manufactured by the employer and sold by the employer to his employees at concessional rate.
- Employers' contribution to group accident insurance schemes.
- Free residential telephone or Mobile telephone.
- Payment of annual premium by employer on personal accident policy affected by him on his employees.
- Privilege passes and privilege ticket orders granted by Indian railway to its employees.
- Travelling facility to employees of railways or airlines
- Sum payable by an employer to a RPF or an approved superannuation fund or deposit linked insurance fund established under the coal mines provident fund or the employee's provident fund Act.
- Subsidized lunch or dinner provided to an employee.

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- Recreational facilities, including club facilities, extended to all employees.
- Rent-free official residence provided to a Judge of a High Court or the Supreme Court.
- Rent-free furnished residence including maintenance provided to an Officer of Parliament, Union Minister and a Leader of Opposition in Parliament.
- Conveyance facility provided to High Court Judges.
- Periodical and journals required for discharging of work.

5. TREATMENT OF PROVIDENT FUNDS



1) Statutory Provident Fund

It applies to employees of government, railways, semi- government institutions, local bodies, universities and all recognised educational institutions.

2) Recognized Provident Fund

Recognised provident fund means a provident fund recognised by the Commissioner of Income-tax

3) Unrecognised Provident Fund

If any Provident Fund is not recognized / approved by Commissioner, it is Unrecognised Provident Fund.

4) Public Provident Fund

Governed by Provident fund Act 1968 Membership of the fund is open to every individual though it is ideally suited to self-employed people

In this fund, any person can deposit the amount.

5) Approved Superannuation Fund

Annuation Fund approved by Commissioner.

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6) Approved Gratuity Fund

Gratuity Fund approved by Government.

Note:

- Salary for the purpose of Recognized provident fund means, Basic salary + DA (if the terms of employment so provide) + Fixed % of commission on turnover achieved by employee.
- Any transfer from an unrecognised PF to Recognised PF is also taxable in the year of transfer.
- Exemption in respect of payment received by employee from Superannuation fund [Sec 10(13)]
- Employee's share from lumpsum payment received on maturity Unrecognised provident fund:
  - Not taxable
  - Interest on such = Taxable as Income from other sources
- PPF => For deduction u/s 80C, a member is required to contribute a min of Rs. 500 in a year. Max Rs. 1,50,000 is qualified for such deduction as per PPF rules.

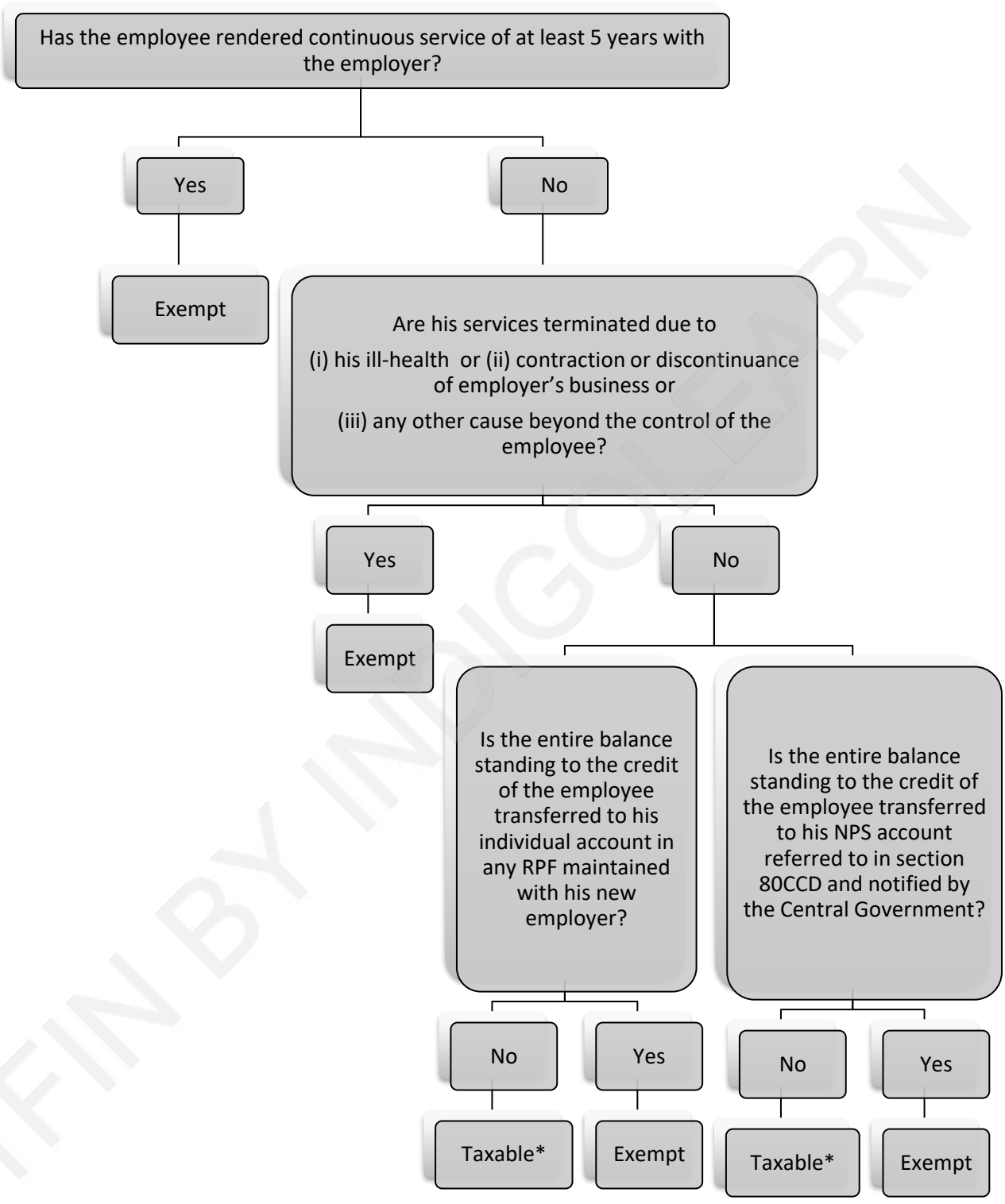
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Exemption and Taxability Provisions of Provident Funds

Particulars	Recognized PF	Unrecognized PF	Statutory PF	Public PF
Employer's Contribution	Amount in excess of 12% of salary is taxable	Not taxable yearly	Fully exempt	Not applicable as there is only assessee's own contribution
Employee's Contribution	Eligible for deduction u/s 80C	Not eligible for deduction	Eligible for deduction u/s 80C	Eligible for deduction u/s 80C
Interest Credited on Employer's Contribution	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 17(1)	Not taxable at the time of credit of interest	Fully exempt	N.A.
Interest Credited on Employee's Contribution	Amount in excess of 9.5% p.a. is taxable as "salary" u/s 17(1)	Not taxable at the time of credit of interest	Exempt upto certain limit of contribution	Fully exempt
Amount withdrawn on retirement/ termination	Exempt u/s 10(12) subject to certain conditions	•Employee's contribution is not taxable. •Interest on Employee's contribution is taxable under 'Income from Other Sources' •Employer's contribution and interest thereon is taxable as "Profit in lieu of salary" u/s 17(3).	Exempt u/s 10(11)	Exempt u/s 10(11)

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Exemption of Accumulated balance of RPF, payable to an employee



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* Where the accumulated balance in Recognised Provident Fund becomes taxable, the tax payable in each of the years would be computed as if the fund had been an Unrecognised Provident Fund and the difference in tax would be payable by the employee.

- If, after termination of his employment with one employer, the employee obtains employment under another employer, then, only so much of the accumulated balance in his provident fund account will be exempt which is transferred to his individual account in a recognised provident fund maintained by the new employer. In such a case, for exemption of payment of accumulated balance by the new employer, the period of service with the former employer shall also be taken into account for computing the period of five years' continuous service
- The exemption under section 10(11) or 10(12) would not be available in respect of income by way of interest accrued during P.Y. to the extent it relates to aggregate amounts of contribution made by that person is > Rs. 2,50,000 in any P.Y on or after 01-04-2021
- If there is no employer's contribution, higher limit of Rs. 5,00,000 would be applicable for such contribution and interest accrued in any P.Y. on or after 01-04-2021 would be exempt
- It may be noted that interest accrued on contribution to such funds upto 31/03/21 would be exempt without any limit, even if the accrual of income is after that date.

6. RELIEF U/S 89 - IF SALARY RECEIVED IN ARREARS OR ADVANCE

- When an assessee is charged for –
  - Arrear or Advance salary; or
  - Gratuity, Commuted pension, etc.

  then he may fall under higher rate of tax (of progressive tax-slab) e.g. instead of 20% he may have to pay tax @ 30%. To compensate aggrieved assessee from such higher rate, sec. 89(1) provides for 'Relief'.
- Applicable to: An assessee, who is in receipt of –
  - Arrear salary or Advance salary or in any other way is in receipt, in any one financial year of salary for more than 12 months; or
  - Profit in lieu of salary u/s 17(3) e.g. gratuity, commuted pension, etc.; or
  - Family pension, being paid in arrears.

  Note: An assessee, who receives leave encashment during continuation of his service, can also claim relief u/s 89.
- Assessee has made an application in this behalf to the Assessing Officer.
- Quantum of Relief: As computed by method provided in Rule 21A
- No relief at the time of Voluntary retirement or Termination of service-

Steps	Calculation
1	Calculate tax on total income of the current year including salary received in arrear or advance
2	Calculate tax on total income of current year excluding salary received in arrears
3	Determine difference of 1-2
4	Calculate tax on total income of all the previous year to which the arrear relates including arrear of respective year to that year's total income
5	Calculate tax on total income of all the previous year to which the arrear relates excluding arrear of respective year to that year's total income
6	Determine difference of 4-5
7	Relief = Value at Step 3 - Value at Step 6 (if positive), Otherwise no relief

Problems

1. Mr. Mohit is employed with XY Ltd. on a basic salary of ₹ 10,000 p.m. He is also entitled to dearness allowance @ 100% of basic salary, 50% of which is included in salary as per terms of employment. The company gives him house rent allowance of ₹ 6,000 p.m. which was increased to ₹ 7,000 p.m. with effect from 1.01.2024. He also got an increment of ₹ 1,000 p.m. in his basic salary with effect from 1.02.2024. Rent paid by him during the previous year 2023-24 is as under:

   April and May, 2023 - Nil, as he stayed with his parents

   June to October, 2023 - ₹ 6,000 p.m. for an accommodation in Ghaziabad

   November, 2023 to March, 2024 - ₹ 8,000 p.m. for an accommodation in Delhi.

   Compute his gross salary for assessment year 2024-25.

2. How is exemption granted by section 10(10CC) in respect of income –tax paid by employer? [PCC – Nov 07]

3. How is advance salary taxed in the hands of an employee? Is the tax treatment same for loan or advance against salary? [PCC – May 09]

4. From the following, find out the amount chargeable to tax for the assessment year 2024-25.

Date of retirement of X from a private job	November 15, 2023

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Basic salary from January 1, 2023 to April 30, 2023	₹ 20000 per month
Basic salary from May 1, 2023 onwards	₹ 22000 per month
Dearness allowance	Nil
Commission	Nil
Leave standing to the credit at the time of retirement	600 days
Rate of leave entitlement according to the service rule	45 days leave for each year of service
Duration of service	18 years
Amount of leave encashment given at the retirement (leave encashment was not given earlier) (i.e., ₹ 22000 x 600/30)	₹ 440000

5. X (age: 24 years) is offered an employment by PQR Ltd. at basic salary of ₹ 32000 per month. Besides, he is entitled for dearness allowance, forming part of salary, @ ₹ 6000 per month, bonus (2 month's basic pay) and city compensatory allowance @ ₹ 1600 per month. The company gives X an option to take a rent-free unfurnished house in Chennai for which the company would directly bear rent of ₹ 10000 per month, or to accept house rent allowance of ₹ 10000 per month and find out own accommodation. X decides to accept the house rent allowance and takes a house at Chennai at a rent of ₹ 10000, per month. Examine from the income tax point of view whether X has made a wise choice?

6. X is employed by A Ltd. since May 1, 2012. The company adopted new pay scale on January 1, 2021. At that time, he was placed in the grade of ₹ 20,000 - ₹ 1,000 - ₹ 60,000 and his basic salary was fixed at ₹ 24,000. Besides, he is entitled for 10 percent of salary as dearness allowance which (according to service rules) will be treated as part of salary for calculation of gratuity but not for calculation of pension and provident fund.

   Before joining A Ltd. in 2012, X was employed with B Ltd. he retired from B Ltd. in April 2012 after rendering service of 15 years and at that time he took an exemption under section 10(10)(iii) of ₹ 2,81,000 from gratuity received from B Ltd. X retires from service of A Ltd. on February 14, 2024 and gets a sum of ₹ 6,00,000 as gratuity.

   Find out the gratuity chargeable to tax for the assessment year 2024-25 in the following two situations—

   1. Situation 1- The Payment of Gratuity Act, 1972 is applicable.
   2. Situation 2- The above Act is not applicable.

7. Determine the amount of taxable pension for the assessment year 2024-25 in the following cases on the assumption that pension becomes due on the last day of month:

1. X retires from the Indian Economic Service on July 31, 2023 and receives ₹ 32000 per month as pension.
2. X retires from the Indian Administrative Service on May 31, 2022. He gets pension of ₹ 29000 per month up to June 30, 2023. With effect from July 1, 2023, he gets 42 per cent of his pension commuted for ₹ 400000.
3. X retires from PQR Pvt Ltd. in December 2018 and receives ₹ 11000 per month up to February 28, 2024, when he dies.
4. X retires from PQR (P.) Ltd. pays ₹ 24000 per month as pension but does not pay any gratuity. On the request of X, PQR (P.) Ltd. pays ₹ 600000 in lieu of commuted pension at 40% of pension with effect from February 1, 2024.
5. What will be the amount of taxable pension if X, under the circumstances mentioned at (4), receives ₹ 90000 as gratuity at the time of retirement?

8. X and Y are employed by A Ltd. (salary being ₹ 48,000 per month). As per the company's policy, an employee is entitled for a car (1600 CC) and a driver. The car can be used for official and personal purposes. A car owned by the company can be provided along with driver and the company will bear running the maintenance expenditure up to a minimum of ₹ 72,000 per annum and actual salary of the driver (up to ₹ 60,000 per annum). An employee, at his option, can use his own car for official and personal purposes per annum and company will reimburse actual expenditure on maintenance of the car but up to a maximum of ₹ 72,000 per annum and salary of driver up to ₹ 60,000 per annum.

   X has taken a car and driver from the company for official and personal purposes (actual maintenance expenditure is approximately ₹ 72,000 per annum for car and ₹ 60,000 per annum for driver). However, Y has used his own car and driver for official and personal purposes (amount of actual expenditure reimbursed on this account is approximately ₹ 72,000 for car and ₹ 60,000 per annum for driver).

   Log book of the cars is not maintained. It is not possible to determine expenditure attributable for private use of cars. Find out the taxable value of the perquisite in the hands of X and Y for the assessment year 2024-25. A nominal amount of ₹ 1,000 per annum is recovered from X and Y for providing this perquisite.

9. Mr. Rishi, employed in CD Ltd at Chennai, furnishes you the following information for the year ended 31.03.2024:
   i. Basic salary ₹ 50,000 per month.
   ii. Dearness allowance @ 40% of basic salary (eligible for retirement benefits).
   iii. Motor car (engine cubic capacity above 1.6 litres) owned by CD Ltd. was given to Mr. Rishi for both official and personal use, for the whole year. Running expenses for personal use was fully met by Mr. Rishi. Actual expenses ₹ 32,400. The car was self-driven by Mr. Rishi.

iv. Cost of laptop ₹ 40,000 acquired by CD Ltd. in August, 2023 given to Mr. Rishi for ₹ 5,000 immediately.
v. Accommodation taken on lease by CD Ltd. given to Mr. Rishi from 01.04.2023 at a concessional monthly rent of ₹ 5,000. The annual lease rent paid to the landlord by the company is ₹ 3,00,000.
vi. Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons aged 3). Cost of air tickets (economy class) reimbursed by the employer ₹ 30,000 for adults and ₹ 45,000 for three children. Rishi is eligible for availing exemption this year to the extent it is permissible in law.
vii. Contribution of employer to PF was 15% of the basic salary. Equal amount was contributed by Mr. Rishi.
viii. Professional tax paid is ₹ 2,500, of which ₹ 2,000 was paid by the employer.

Compute the total income of Mr. Rishi for the assessment year 2024-25. [RTP Nov-2013]

10. Mr. Balaji, employed as Production Manager in Beta Ltd., furnishes you the following information for the year ended 31.03.2024:
    i. Basic salary upto 31.10.2023 ₹ 50,000p.m.
       Basic salary from 01.11.2023 ₹ 60,000 p.m.
       Note: Salary is due and paid on the last day of every month.
    ii. Dearness allowance @ 40% of basic salary.
    iii. Bonus equal to one month salary. Paid in October 2023 on basic salary plus dearness allowance applicable for that month.
    iv. Contribution of employer to recognized provident fund account of the employee @ 16% of basic salary.
    v. Profession tax paid ₹ 2,500 of which ₹ 2,000 was paid by the employer.
    vi. Facility of laptop and computer was provided to Balaji for both official and personal use. Cost of laptop ₹ 45,000 and computer ₹ 35,000 were acquired by the company on 01.12.2023.
    vii. Motor car owned by the employer (cubic capacity of engine exceeds 1.60 litres) provided to the employee from 01.11.2023 meant for both official and personal use. Repair and running expenses of ₹ 45,000 from 01.11.2023 to 31.03.2024, were fully met by the employer. The motor car was self-driven by the employee.
    viii. Leave travel concession given to employee, his wife and three children (one daughter aged 7 and twin sons aged 3). Cost of air tickets (economy class) reimbursed by the employer ₹ 30,000 for adults and ₹ 45,000 for three children. Balaji is eligible for availing exemption this year to the extent it is permissible in law.

    Compute the salary income chargeable to tax in the hands of Mr. Balaji for the assessment year 2024-25. [Nov 11]

11. Mrs. X is a tax consultant in A Ltd. (salary being ₹ 192000 per annum). A Ltd. makes the following expenses for medical treatment of her husband outside India during the previous year 2023-24:

Particulars	Amount incurred by A Ltd. (₹)	Out of which permitted by RBI (₹)
Cost of medical treatment of X outside India	35,60,000	35,55,000
Cost of stay abroad of X and Mrs. X in connection with medical treatment of X	8,41,000	8,40,000
Cost of travel of X and Mrs. X in connection with medical treatment of X	3,70,000	3,75,000

Find out the taxable value of the medical facility chargeable to tax in the hand of Mrs. X for the assessment year 2024-25 in the following two different situations—

Situation 1— Mrs. X does not have any other source of income.

Situation 2—Mrs. X is an author. Her royalty income is ₹ 2,40,000. However, it is fully deductible under section 80QQB.

12. From the following details, find out the salary chargeable to tax for the assessment year 2024-25

Mr. X is a regular employee of Rama & Co. in Gurgaon. He was appointed on 1.1.2023 in the scale of 20,000 - 1,000 - 30,000. He is paid 10% D.A. & Bonus equivalent to one month pay based on salary of March every year. He contributes 15% of his pay and D.A. towards his recognized provident fund and the company contributes the same amount.

He is provided free housing facility which has been taken on rent by the company at ₹ 10,000 per month. He is also provided with following facilities:

i. Facility of laptop costing ₹ 50,000.
ii. Company reimbursed the medical treatment bill of his brother of ₹ 25,000, who is dependent on him.
i. The monthly salary of ₹ 1,000 of a house keeper is reimbursed by the company.
ii. A gift voucher of ₹ 10,000 on the occasion of his marriage anniversary.
iii. Conveyance allowance of ₹ 1,000 per month is given by the company towards actual reimbursement.
iv. He is provided personal accident policy for which premium of ₹ 5,000 is paid by the company.
v. He is getting telephone allowance @ ₹ 500 per month.
vi. Company pays medical insurance premium of his family of ₹ 10,000. [Nov 10]

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13. AB Co. Ltd. allotted 1000 sweat equity shares to Sri Chand in June 2023. The shares were allotted at ₹ 200 per share as against the fair market value of ₹ 300 per share on the date of exercise of option by the allottee viz. Sri Chand. The fair market value was computed in accordance with the method prescribed under the Act.
    i. What is the perquisite value of sweat equity shares allotted to Sri Chand?
    ii. In the case of subsequent sale of those shares by Sri Chand, what would be the cost of acquisition of those sweat equity shares?

14. Following benefits have been granted by Ved Software Ltd. to one of its employees Mr. Badri:
    i. Housing loan @ 6% per annum. Amount outstanding on 1.4.2023 is ₹ 6,00,000. Mr. Badri pays ₹ 12,000 per month towards principal, on 5th of each month.

    Compute the chargeable perquisite in the hands of Mr. Badri for the A. Y. 2024-25.

    The lending rate of State Bank of India as on 1.4.2023 for housing loan may be taken as 10%. [PCC – May 08]

15. Mr. Harish, aged 52 years, is the Production Manager of XYZ Ltd. From the following details, compute the taxable income for the assessment year 2024-25.

Particulars	₹
Basic salary	₹ 50,000 per month
Dearness allowance	40% of basic salary
Transport allowance (for commuting between place of residence and office)	₹ 3,000 per month
Motor car running and maintenance charges fully paid by employer (The motor car is owned by the company and driven by the employee. The engine cubic capacity is above 1.60 litres. The motor car is used for both official and personal purpose by the employee.)	
Expenditure on accommodation in hotels while touring on official duties met by the employer	₹ 60,000
Loan from recognized provident fund (maintained by the employer)	
Lunch provided by the employer during office hours.	₹ 80,000
Cost to the employer	₹ 60,000
Computer (cost ₹ 35,000) kept by the employer in the residence of Mr. Harish from 1.06.2023	₹ 24,000
Mr. Harish made the following payments:	
Medical insurance premium: Paid in Cash	
Paid by account payee crossed cheque	₹ 4,800
	₹ 15,200

16. Mr. Jatin, employed as General Manager in Beta Ltd., furnishes you the following information for the year ended 31.3.2024:

Particulars	Amount (in ₹)
Basic salary	25,000 per month
Dearness allowance (forming part of salary for retirement benefits)	60% of basic salary
Conveyance allowance (reimbursement of actual expenditure incurred on conveyance in performance of duties of an office)	1,000 per month
Transport allowance (for commuting between place of residence and office)	1,600 per month
Employer's contribution to recognized provident fund	15% of basic salary and D.A
Interest credited to recognized provident fund @ 12%	24,000
Rent free unfurnished accommodation provided to Mr. Jatin in Delhi which is owned by Company	
Motor car running and maintenance expenses fully paid by employer (The motor car is owned and driven by the employee. The engine cubic capacity is above 1.60 litres. The motor car is used for both official and personal purposes by the employee)	50,000
Gift voucher given on the occasion of his birthday	4,500
Value of medical facility in a hospital maintained by the company	18,000
Reimbursement of salary of domestic servant by the company which was engaged by Mr. Jatin at his residence	2,500 per month
Free education was provided to his three children in a school maintained and owned by the company. The cost of such education is computed at ₹ 800 per child per month	
Housing loan of ₹ 10,00,000 given on 1.1.2024 at the interest rate of 8% p.a. (No repayment was made during the year). The rate of interest charged by SBI as on 1.4.2023 in respect of housing loan was 10%	

You are required to compute his taxable salary for the AY 2024- 25 [RTP – May 2013]

17. X (60 years), an employee of A Ltd., Mumbai, furnishes following information for the period ending March 31, 2024—

Basic salary (increased to ₹ 53000 per month from November 1, 2023)	52,000 per month
Dearness allowance (43 percent of which is part of salary for computing different retirement benefits)	10,000 per month

House rent allowance (the resides in his own house, interest liability in respect of that house is ₹ 28,000 per annum)	17,000 per month
Leave travel concession (for the block ending December 31, 2024, he has availed LTC from the company during November 2023, economy class air fare of Air India for the distance covered is ₹ 39,000. He has, however, travelled by Jet Airways and company has reimbursed the entire economy class fair).	42,000

He retires (at the age of 60 years) from service on January 1, 2024 (after rendering service of 16 years and 8 months). At the time of retirement, he gets ₹ 10,16,885 as gratuity under the Payment of Gratuity Act. In addition, he gets leave encashment of ₹ 48,000 (he has already availed exemption of ₹ 3,00,000 in respect of earn leave in 2000 at the time of retirement from earlier employer). After retirement he gets pension of ₹ 10000 per month.25 percent of the pension has been commuted with effect from March 1, 2024, for ₹ 3,25,000.

At the time of retirement, he gets ₹ 25,40,000 on account of provident fund balance (approximately 35 percent is employer's contribution and 40 percent is contribution made by X and the balance is interest on provident fund contribution). After retirement, he starts a business from which an income of ₹ 9,20,000 is generated during the financial year ending March 31, 2024.

Every year he contribution 12 percent of his salary towards recognized provident fund and ₹ 30000 towards public provident fund.

Determine the amount of net income and tax liability of X for the assessment year 2024-25. Salary becomes due on the last day of each month.

18. X (33 years) is the head of HR department of A Ltd. He furnishes the following information of his income/investments pertaining to the previous year 2023-24—

He gets ₹ 55000 per month as salary,
₹ 12500 per month as dearness allowance (10 per cent is part of salary for computing entitlement of taking loan from company),
Domestic servant allowance: ₹ 4000 per month,
Hard duty allowance: ₹ 1000 per month,
Over time allowance: ₹ 2500 per month and
Education allowance for grand children: ₹ 6000 per month.
Over time allowance has been withdrawn with effect from December 15, 2023.

With effect from September 1, 2023, the employee company has provided furnished accommodation in a guest house for X and his family members. Before September 1, 2023, he resides in a rented accommodation, but house rent allowance is not paid to him. Guest house tariff paid by A Ltd. is ₹ 135000 for the period ending March 31, 2024.

On November 1, 2023, A Ltd. has given an option to X to get 2000 equity shares in A Ltd. at a pre-determined price of ₹ 70 per share. This option he can exercise at any time during December 1, 2023, and December 1, 2024. He exercises the option of purchasing 1700 equity shares in A Ltd. on February 25, 2024. Shares are allocated on March 25, 2024, and transferred in his D-mat on April 1, 2024.

Taking into consideration the following information, find out net income and tax liability of X for the assessment year 2024-25—

1. X contributes 15 per cent of his salary [i.e., 15 percent (₹ 55000+ ₹ 12500) per month] towards unrecognized provident fund. It comes to ₹ 121500 for the previous year 2023-25. A matching contribution is made by the employer.
2. Provident fund interest is credited at the rate of 11 per cent which comes to ₹ 1,11,500.
3. Market value of shares in A Ltd. as follows- on November 1, 2023: ₹ 700, December 1, 2023: ₹ 760, February 25, 2024: ₹ 810 and April 1, 2024: ₹ 900.
4. A Ltd. wants to bear the income-tax liability of X for the assessment year 2024-25. If it is possible, then what are tax consequences in the hands of X and A Ltd?
5. Income of X from other sources is ₹ 70000.
6. On March 13, 2024, X deposited ₹ 72000 in a fixed deposit with State Bank of Hyderabad for the purpose of claiming deduction under section 80C.

19. X is a foreign citizen. He comes to India for the first time on June 1, 2023 for the purpose of completing a project of an Argentina company in India. On this project, he works up to October 31, 2023 and leaves India for his home town along with his family on November 2, 2023. He gets in India the following salary/allowances/ perquisites from the employer- foreign company—

	US $
Basic salary per month	18500
Education allowance for X's son and daughter (children are studying in USA) (US $ 175 per month for two children)	350
Entertainment allowance per month	1000

Car (2400cc) with driver for official and private purposes (per month expenditure)	750

Besides the above, the employer-company provides an accommodation in a guest house for which the company pays ₹ 3,00,000 per month. Entertainment allowance is used by X for official purposes. Car is used for personal purposes only on a few occasions (out of the total expenditure not more than 3 percent is attributable for private purposes). He pays an insurance premium of ₹ 25,750 (sum assured: ₹ 5,00,000).

Find out the net income and tax liability of X in India for the assessment year 2024-25. Salary for the month of October is deposited by the employer in his bank account in Argentina. Salary for remaining months is paid to him in India. For conversion of salary into Indian currency, the following telegraphic transfer buying/selling rates of US $ adopted by SBI are given—

	Buying (1 US $)	Selling (1 US $)
On June 30, 2023	44	48
On July 31, 2023	43	49
On August 31, 2023	45	50
On September 30, 2023	46	49
October 31, 2023	44	47

20. X (29 years) is in the marketing department of A Ltd. he gets ₹ 65000 per month salary and ₹ 8000 per month as dearness allowance (only 10 percent is considered as part of salary for calculating gratuity/ provident fund, etc). He gets a fixed commission at the rate of ₹ 9000 per month. He has been given an option to purchase sweat equity share in the employer-company. This option was granted in 2021-22 and he has a right to purchase 2700 equity shares in A Ltd. at any time during January 1, 2024 and March 31, 2024 at a predetermined price of ₹ 20 per share. He exercises his right to purchase 2700 shares on April 17, 2023. Shares are, however, allotted on April 28, 2023.

He has been provided a rent-free unfurnished house in Mumbai. The house is taken on lease by A Ltd. and lease rent is ₹ 2000 per month. However, on January 1, 2024, the house is acquired by A Ltd. for a consideration of ₹ 2500000.

X has transferred 1200 equity shares in A Ltd. in National Stock Exchange on March 25,2024 for ₹2800 per share (securities transaction tax is applicable). X contribution 15 per cent of basic salary towards recognized provident fund. A Ltd. makes a matching contribution. Taking into consideration the market value of shares in A Ltd. given below, find out the net income and tax liability of X for the assessment year 2024-25—

	Bombay Stock Exchange	National Stock Exchange

Opening price on April 17, 2023 Closing price on April 17, 2023 Number of shares traded	₹ 2000 per share ₹ 2400 per share 200000	₹ 1900 per share ₹ 2200 per share 80000
Opening price on April 28, 2023 Closing price on April 28, 2023 Number of shares traded	₹ 2800 per share ₹ 2300 per share 90000	₹ 2700 per share ₹ 2350 per share 120000

21. X (43 years) is the finance officer of A Ltd. A Ltd. is a company in which public are substantially interested and it is engaged in the business of housing finance. During the previous year, X gets ₹ 50000 per month as salary and ₹ 10000 per month as dearness allowance (which is taken into consideration for calculating pension but not gratuity). Besides, he gets following allowances—
    1. Transport allowance: ₹ 1000 per month (for commuting between office and residence).
    2. Travelling allowance: ₹ 3000 per month (approximately 75 per cent is used for official purposes).
    3. Research allowance: ₹ 2000 per month (nothing is spent).
    4. Helper allowance: ₹ 9000 per month (approximately 80 per cent is issued for engaging a domestic helper and remaining amount is not used).
    5. House rent allowance: ₹ 17000 per month (till May, he resides in a rented house for which he pays rent of ₹ 5500 per month).

    On May 1, 2023, X takes an interest-free housing loan of ₹ 5500000 from A Ltd. SBI lending rate on April 1, 2023, and May 1, 2023 is 8.75 per cent and 9.5 per cent respectively. ₹ 5,00,000 out of the housing loan is repaid on January 31, 2024. He purchases a house for his own residence on May 15, 2023, and it is used for his own residential purposes since June 2023. For the year ending March 31, 2024, X pays municipal tax of ₹ 60000.
    Find out net income and tax liability of X for the assessment year 2024-25 on the assumption that A Ltd. does not maintain provident fund account but annually deposits ₹ 70000 in public provident fund account of X.

22. Mr. Ashok, an employee of a PSU, furnishes the following particulars for the previous year ending 31.03.2024. [June 09]

Particulars	₹
i. Salary income for the year	7,25,000
ii. Salary for financial year 2019-20 received during the year	80,000
iii. Assessed income for the financial year 2019 – 20	2,40,000

You are requested by the assessee to compute relief under section 89 of the Income-tax Act, 1961 in terms of tax payable for assessment year 2024-25.

The rates of income tax for the assessment year 2020-21 are:

Particulars	₹
On first ₹ 1,80,000	Nil
On ₹ 1,80,000 – ₹ 5,00,000	10
On ₹ 5,00,000 – ₹ 8,00,000	20
Above ₹ 8,00,000	30
Education cess	3

23. Mr. Mayur is a production manager of M/s Iron & Ore Co. Ltd. During the financial year 2023-24, he gets the following emoluments from his employer:

Basic Salary	
Up to 31.7.2023	₹ 22,000 p.m.
From 01.8.2023	₹ 26,000 p.m.
Transport allowance	₹ 1,800 p.m.
Contribution to recognised provident fund	15% of basic salary
Children education allowance	₹ 400 p.m. per child for two children
City compensatory allowance	₹ 500 p.m.
Hostel expenses allowance	₹ 420 p.m. per child for two children
Tiffin allowance (actual expenses ₹ 4,300)	₹ 6,000 p.a.
Tax on employment paid by the employer	₹ 2,200

Compute taxable salary of Mr. Mayur for the Assessment year 2024-25.

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Chapter 5
Income from House Property

Before we Begin,

Taxation on income from house property is an essential aspect of any country's tax system. As individuals and businesses invest in residential and commercial properties, the income generated from such properties becomes subject to taxation. This chapter delves into the fundamental concepts of taxing income from house property, providing readers with a comprehensive understanding of the taxation rules, exemptions, and deductions applicable to this particular stream of income.

The Scope of this Chapter further more clarifies on the aspects of:

- When Income from House Property is Charged to Tax?
- What is Composite Rent and its tax treatment
- Tax treatment on recovery of unrealized rent and arears of rent received
- Computation of Income from Co-Owned Property

Happy learning!

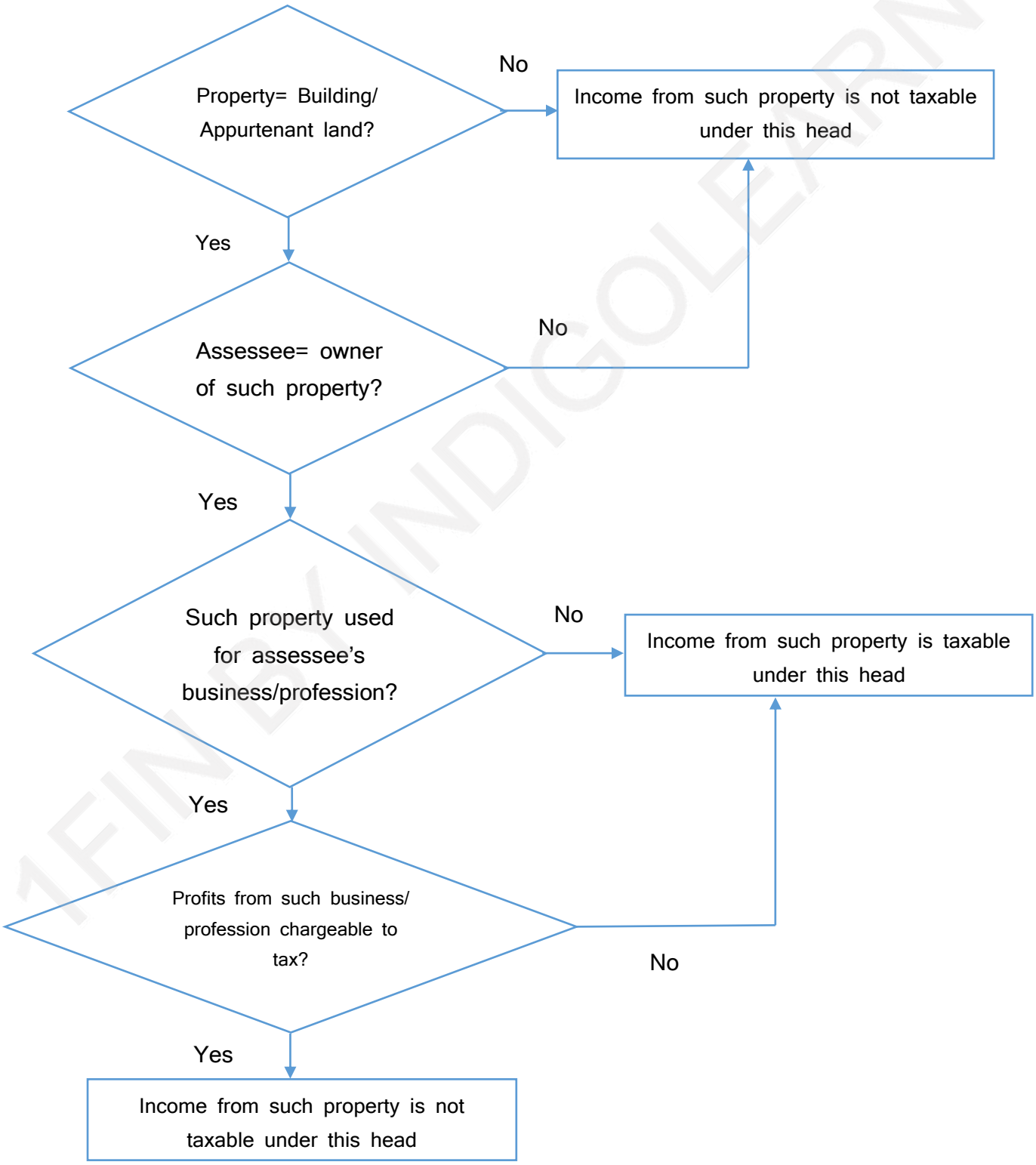


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1. BASIS OF CHARGE {SEC-22}:

- The Annual value of property consisting of any building or lands appurtenant thereto of which the assessee is the owner is chargeable to tax under the head "Income from House Property".

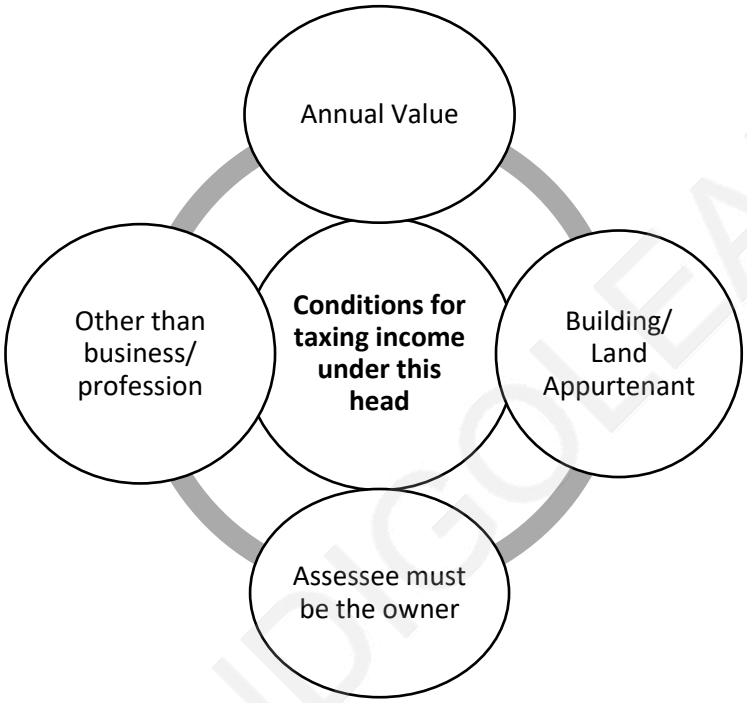
- Where the property is occupied by the assessee for the purpose of any business or profession carried on by him or engaged in the business of letting out of properties, the profits of which is chargeable to tax, shall not be taxable under the head "Income from house property".



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2. CONDITIONS FOR TAXING THE INCOME UNDER THIS HEAD:

- The basis of chargeability under the head income from house property is Annual Value.
- The property must consist of Building or Land Appurtenant thereto.
- The assessee must be the owner of such property.
- The property may be used for any purpose other than the assessee business or profession.

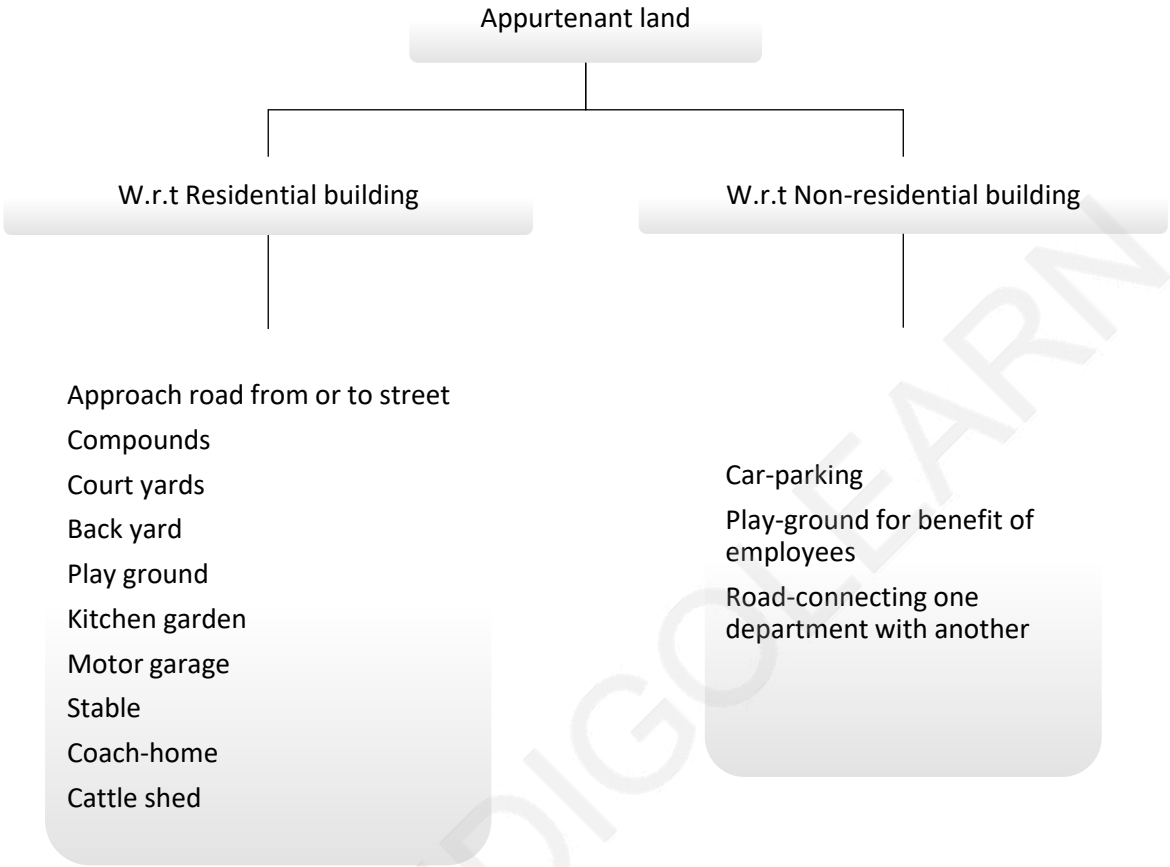


Analysis of Conditions for Chargeability:

- **Property should consist of any building or land appurtenant thereto:**
  - The word building is wide enough to include residential house (whether let out or self-occupied), building let out for office use or for use as factory, music halls, dance halls, lecture halls, public auditorium used for cinema and stage shows.
  - Existence of roof is not a pre-requisite to term storage a property as building.
  - A large stadium or an open-air swimming pool would also be treated only as building, since the structure is permanent.
  - Building need not be constructed of stone or bricks. They may be wood also.
  - Even structures erected for a temporary purpose may be regarded as building.
  - An incomplete house or house in ruins which is not inhabitable cannot be called as building.

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➢ **What do we mean by land appurtenant to building?**



Income from vacant plot of land

Vacant plot of land cannot be regarded as land appurtenant to building. Hence, any income from such land shall be chargeable to tax U/H Income from other sources or Profits and gains from business or profession, as the case may be.

➢ **Assessee must be the owner of the property:**

- ❖ Owner is the person who is entitled to receive income from the property in his own right.
- ❖ The requirement of registration of the sale deed is not warranted.
- ❖ Ownership includes both free-hold and lease-hold rights.
- ❖ Ownership includes deemed ownership.
- ❖ Ownership need not extend to site
- ❖ The person who owns the building need not also be the owner of the land upon which it stands.
- ❖ The assessee must be the owner of the house property during the PY. It is not material whether he is the owner in the assessment year.
- ❖ If the title of the ownership of the property is under dispute in a court of law, the Income-tax Department is authorized to take decision as to who will be the

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owner chargeable to income-tax u/s 22, till the court gives its decision to the suit filed in respect of such property.

➢ **Use of Property:**

The property may be used for any purpose, but it should not be used by the owner for the purpose of any business or profession carried on by him, the profits of which are chargeable to tax.

The income earned by an assessee engaged in the business of letting out of properties on rent would be taxable as business income

➢ **Property held as stock-in-trade etc.**

Annual value of house property will be charged under the head "Income from house property", where it is held by the assessee as stock-in-trade of a business also.

However, the annual value of property being held as stock in trade would be treated as NIL for a period of **TWO** years from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority, if such property is not let-out during such period **[Section 23(5)]**.

3. EXCEPTIONS:

➢ **Letting out is supplementary to the main business:**

- ❖ Where the property is let out with the object of carrying on the business of the assessee in an efficient manner, then the rental income is taxable as business income, provided letting is not the main business but it is subservient/incidental/supplementary to the main business.
- ❖ In such a case, the letting out of the property is supplementary to the main business of the assessee and deductions/allowances have to be calculated as relating to profits/gains of business and not relating to house property.
- ❖ Where the premises of the assessee are given to any Government agency for locating a branch of a bank, police station, etc., for the purpose of running the business of the assessee more efficiently, then the rental income in such a case would be taxable as business income.

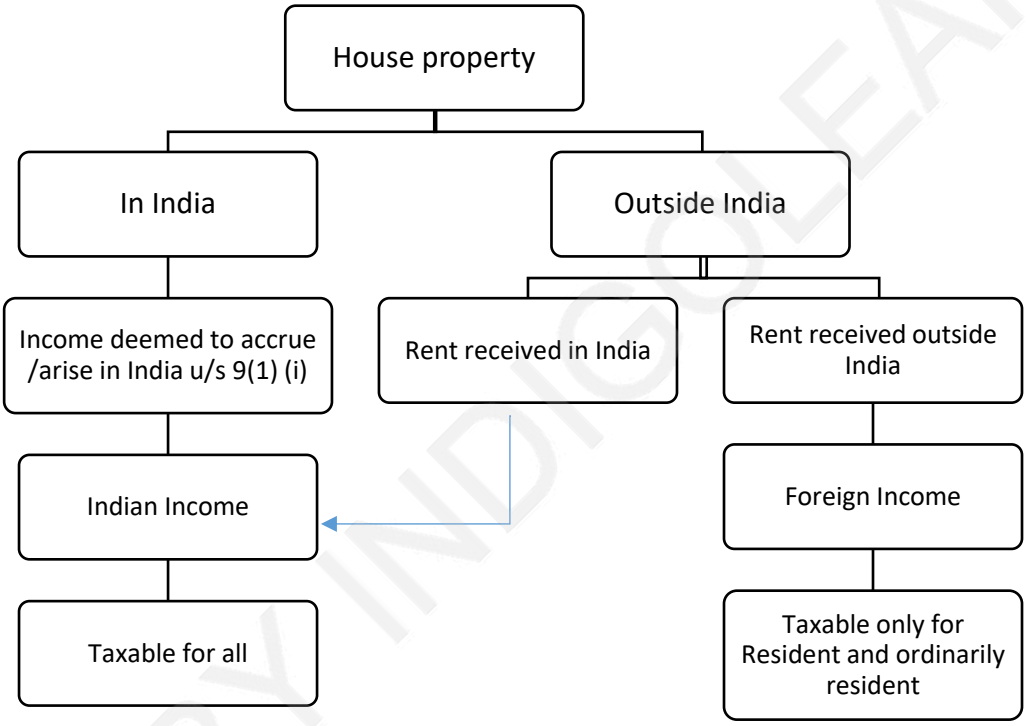
Note:

- ➢ Owner of the H.P should have nexus with business which is carried in the H.P. Then only it is not taxable under this head.
- ➢ If the rent is only for letting out the roof and use of the space for erecting the hoarding, it is not a building, nor is it land appurtenant thereto. The rent will be

taxable under the head, Income from Other Sources. - Mukherjee Estate (P.)Ltd. v. CIT (2000) 244 ITR 1 (Cal).

- Property owned by the partner and used by the firm for the purpose of its business, is not assessable to tax u/s 22.
- Property owned by HUF and used by the firm in which members are partner, shall not be assessed to tax.
- Income in foreign currency is to be converted into Indian rupee using the telegraphic buying rate of such currency on the last day of previous year (Rule 115).

4. LOCATION OF PROPERTY VIS A VIS CHARGEABILITY:



5. DEEMED OWNER {SECTION 27}:

It is legal owner of a house property who is chargeable to tax in respect of property income. However, sometimes taxability casts on a person other than registered owner i.e., beneficial owner. These circumstances are stated in Sec. 27. They are deemed to be the owners even though the property is not registered in their name.

For the purpose of sections 22 to 26, the following persons shall be deemed to be the owner of House property:

- **Transfer to spouse or Minor child {Sec 27(i}):**

An individual, who transfers house property to the spouse without adequate consideration or without an agreement to live apart or to a minor child other than a minor married daughter, is deemed as owner of such transferred property;

In short, conditions are:

- The taxpayer is an individual.

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- He or she transfers a house property.
- The property is transferred to his/ her spouse (not being a transfer in connection with an arrangement to live apart) or to his / her minor child (not being a minor married daughter)
- The property is transferred without adequate monetary consideration.

- **Holder of impartible estate {Sec27(ii)}:**

The holder of impartible estate is deemed to be the owner of all the properties comprised in the estate;

After enactment of the Hindu Succession Act, 1956, all the properties comprised in an impartible estate by custom is to be assessed in the status of a HUF. However, section 27(ii) will continue to be applicable in relation to impartible estates by grant or covenant.

- **Property held by a member of Co-operative society / Company / AOP {Sec27(iii)}:**

At the time of becoming a member in a co-operative society, company, AOP, firm or BOI, any building or part thereof is allotted to a person, then such person shall be deemed as owner of the building;

- **A Person who has acquired a property under a Power of attorney transaction {sec 27(iiia)}:**

If a person has acquired a property under a 'power of attorney transaction' by satisfying the conditions of section 53A of Transfer of property Act, he is deemed as owner of the property, although he may not be the registered owner of the property.

- **Section 53A of the Transfer of Property Act requires the following conditions:**
  - There is an agreement in writing b/w the purchaser & seller though sale deed is not executed.
  - The purchaser has paid the consideration, or he has promised to pay the consideration.
  - The purchaser has taken the possession of the property.

- **A Person who has acquired a right in a building u/s 269UA(f) {Sec 27(iiib)}:**
  - Where the property is given on lease and the lease period is atleast 12 years, then the lessee shall be deemed to be the owner of such property.
  - The position will be the same, even if the original lease period is less than 12 years but along with the period of extension is not less than 12 years.
  - In the following cases only, the lessor will be regarded as owner:
    i. Month to month lease

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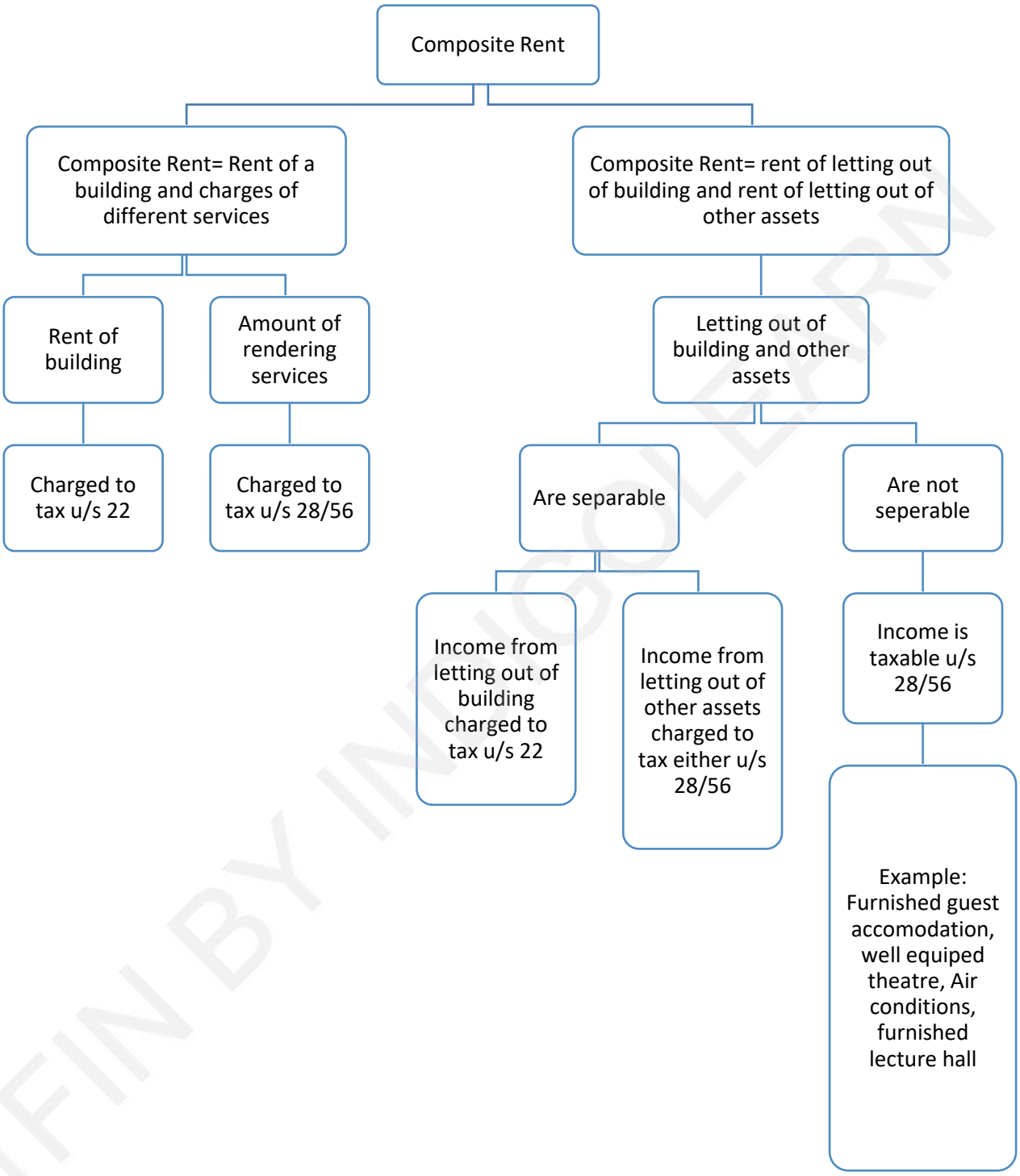
ii. Lease for a period of less than one year

6. COMPOSITE RENT:

- **Meaning of composite rent:** The owner of a property may sometimes receive rent in respect of building as well as:
- other assets like say, furniture, plant and machinery;
- For different services provided in the building, for e.g.
  - Lifts;
  - Security and
  - Power backup etc
- The amount so received is known as composite rent.

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Composite rent tax treatment at a glance



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Section 22 - Income from House Property

Section 28 – Profits and Gains from Business and Profession

Section 56 – Income from other sources

7. DETERMINATION OF ANNUAL VALUE:

➢ **Meaning of Annual value: [Section 23(1)]:**

The annual value of the property is deemed to be the sum for which the property might reasonably be expected to be let out from year to year.

For determining the annual value, the following factors are necessary:

- **Actual rent:** The actual rent received in respect of an accommodation is an important factor to arrive at the annual value.
- **Fair rent (FR):** This is the rent that can be realized from a similar property in the same locality.
- **Municipal value (MV):**
  - It is the value determined by the municipal authorities for levying municipal taxes on house property.
  - For the purpose of determination of the annual value we have to consider the gross municipal value.
  - If in the problem the net municipal value is given i.e. after deducting the municipal taxes, we have to add the municipal taxes to the net municipal value and thus the gross municipal value is arrived.
- **Standard rent (SR):** It is the maximum rent which a person can recover from the tenant under the Rent Control Act.
- **Annual rent:** This is the rent received or receivable by the owner from the property for the year.
- **Expected rent (ER)**: Expected Rent is:

Step 1: Higher of –

a) Fair rent [AND]

b) Municipal value,

Step 2: Lower of -

a) Step 1 [AND]

b) Standard Rent,

Note:

- A non-refundable deposit- will be included in rent received on pro rata basis.
- A refundable deposit cannot, be included in rent received
- Commission paid by the owner of property to a broker for rental income is not deductible.

Computation of Income from a let-out house property:

Particulars	**₹**
Gross Annual value	xxx
Less: Municipal taxes paid by the assessee during the previous year	(xxx)

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Net annual value	xxx
Less: Deductions u/s 24 - Standard deduction	(xxx)
(30% of net annual value)	
Interest on borrowed capital	(xxx)
Income or loss from house property	**xxx**

➢ **Treatment of Unrealised rent (UR):**

It is the rent which the owner could not realize i.e., the tenant has not paid rent to the owner, i.e., the actual rent received / receivable shall not include the amount of rent which the owner cannot realize.

➢ The UR shall be excluded from the actual rent received or receivable by the owner if the following conditions are to be satisfied: {Rule 4 of the Income-tax rules, 1962}

- ❖ Tenancy is bonafide.
- ❖ The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property.
- ❖ The default tenant is not in occupation of any other property of the assessee.
- ❖ The assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

➢ **Loss due to vacancy:** In this case the property is not let-out. The property remained vacant throughout the year or a part of the year.

➢

➢ **Municipal taxes:** Municipal taxes (including service taxes) levied by the Local Authority in respect of the house property are deductible only if:

i. these taxes are borne by the owner, and
ii. are actually paid by him during the previous year (the tax may be for the same year or any other year), i.e., deduction is allowed in the year which it is paid and not for the year which it is paid.
iii. If the property is situated in a foreign country, municipal taxes levied by foreign local authority are deductible (if such taxes are paid by the owner).

➢ **Deductions u/s 24:**

➢ **(a) Standard deduction:** 30% of net annual value is deductible irrespective of any expenditure incurred by the taxpayer. Deduction is not allowed in the following cases:

(i) In case of self-occupied properties or

(ii) In case of property held as stock-in-trade and the whole or any part of the property is not let out during the whole or any part of the previous year, upto 2 years from the end of the financial year in which certificate of completion of construction of the property is obtained

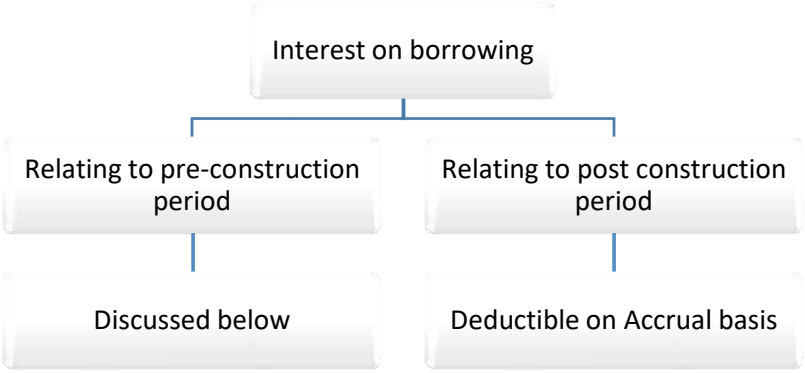
(b) Interest on borrowed capital: Interest on borrowed capital (of the current years and preconstruction period) is deductible on accrual basis, if capital is borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the house property.

*** Interest payable on a fresh loan taken to repay the original loan raised earlier for the aforesaid purposes is also admissible as a deduction. ***

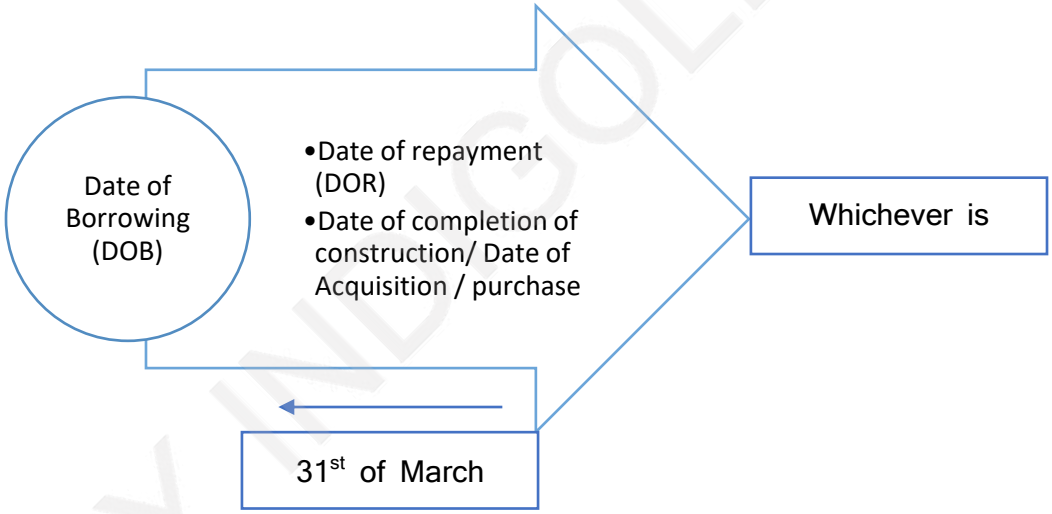


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Interest of pre-construction period:



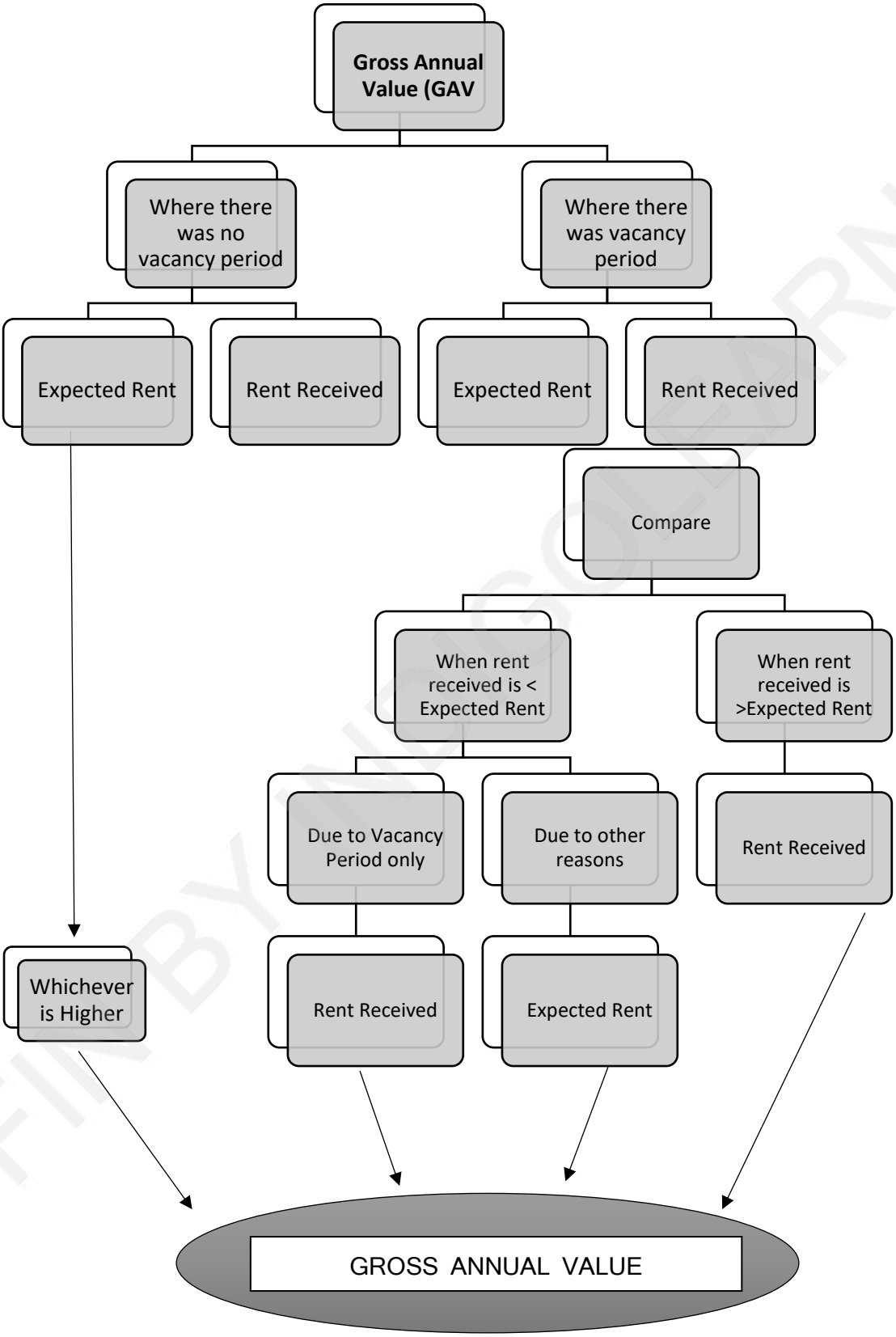
Pre-construction period:



Pre construction period interest deductible in five equal installments commencing from the year in which acquisition or construction is completed.

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Case I: When the house property is let out:



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Notes:

1. Rent received (when there is no vacancy period) = Annual rent – unrealised rent (if all required conditions for its deduction are satisfied).
2. Rent received (when there is vacancy period) = Annual rent – unrealised rent (if all required conditions for its deduction are satisfied) – vacancy period rent.
3. If rent received is less than expected rent due to other reasons then GAV = ER
4. Apart from vacancy period, the other reasons due to which rent received can be lower than notional rent, are:
   a) Annual rent being less than expected rent.
   b) Annual rent – unrealised rent, being less than expected rent.

- Interest of pre- construction period is deductible in 5 equal annual installments commencing from the year of acquisition or completion of construction.
- For this purpose, "pre-construction period" means the interest from the date of borrowal of the loan' up to the end of the financial year immediately preceding the financial year in which acquisition was made or construction was completed.
- For e.g., Where an Individual has taken loan on 1/6/2007 & completed construction on 1/6/2009. Then the interest for the period commencing from 1/6/2007 to 31/3/2009 shall be treated as "Prior period Interest"- & shall be allowed in 5 equal annual installments. Whereas Interest expense from 1/4/2009 till financial year end date is allowed as full.

Case II: When the house property is self-occupied or unoccupied property: -

- If the assessee has more than one house and occupies them for self-residential purposes, then such houses are called self-occupied house properties.

  *** "Unoccupied property" refers to a property which cannot be occupied by the owner by reason of his employment, business or profession at a different place and he resides at such other place in a building not belonging to him. ***
- At the option of the assessee out of those self-occupied house properties, **TWO** houses are treated as self-occupied house property and the remaining houses are deemed to be let out.
- Benefit of self-occupancy of TWO HOUSES shall be given only to Individual/HUF. In case of self-occupied property, NAV shall be considered as nil.

Notes:

- In the case of property referred to in Sec. 23(2) [self-occupied or unoccupied property] deduction in respect on interest on borrowed capital shall not exceed 30,000 **in aggregate for one or two self-occupied properties.**
- Interest on borrowed capital [in respect of the property referred to in Sec. 23(2)] is deductible upto **2,00,000 in aggregate for one or two self-occupied properties** subject to the fulfillment of the following conditions:

i. Capital is borrowed on or after 1st April, 1999 for acquiring or constructing a property.
ii. The acquisition or construction should be completed within 5 years from the end of FY in which the capital was borrowed.

- Where capital is borrowed for repairs, renewals or reconstruction of the property **30,000 in aggregate for one or two self-occupied properties is deductible.**
- The **total interest deduction** under the above 3 cases **CANNOT EXCEED Rs.2,00,000.**
- If any loan is taken from provident fund which is used for purchase or construction etc of house property, the interest foregone attributable assessee's contribution will be allowed as deduction.
- Interest payable outside India is not allowed to be deducted under Section 24 unless tax is -deducted at source before making such payments. (Sec.25)
- If any brokerage or commission is paid for arrangement of loan, it will not be allowed as deduction.
- Interest on interest is not allowable.

Case III: When House Property is partly self-occupied and partly let out:

If the house is having independent residential units, one of which is self-occupied for own residential purposes and the remaining are let out:

- For the unit which is self-occupied: Same as Point II (Self occupied case), For the other units which are let out: Same as Point I (Let out case)
- Municipal valuation/fair rent/standard rent - can be apportioned based on plinth area or built-up floor space or on such other reasonable basis.
- Property taxes - can be bifurcated as attributable to each portion or floor.

Case IV: When property is self-occupied for a part of the year and let out for remaining part of the year:

- In this case, income will be computed as IF PROPERTY IS LET OUT.
- For the purpose of annual value computation, the annual rent will be considered to the extent of the let out period only.

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Case V: In case of deemed to be let out property

- Where the assessee owns more than TWO properties for self- occupation, then the income from any TWO properties, at the option of the assessee, shall be computed under the self- occupied property category and their annual value will be nil and the other properties shall be deemed to be let-out.
- Option can be changed year after year.
- In case of deemed let-out property income will be computed in the same way how it is computed when the property is let out.



8. CO-OWNERSHIP {SEC 26}:

- If a house property is owned by two or more persons, then such persons are known as co-owners.
- If respective shares of co-owners are definite and ascertainable, such persons shall not, in respect of such property be assessed as an AOP, but the share of each such person in the income from the property as computed in accordance with Sec.22 to 25 shall be included in his total income.
- Where the house property owned by co-owners is self-occupied by each of the co-owners, each co-owner shall be entitled to a deduction of 30,000 / 2,00,000, as the case may be, under section 24(b) on account of interest on borrowed capital. (Co-owned property + Any other self – occupied property)

9. INADMISSIBLE DEDUCTIONS {SEC 25}

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

(a) tax has not been paid or deducted from such interest and

(b) in respect of which there is no person in India who may be treated as an agent

10. PROVISION FOR ARREARS OF RENT AND UNREALIZED RENT RECEIVED SUBSEQUENTLY [SECTION 25A]

(i) As per section 25A(1), the amount of rent received in arrears from a tenant or the amount of unrealised rent realised subsequently from a tenant by an assessee shall be deemed to be income from house property in the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that financial year after reducing standard deduction @30%.

PROBLEMS

1. Mr. Shivang owns one residential house in Pune. The house is having two identical units. First unit of the house is self-occupied by Mr. Shivang and the other unit is rented for ₹ 8,000 p.m. The rented unit was vacant for 3 months during the year. The particulars of the house for the previous year 2023-24 are as under:

Standard rent	₹ 1,60,000 p.a.
Municipal valuation	₹ 1,80,000 p.a.
Fair rent	₹ 1,72,000 p. a
Municipal tax (Paid by Mr. Shivang)	5% of municipal valuation
Light and water charges	₹ 500 p.m.
Interest on borrowed capital	₹ 1,200 p.m.
Insurance charges	₹ 5,500 p.a.
Repairs	₹ 15,000 p.a.

2. X (66 years) is the owner of a residential house whose construction was completed on July 31, 2022. It has been let out for residential purposes from October 1, 2022. The following information is available from the records supplied by X—

Particulars	₹
Municipal tax (levied by Pune Municipal Corporation @ Rs. 17.5 per cent)	1,70,000
Market rent of a similar property in Mumbai	26,00,000
Market rent of a similar property in Pune	8,00,000
Annual rent (if there is no vacancy or unrealized rent)	11,75,000
Standard rent under the Pune Rent Control Act	10,50,000
Unrealized rent due from the new tenant (the defaulting new tenant has still occupied the property and no action has been taken to compel him to vacate the property)	1,00,000
Loss due to vacancy (the old tenant has vacated the property on February 1, 2023, and the current tenant has occupied it with effect from April 11,2022)-- -loss for 2023-24 -loss for 2022-23	 31,507 10,00,000
Municipal taxes paid during 2023-24 (including ₹ 70,000 paid by the tenant and ₹20,000 paid by X as penalty for giving incorrect information pertaining to municipal tax to municipal authorities)	1,90,000
Interest on loan taken for the construction of the house. Interest is paid to B Ltd., an Indian company, without deducting tax at source	4,00,000

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Arrears of rent pertaining to 2019-20 recovered on May 10, 2023	80,000
Legal expenditure for recovering arrears of rent	32,000

Taking into consideration the following information, find out net income and tax liability of X for the assessment year 2024-25—

1. The tenant has deducted a sum of ₹ 25,000 from the rent payable to X for the year 2023-24 on account of poor maintenance of building.
2. For the previous year 2022-23, X has not claimed deduction of ₹ 50,000 paid by him on March 31, 2023 on account of municipal tax. He wants to claim deduction of the same from the income of 2023-24.
3. During the previous year 2023-24, X has paid arrears of interest of ₹ 30,000. This interest pertains to housing loan which he has taken from B Ltd.

3. Two brothers Arun and Bimal are co-owners of a house property with equal share. The property was constructed during the financial year 2008-09. The property consists of eight identical units and is situated at Cochin.

During the financial year 2023-24, each co-owner occupied one unit for residence and the balance of six units were let out at a rent of ₹ 12,000 per month per unit. The municipal value of the house property is ₹ 9,00,000 and the municipal taxes are 20% of municipal value, which were paid during the year. The other expenses were as follows:

	₹	₹
i.	Repairs	40,000
ii.	Insurance premium (paid)	15,000
iii.	Interest payable on loan taken for construction of house	3,00,000

One of the let-out units remained vacant for four months during the year.

Arun could not occupy his unit for six months as he was transferred to Chennai. He does not own any other house.

Compute the income under the head Income from House Property of two brothers for the assessment year 2024-25.

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4. Mrs. Rohini Ravi, a citizen of the U.S.A., is a resident and ordinarily resident in India during the financial year 2022-23. She owns a house property at Los Angeles, U.S.A., which is used as her residence. The annual value of the house is $ 20,000. The value of one USD ($) may be taken as ₹ 75.

   She took ownership and possession of a flat in Chennai on 1.7.2023, which is used for self-occupation, while she is in India. The flat was used by her for 7 months only during the year ended 31.3.2024. The municipal valuation is ₹ 3,84,000 p.a. and the fair rent is ₹ 4,20,000 p.a. She paid the following to Corporation of Chennai:

Property Tax	₹ 16,200
Sewerage Tax	₹ 1,800

   She had taken a loan from Standard Chartered Bank in June, 2022 for purchasing this flat. Interest on loan was as under:

Particulars	Amount
Period prior to 1.4.2023	49,200
1.4.2023 to 30.6.2023	50,800
1.7.2023 to 31.3.2024	1,31,300

   She had a house property in Bangalore, which was sold in March, 2020. In respect of this house, she received arrears of rent of ₹ 60,000 in March, 2024. This amount has not been charged to tax earlier.
   Compute the income chargeable from house property of Mrs. Rohini Ravi for the assessment year 2024-25.

5. Mr. A and B constructed their houses on a piece of land purchased by them at New Delhi. The built up area of each house was 1,000 sq.ft ground floor and an equal area in the first floor. A started construction on 01-04-2022 and completed on 01-04-2023. B started the construction on 01-04-2022 and completed the construction on 30-06-2023. A occupied the entire house on 01-04-2023. B occupied the ground floor on 01-07-2023 and let out the first floor for a rent of ₹ 15,000 per month. However, the tenant vacated the house on 31-12-2023 and B occupied the entire house during the period 01-01-2024 to 31-03-2024.

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Following is the other information

(i)	Fair rental value of each unit (Ground floor/First floor)	₹ 1,00,000 per annum
(ii)	Municipal value of each unit (Ground floor/First floor)	₹ 72,000 per annum
(iii)	Municipal taxes paid by	A – ₹ 8,000
		B – ₹ 8,000
(iv)	Repair and maintenance charges paid by	A – ₹ 28,000
		B – ₹ 30,000

A has availed a housing loan of ₹ 20 lakhs @ 12% p.a. on 01-04-2022. B has availed a housing loan of ₹ 12 lakhs @ 10% p.a. on 01-07-2022. No repayment was made by either of them till 31-03-2024. Compute income from house property for A and B for the previous year 2023-24 (A.Y. 2024-25).

6. Mr. Vikul acquired a residential house in Delhi at a cost of ₹ 42,00,000 on 01.04.2022, in respect of which he took a housing loan of ₹ 24,00,000 from Canara Bank @12% p.a on the same date. There has been no principal repayment upto 31.03.2024.

   The house is having two identical units. First unit (area 1200 sq. Ft) of the house is self- occupied by Mr. Vikul and another unit (area 400 sq.ft) is rented for ₹ 6,000 p.m. from 1st April, 2023. The rented unit was vacant for four months during the year. The particulars of the house for the previous year 2023-24 are as under:

Standard Rent	₹ 2,30,000 p.a
Municipal Valuation	₹ 2,67,000 p.a
Fair Rent	₹ 2,48,000 p.a.

   Municipal tax paid by Mr. Vikul - 12% of the Municipal Valuation

   Light and Water charges ₹ 8,000 p.a.

   Insurance charges ₹ 7,500 p.a.

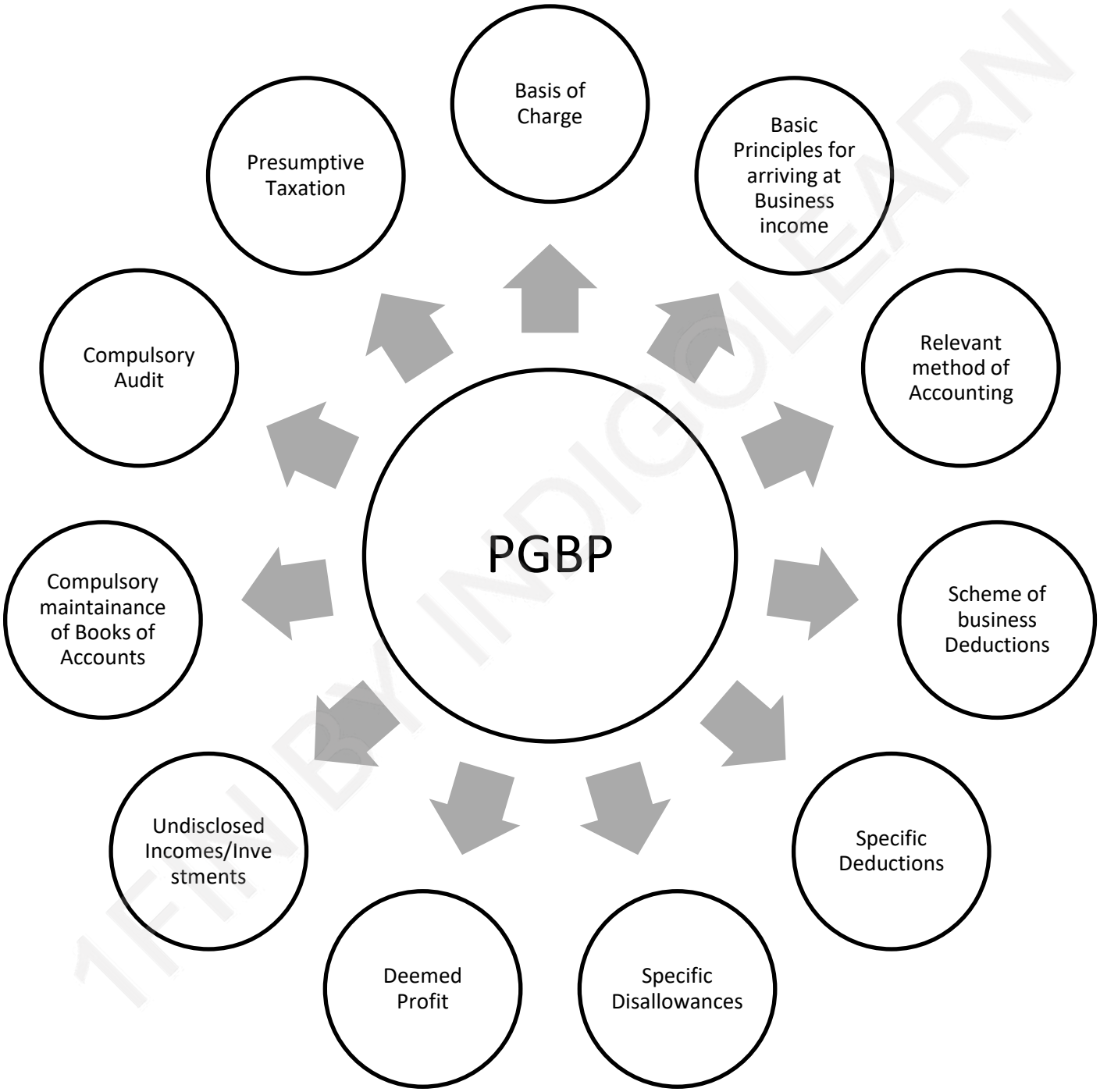
   Painting expenses ₹ 50,000 p.a.

   Compute income from house property of Mr. Vikul for the A.Y.2024-25.

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PGBP

Profits and Gains from Business or Profession



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List of Sections:

Sections	Particulars
28	Chargeability/Scope of income under this head
29	Computation of Income from Profits and Gains of Business or Profession
30	Rent, Rates, Taxes, Repairs and Insurance for buildings
31	Repairs and Insurance of Machinery, Plant and Furniture
32	Depreciation
32 AC	Investment allowance@15%
33AB	Tea Development Account/Coffee Development Account and Rubber Development Account
33ABA	Site Restoration Fund
33AC	Reserves for Shipping Business
35	Expenditure on Scientific Research
35ABB	Expenditure for obtaining license to operate telecommunication services
35AD	Special deduction for special business
35AC	Expenditure on eligible projects or schemes
35CCA	Expenditure by way of payment to association and institutions for rural development programmes
35D	Amortization of certain preliminary expenses
35DD	Amortization in case of amalgamation or demerger
35DDA	Amortization of expenditure income under voluntary retirement scheme
35E	Deduction for expenditure on prospecting etc., for certain minerals
36	Other deductions
37(1)	General deductions
37(2B)	Advertisement to political parties
38	Building, etc., partly used for business, etc., or not exclusively so used
40	Amounts not deductible
40A	Expenses or payments not deductible in certain circumstances
40A(2)	Payments to relatives
40A(3)	Disallowance of 100% of expenditure if payment is made by any mode other than account payee cheque or draft
40A(7)	Disallowance in respect of provision for gratuity
40A(9)	Disallowance in respect of contribution to Non-statutory Funds
41	Deemed profits chargeable to tax
43CA	Stamp duty value of land and building to be taken as the full value of consideration in respect of transfer, even if the same are held by the transferor as stock-in-trade
43(5)	Trading in commodity derivatives not a speculative transaction
44AA	Maintenance of accounts by certain persons carrying on business or profession
44AB	Compulsory audit of accounts
44AD	Presumptive Income of specific business or profession.
44AE	Special provisions for computing profits and gains of business of plying, hiring or leasing goods carriages
44B	Special provisions for computing profits and gains of shipping business in the case of non-residents
44BB	Special provisions for computing profits and gains in connection with the business of exploration, etc., of mineral oils

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44BBA	Special provisions for computing profits and gains of business of operation of aircraft in the case of non-residents
44BBB	Special provisions for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects
44C	Deduction of head office expenditure in the case of non-residents
44D	Royalty or technical fee derived by a foreign company from Government or Indian concern.
44DA	Dividend or technical fee derived by a foreign company from Government or Indian concern in pursuance of an approved agreement.
145	Method of accounting
145A	Method of accounting in certain cases

COMPUTATION OF INCOME UNDER THE HEAD PROFITS AND GAINS OF BUSINESS AND PROFESSION [SECTION 29]

Section	P&L Item	Conditions / Restrictions
	Net Profit as per Profit and Loss Account	
Less :	**Allowable Expenditure not Debited to Profit & Loss Account**	
30	Rent, Rates, Taxes, Repairs and Insurance for Building	Current Repairs of Capital Nature not allowed as Deduction
31	Repairs & Insurance for Machinery, Plant & Furniture	Current Repairs of Capital Nature not allowed as Deduction
32	Depreciation	1. **Conditions** for Claim: (a) Ownership, (b) Use, (c) Block of Assets, (d) Mandatory. 2. **Method**: (a) SLM Optional for Tangible Assets of Power Sector Units, (b) WDV Method in all other cases. 3. **Newly acquired assets** during current PY put into use for less than 180 days, entitled for depreciation at 50% of Normal Rate. 4. **Balance Additional Depreciation allowable in next PY**: If Additional Depreciation is restricted to 50% of allowable amount since used for < 180 days, the balance 50% shall be allowed u/s 32 in the **immediately** succeeding previous year in respect of such asset. **[w.e.f. 01.04.2016]** 5. **Additional Depreciation**: 20% of Actual Cost of Machinery or Plant (10% if used for < 180 days). 6. Days Ratio apportionment for Succession/Business Re-organisation. 7. STCG/STCL on Sale of Depreciable Assets u/s 50

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		8. Unabsorbed Depreciation carried forward for any number of years & set off against any Income.
35	Expenditure on Scientific Research	
	(A) In-House Research	Revenue (or) Capital Expenditure and Prior Period Expenditure of 3 years Fully allowed as Deduction in the year of Commencement of Business
	(B) Deduction on In-House Research by Company engaged in Bio-Technology or of Manufacture or Production of any article or thing (not specified in XI Schedule)	> 100% of Revenue or Capital Expenditure incurred (except land and Building) is allowed. Building is 100% allowed, prior period Expenditure is 100% allowed > The prescribed authority shall submit its report in relation to the approval of the said facility to PCCIT/CCIT/PDGCIT/DGCIT
	(C) Deductions for contributions	Payment made to the following, deduction is 100% allowed • Any research Association (or) University / College, etc for scientific research • Company approved by prescribed authority for Scientific R&D • Any research Association (or) University / College, etc for social science and statistical research • National Laboratory, University, IIT, Specified Person
35AD	Expenditure for Specified Business - a) Cross Country Natural Gas Pipe Line Network b) Cold Chain Facility, Ware Housing Facility for Storage of Agricultural Produce. c) Building 2 Star Hotel, Hospital with atleast 100 beds, Housing Project for Slum Redevelopment d) Developing & Building a Housing Project under a scheme framed by CG/SG e) Production of Fertilizer in India f) Setting up and Operating Inland Container Depot or	• **General**: 100% of Capital Expenditure incurred, except on Land, Goodwill or Financial Instrument. • **Prior Period Expenditure**: 100% allowed, if capitalized in Books. • **No other deduction allowed for same expenditure.** Provisions of 80A and 80-IA shall apply for goods in specified business. • **No Double Deduction**: For Assessee claiming deduction u/s 35AD, no deduction shall be allowed u/s 10AA or Chapter VI-A "C Deductions in respect of Certain Incomes". • **Usage**: Any asset in respect of which a deduction is claimed and allowed u/s 35AD shall be used **only** for the Specified Business, for 8 years beginning

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	Freight Station, Bee-keeping, Warehousing Facility for Storage of Sugar g) Laying and operating a Slurry Pipeline for the transportation of Iron Ore h) Setting-up and operating a Semi-Conductor Wafer Fabrication Manufacturing Unit, and which is notified by CBDT (i) w.e.f. 01.04.2018 Business of developing or maintaining and operating or developing, maintaining and operating a New Infrastructure Facility	with the previous year in which such asset is acquired or constructed. • **No Deduction in case of cash payments exceeding 10,000**: Capital Expenditure in respect of which, payment or aggregate of payments made to a person in a day, **exceeding 10,000** is made otherwise than by an A/c Payee. Cheque drawn on a Bank or an A/c Payee Bank Draft or use of ECS, through a Bank account or such other electronic mode as may be prescribed is disallowed. • Taxable for non-usage of Asset: a. **Situation**: Asset used for other purpose during the 8-year period except demolished / discarded / destroyed / transferred as referred u/s 28(vii). b) **Taxable Amount**: Total Amount of deduction claimed and allowed in one or more previous years, as reduced by the amount of Depreciation Allowable u/s 32, shall be deemed to be the Income of the Assessee, as if no deduction u/s 35AD was allowed. c) **Manner of Charge**: It is chargeable as "PGBP" of the previous year in which the asset is so used. d) **Exception**: The above shall not apply to a Company which has become a Sick Industrial Company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, during the 8-year period.
35D / Rule 6 AB	Amortisation of preliminary Expenses incurred for setting up or extension undertaking or business unit	• **For Indian Companies**: 5% of Cost of Project, or 5% of Capital Employed. • **Resident Non-Corporates**: 5% of Cost of Project. • **Time Period**: Amortised in 5 equal instalments.
35DDA	Amortisation of Expenditure incurred under VRS	• Allowed in 5 installments after the Payment was made • Deduction to resulting business entity in case of business Re-organisation
36(1)(i)	Insurance Premium of Stocks	Allowed on Payment basis.
36(1)(ia)	Insurance Premium on Life of Cattle	Allowed on Payment basis - for Federal Milk Co-operative Society.

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36(1)(ib)	Insurance on Health of Employees	Allowed on Payment basis. Payment in any mode other than Cash.
36(1)(ii)	Bonus or Commission to Employees	Allowed when paid before due date of filing Return [Sec.43B]
36(1)(iii)	Interest on Borrowed Capital	Allowed when paid before due date of filing Return in respect of Loans from Financial Institutions / Banks.
36(1)(iiia)	Discount on Zero Coupon Bonds	• Applicable for Infrastructure Capital Co. / Fund, Public Sector Co & Scheduled Bank. • Written off over the period of the Bond.
36(1)(iv)	Employer's Contribution to a RPF / Approved Superannuation Fund	Allowed when paid on or before due date of filing Return of Income [Sec.43B]
36(1)(iva)	Contribution towards Pension Scheme u/s 80CCD	Contribution should not exceed 10% of the Salary. Salary includes DA if the terms of employment so provide, but excludes all other Allowances and Perquisites.
36(1)(v)	Employer's Contribution an Approved Gratuity Fund	Allowed when paid before due date of filing Return [Sec.43B]
36(1)(va)	Recoveries from Employees towards Welfare Funds	Paid before the prescribed due date (including grace days) under the respective Act [ESI / EPF, etc.]
36(1)(v)	Allowance in respect of dead or permanently useless animals	Cost of Animal **Less** Insurance Claim or any other receipt. No amortization of cost is allowed.
36(1)(vii)	Bad Debts	Revenue Bad Debts subject to write-off in the books of accounts.
36(1)(ix)	Expenditure on promoting Family Planning amongst the Employees	• Allowable only for Companies. • Revenue Expenditure is fully allowed. • Capital Expenditure is allowed in five equal installments.
36(1)(xiii)	Banking Cash Transaction Tax paid	Allowed as a deduction
36(1)(xv)	Securities Transaction Tax Paid	Fully allowed as deduction only when paid if Income from such transaction is included as PGBP.
36(1)(xvi)	Commodities Transaction Tax Paid	• Taxable Commodities Transactions should be entered into in the course of the Assessee's business during the previous year • Income arising from such transactions is included as PGBP.

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36(1)(xviii)	Deduction in respect of Marked to Market Loss or other Expected Loss	Deduction in respect of any Marked to market loss or other expected loss shall be allowed, if the same is computed in accordance with the Income Computation and Disclosure Standards notified u/s 145(2).
37(1)	General Deductions	Revenue Expenses, wholly and exclusively non-personal, related to Business and not contrary to provision of law, fully allowed. CSR expenditure u/s 135 of the Companies Act, 2013 is not allowed.
Add:	**Inadmissible Expenditures debited in Profit and Loss Account**	
37(2B)	Advertisement in Political Parties' Souvenir, Brochure, Pamphlet, etc.	Fully disallowed
38	Building, etc. partly used for business	Proportionate Depreciation and Expenses used for non-business purpose disallowed.
40(a)(i)	Payments of Interest, Royalty, Fees for Technical Services or other sum	a) Payable outside India or (b) In India to a Non-Resident (not being a Company) or (c) to a Foreign Company without TDS, entire expenditure is not allowed. b) W.e.f. AY 2020-2021, Where an Assessee fails to deduct tax at source but is not deemed to be an Assessee in Default u/s 201(1), then it shall be deemed that the Assessee has deducted and paid the tax on such sum, on the date of furnishing of Return of Income by the Payee.
40(a)(ia)	Any Payment made to a Resident, on which Tax is deductible, but tax has not been deducted / after deduction, tax has not been paid before the due date of furnishing Return u/s 139(1).	1. **30%** of the Expense will not be allowed. 2. Allowable in the year of remittance of TDS. **Note:** If Payer fails to deduct TDS but is not deemed to be an assessee in default u/s 201(1), it is deemed that TDS is deducted and paid on the date of furnishing Return of Income by the Resident Payee.
40 (a) (ii)	Rates or Taxes levied on Profits or Gains of any business or profession	Not allowed as deduction. (Including tax paid abroad, eligible for relief / deduction u/s 90/90A/91)
40(a)(iib)	Royalty, License Fee, Service Fee, Privilege Fee, Service Charge or any other Fee or Charge levied on, or appropriated either directly or indirectly from, State Government	Fully disallowed

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	Undertakings by the State Govt.	
40(a)(iii)	Salary paid outside India or to Non-Resident	Payment without TDS not allowed
40(a)(iv)	Contribution to Welfare Fund of Employees if no arrangements for TDS	Not allowed
40(a)(v)	Tax on Perquisites paid by Employer	Not allowed
40(b)	For Partnership Firm Interest Allowable =	Least of: 12% or as specified in Partnership Deed.
40(b)	For Partnership Firm, Remuneration allowable = Least of: following or as per Partnership Deed or paid	Book profit----------Max. Remuneration up to 3 Lakhs----------1,50,000 or 90% of book profit on balance----------60% of book profit
40A(2)	Payments to Relatives as specified	Payment considered as excessive or unreasonable shall not be allowed. No disallowance, if transaction is at Arm's Length Price as per Sec.92F.
40A(3) & Rule 6DD	Single or Aggregate Payments in respect of allowable expenditure in excess of ₹ 10,000, (₹ 35,000 if Payment is made for Plying, Hiring or Leasing Goods Carriages) other than by way of A/c Payee Cheque or A/c Payee DD/ use of electronic clearing system through a Bank Account or such other electronic mode as may be prescribed to a single person on a single day.	Whole of the payment shall be disallowed. Expenditure allowed on due basis but aggregate payments made in subsequent P.Y.s in excess of ₹ 10,000/35,000 shall be disallowed. Exceptions given in Rule 6DD
40A(7)	Provision for Gratuity.	Disallowed, except in case of provision for contribution to Recognised Gratuity Fund or actual liability incurred.
40A(9)	Contribution to Non Recognised Funds	Payment to any Unrecognised / Non-Statutory Employer Welfare Fund is disallowed. Contribution u/s 36(1) (iv) / (iva) / (v) or under any law, is allowable.

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40A(13)	Marked to Market Loss or other Expected Loss	1. No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss except as allowable u/s 36(1) (xviii). Loss can be allowed only if it is computed accordance with the provisions of ICDS.
43B	Deductions only on actual payment.	**A. Items covered:** 1. Employers' Contribution to RPF or other Employee Welfare Funds, 2. Tax, Duty, Cess, etc, 3. Bonus or Commission to Employees, 4. Interest payable to Public Financial Institution or Scheduled Bank, Co-operative Bank, Rural Development Bank, NBFC's 5. Leave Salary. 6. Any sum payable by Assessee to the Indian Railways for use of Railway Assets. **B. Allowability:** •Allowed if paid on or before the due date for furnishing the Return of Income u/s 139(1). •Otherwise, it is allowed only in the year of payment.
Add:	**Sec.41- Deemed Business Income**	
Less:	**Incomes credited in Profit and Loss Account not chargeable to tax under this head.**	
	• Agricultural Income • Exempt Income u/s 10 • Income chargeable under the heads Salary, House Property, Capital Gains or Other Sources • Any Reserve Withdrawn • Dividend Income • Bad Debts Recovered not allowed as deduction in the earlier years	
Add:	**Expenditure debited to Profit and Loss Account not deductible under his head**	
	• Expenditure on Agricultural Income • Expenditure incurred in relation to Exempt Income • Expenditure incurred in relation to other Heads of Income like Salary, HP, Capital Gains or Other Sources • Any Reserve created other than allowable Statutory Reserve • Debits in P&L A/c allowable as Deduction under Chapter VIA • Capital Expenditure • Personal expenditure Charities and Donations • Depreciation as per Books • Preliminary Expenses in excess of permissible limit	
	Income chargeable under the head PROFITS AND GAINS OF BUSINESS OR PROFESSION	

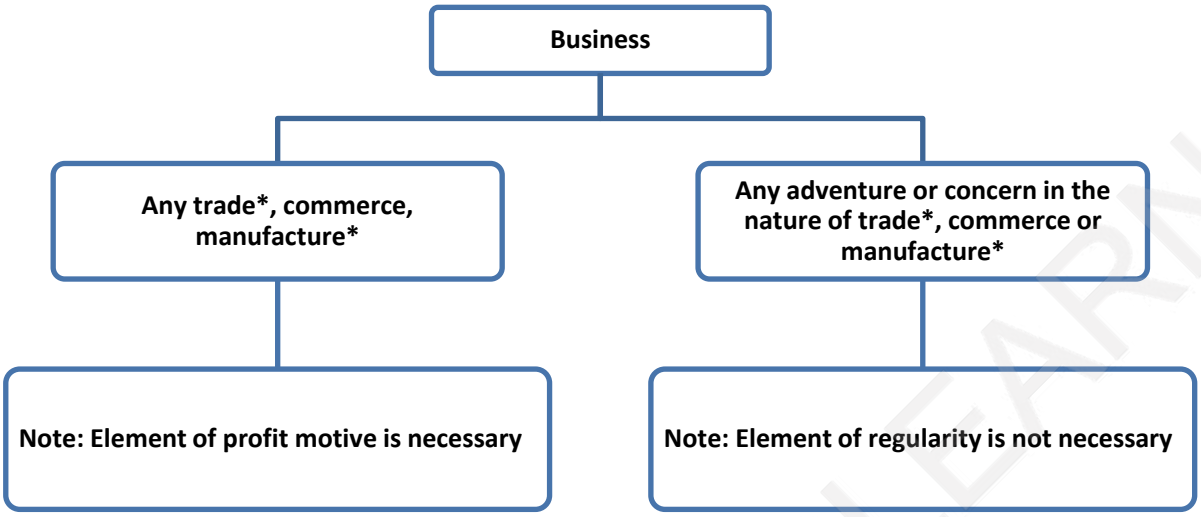
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ADJUSTMENTS FOR SOLVING P&L APPROACH PROBLEMS

S. No.	Accounting	Income Tax	Treatment
Adjustment for Incomes:			
1	It is an income as per Accounting	Not an Income	Such disallowed income has to be disallowed from the accounting profit
2	Not an income as per Accounting	Income as per Income Tax	Such amount has to be added to the accounting profit
3	Income as per Accounting	Income as per Income Tax	No Adjustments
Adjustment for Expenses:			
1	Expense debited to P&L as per Accounting	Expense disallowed wholly or partially	Amount to the extent is disallowed has to be added to the Accounting Profit
2	Expense not debited to P&L as per Accounting or Expense debited to Profit and Loss less than that of Income Tax Amount	Amount has to be treated as an expense as per Income Tax (or) amount more than that actual has to be treated as an expense in Income Tax	Amount to the extent not considered as expense in accounting has to be subtracted from Accounting profit
3	Expense Debited to Profit and Loss	Same Amount allowed as Deduction	No Adjustment

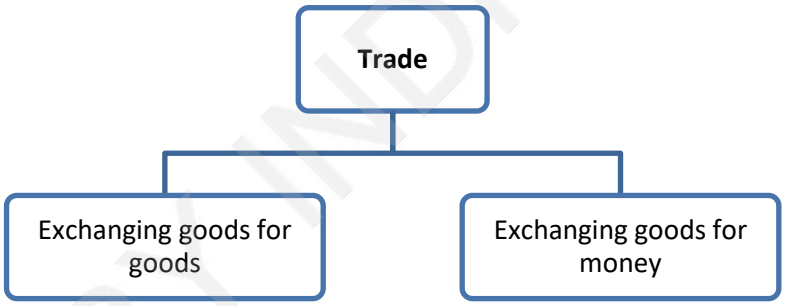
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1. **BUSINESS - Sec 2 (13):** It includes any trade, commerce, manufacture and any adventure or concern in the nature of trade, commerce or manufacture.



***Trade:** Exchanging Goods for Goods or Money

Note:



I. It is usually repetitive in nature.
II. Profit motive is essential

*** Manufacture:**

2. **PROFESSION - Sec 2(36):** "Profession" includes "Vocation". Thus, the Act does not give exact definition of the term profession. In common parlance, profession means attainment of academic/ professional qualification and exercise of that qualification so as to earn income. It may, however, be noted that the income earned by using ability or knowledge acquired because of inborn talent or skill also be considered as income from profession because as per section 2(36), vocation shall also be included in the profession.

3. **PROFIT**

3.1. It can be in cash or kind

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3.2. Capital Receipts are not taken into account generally while calculating profits

3.3. Illegality of business/profession does not exempt its profit from Tax

3.4. Profits from distinct business has to be computed separately

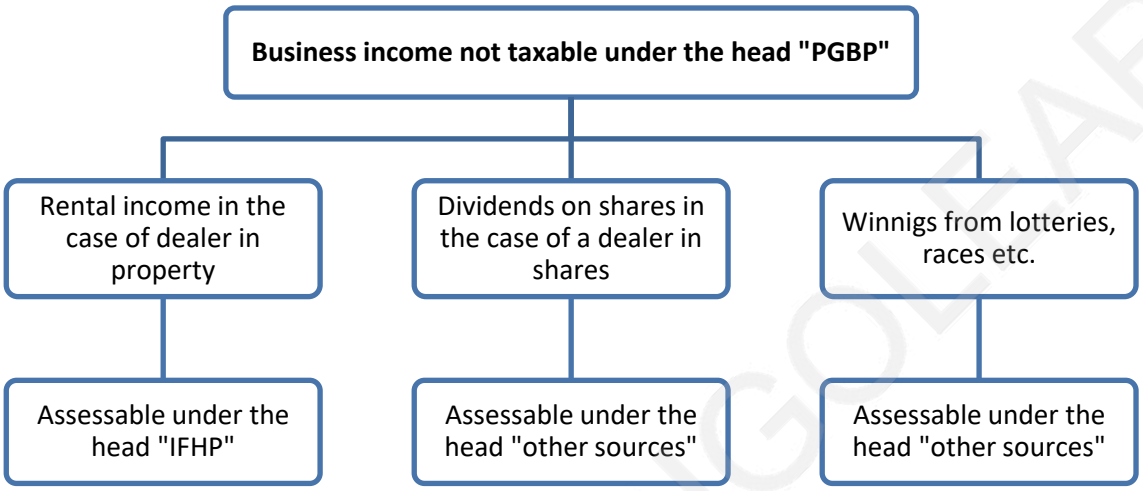
4. Sec 28: CHARGING SECTION

S.28	**Income under the head "Profits and Gains of Business or Profession"**
(i)	Profits and Gains of Business or Profession carried on by the Assessee at any time during the PY.
(ii)	Compensation taxable as Business Income: Compensation or other payment for -
	(a) Termination or modification of Managing Agent's agreement in relation to an Indian Company.
	(b) Termination or modification of Managing Agent's agreement in relation to any other Company in India.
	(c) Termination or modification of contract relating to an agency in India.
	(d) Vesting of management of property or business with Government / Corporation.
	(e) at or in connection with the termination or the modification of the terms and conditions, of any contract relating to business.
(iii)	Income received by a Trade or Professional Association, from services rendered to its members.
	Export Incentives taxable as Business Income:
(iii a)	Profit on Sale of Import License.
(iii b)	Cash Assistance against exports.
(iii c)	Duty Drawback.
(iii d)	Profit on Transfer of Duty Entitlement Passbook (DEPB) Scheme.
(iii e)	Profit on Transfer of Duty-Free Replenishment Certificate (DFRC).
(iv)	Value of Benefit or Perquisite arising from Business I Profession, whether convertible into money or not.
(v)	Interest, Salary, Bonus, Commission or Remuneration receivable or received by a Partner of a Firm, from the Firm in which he is a Partner.
(va)	Sum received or receivable in cash or in kind under an agreement for non-competency. (See Point 6.1.2)
(vi)	Sum received under Keyman Insurance Policy, including sum allocated by way of Bonus on such policy.
(via)	Taxability of conversion of Stock-in-trade into Capital Asset:
	(a) Nature of Income: Any profit or gains arising from conversion of inventory into capital asset or its treatment as capital asset shall be charged to tax as business income. (b) Value of Consideration: FMV of the inventory on the date of conversion) treatment determined in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of such conversion or treatment.

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(vii)	Sum received or receivable (in cash or kind) on account of any Capital Asset (other than Land or Goodwill or Financial Instrument) allowed as deduction u/s 35AD, being demolished, destroyed, discarded or transferred.

5. BUSINESS INCOME NOT TAXABLE UNDER THE HEAD "PGBP"



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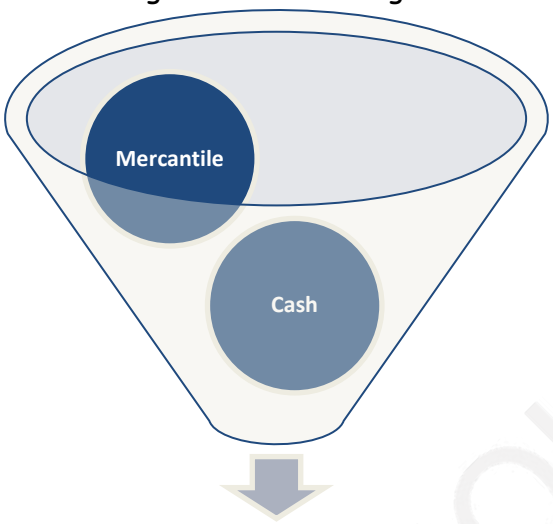
6. METHOD OF ACCOUNTING [S. 145]

Income under the head "Business" is calculated as per regular method of accounting adopted by the assessee.

Two methods of accounting are prescribed:

7. METHOD OF ACCOUNTING IN CERTAIN CASES: [SEC. 145A]

(a) **Applicability:** For determining the income chargeable under the head "Profits and gains of



business or profession.

(b) **Valuation as prescribed under ICDS notified u/s 145(2):**

Valuation of	Treatment
Inventory	Lower of Actual Cost or NRV, computed as per ICDS
Inventory being- • Unlisted Securities, or • Listed Securities, but not quoted on a recognised stock exchange with regularity from time to time	Actual Cost initially recognisedas per ICDS
Inventory being Securities other than those referred above	Lower of Actual Cost or NRV, computed as per ICDS

(c) **Valuation - Inclusive of Taxes:** Valuation of Purchase and Sale of Goods or Services, and of Inventory, shall be adjusted **to include** the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.

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(d) Sec. 145B - Taxability of certain income

Nature of Income	Deemed to be income in -
Interest received on any Compensation or on Enhanced compensation	the PY in which it is received.
Claim for escalation of price in a contract or Export Incentives .	the PY in which **reasonable certainty** of its realisation is achieved.
Income being Subsidy or grant or Cash Incentive or Duty Drawback or waiver or concession or reimbursement as referred u/s 2(24) (xviii)	the PY in which it is received, if not charged to income-tax in any earlier PY.

Maintainance of Books of Accounts U/s 44AA

1. **Books or Books of Account** include Ledgers, Daybooks, Cash Books, Account Books and Other Books, whether kept in written form or as printouts of data stored in a Floppy, Disc, Tape or any other form of electro-magnetic data storage device. **[Sec. 2(12A)]**
2. **Document** includes an **Electronic Record** as defined u/s 2(1)(t) of the Information Technology Act, 2000.
3. **Maintenance of Books of Accounts is compulsory** in the following cases -

Specified Professionals

Assessees carrying on profession of -

(a)Law,

(b)Medicine,

(c)Accountancy,

(d)Engineering/ Architecture,

(e)Technical Consultancy,

(f)Interior Decoration,

(g)Authorised Representative,

(h)Film Artist,

(i)Information Technology

Professionals whose Gross Receipts exceed Rs 1,50,000, **in all the prior three years or during current previous year in which business is commenced.**

Others

(a) Income under the head Business or Profession exceed Rs. 1,20,000, in any of the prior 3 years or likely to exceed Rs. 1,20,000 during current previous year in which business is commenced. [For Individuals and HUF, the limit is Rs.2,50,000]

(b) Where the Turnover or Sales or Gross Receipts exceeds Rs. 10,00,000 in any of the 3 preceding previous years or likely to exceed Rs 10,00,000 during current previous year in which business is commenced. [For Individuals and HUF, the limit is Rs 25,00,000]

(c) When the Assessee has declared **lower income** than as prescribed u/s 44AE, 44BB, 44BBB,

(d) Eligible Assessee to whom provisions of Sec.44AD(4) applies, and whose Income exceeds the maximum amount which is not chargeable to tax in any previous year.

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4. **Books to be maintained: u/r 6F**

Nature of Books	Who has to Maintain	Period for
• Cash Book	All Professional Assessees.	For a period of 6 years.
• Journal		
• Ledger		
• Bills and Vouchers		
• Copies of Bills exceeding ₹ 25		
• Daily Case Register (Form 3C)	Doctor Only. Person carrying on medical profession	
• Medicine Inventory Register		

5. **Consequence of non-maintenance [Sec. 271A]:** Failure to keep / maintain / retain books of accounts, documents, etc. in accordance with Sec. 44AA will attract a penalty of ₹ 25,000.
6. **Time Period where assessment has been re-opened:** In cases where the assessment in relation to any assessment year has been re-opened u/s 147, within the period u/s 149, all books of account and other documents which were kept and maintained at the time of re-opening of the assessment shall continue to be so kept and maintained **till the completion of such assessment.**

Tax Audit U/s 44AB

Applicability:

Tax Audit is applicable in the case of Assessee carrying on any Business
(i) Assessee carrying on any Business where Total Turnover or Gross Receipts exceeds ₹1 **Note** - The requirement of audit u/s 44AB does not apply to a person who declares profits and gains on presumptive basis u/s 44AD and his total sales, turnover, or gross receipts does not exceed ₹ 2 crore. **Proviso-** No Tax Audit for following category of Assessee Carrying on business where Turnover or Gross Receipts up **to ₹10** Crores **[W.e.f 01.04.2021):** A person whose- a. Receipts - Aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, **in cash, does not exceed** 5% of the said amount, and b. Payments- Aggregate of all payments made including amount incurred for expenditure, **in cash,** during the previous year **does not exceed 5%** of the said payment.
(ii) Assessee carrying on Business referred to u/s 44AE, 44BB, 44BBB and declaring lower income than prescribed under those Sections.
(iii) Assessee carrying on Business for whom provisions of Sec.44AD(4) are applicable and his Income exceeds the Basic Exemption Limit in any previous year.
Tax Audit is applicable in the case of Assessee carrying on Profession
(i) Assessee carrying on Profession, where Gross Receipts exceeds ₹50 Lakhs,
(ii) Assessee carrying on Profession, having Income exceeding Basic Exemption Limit, and declaring income lower than prescribed u/s 44ADA, in any PY

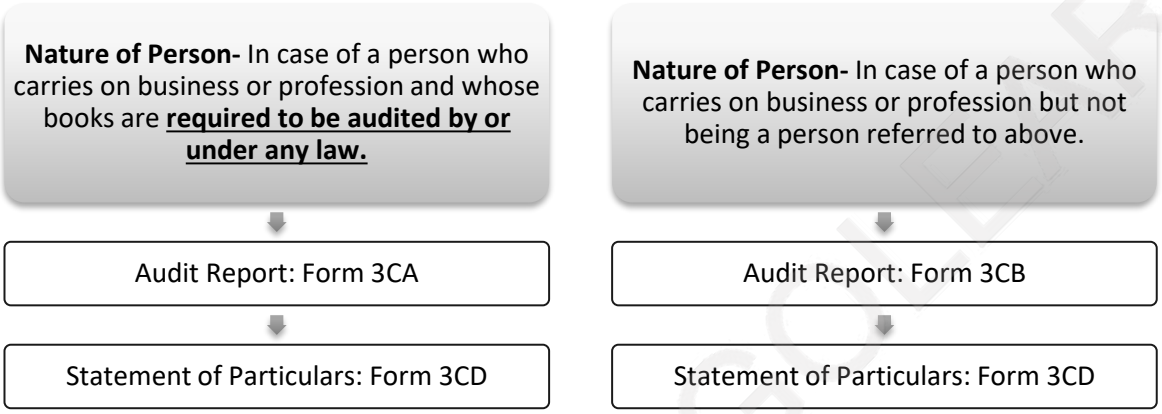
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2. Audit: Tax Audit shall be conducted by an "Accountant" as explained u/s 288 of the Income Tax Act.

3. Due Date for Filing of Report: Due date shall be **1 Month** prior to the due date of filing Return of Income.

4. Forms of Report:

5. **Other Points:**



(a) Turnover: Turnover I Receipts considered for declaration **of** Presumptive Income u/s 44AD / 44AE shall not be considered for determining the prescribed turnover limit u/s 44AB.

(b) Agents: In case of Agents, this Section is applicable only if the Gross Commission exceeds 1 Crore.

(c) Shipping Business and Operating Aircrafts: This Section does not apply to persons who derive Income referred u/s 44B and 44BBA.

6. **Consequence of non - compliance:**

(a) Defective Return: If the Audit Report obtained u/s 44AB is **not** filed on or before the Due date of filing Tax Audit Report, then the Assessing Officer **may** treat the return as Defective Return. Presently, Tax Audit Report should be e-filed, along with the Return of Income.

(b) Penalty u/s 271B: Failure

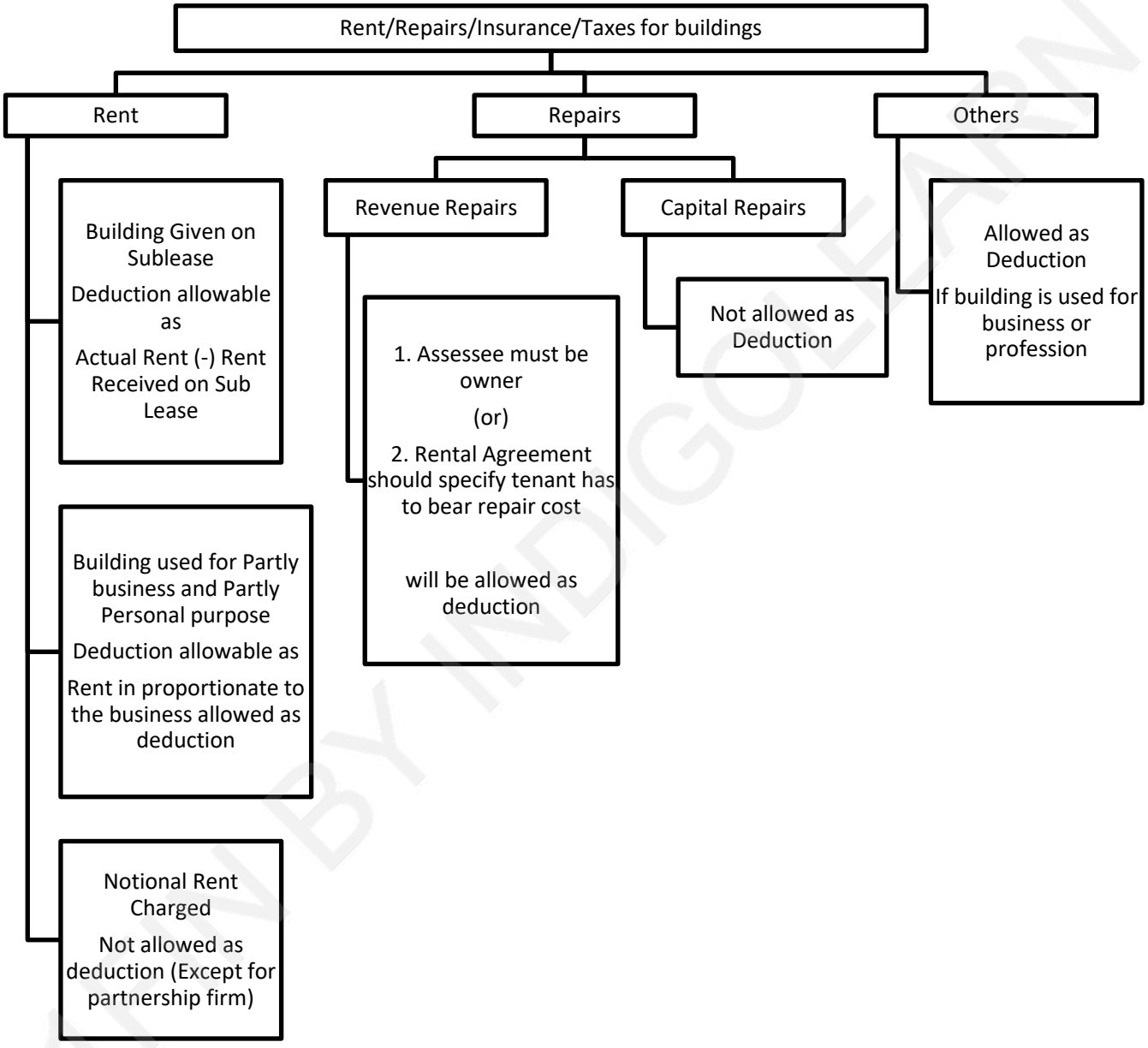
- To get accounts audited,
- To obtain an Audit Report required u/s 44AB, or
- To furnish the said report before the due date,

Assessee is liable to pay a **penalty at 0.5% of** Gross Turnover / Receipts or **Rs 1,50,000 whichever is less,** subject to Sec.273B.

(c) No penalty shall be leviable, if he proves that there was a reasonable cause of such failure. [Sec.273B]

Situations considered as "reasonable cause" for Non-Filing of Audit Report:

(a) Resignation of Tax Auditor,
(b) Bonafide interpretation of the term 'Turnover' based on expert advice,
(c) Death or physical inability of the Partner in-charge of the accounts,
(d) Labour problems such as Strike, Lock-Out, for a long period,
(e) Loss of books of accounts by theft, fire, etc. beyond the control of the Assessee,
(f) Non-availability of accounts on account of seizure,
(g) Natural calamities, commotion, etc. "



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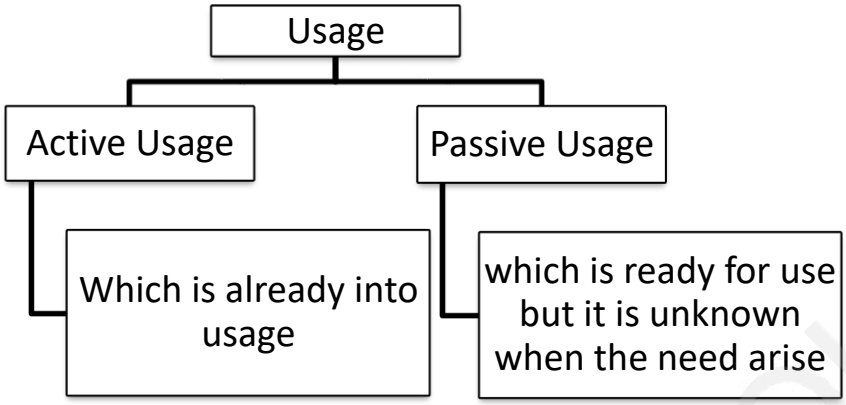
8. Sec 30: EXPENSES RELATING TO BUILDING USED FOR BUSINESS:

Note: Capital repairs are not allowed. However, depreciation can be claimed on the capital repairs incurred by the Assessee.

The term 'paid' means actually paid/ incurred according to the method of accounting followed by assessee for computing income U/H PGBP (Sec 43(2)).

9. Sec 31: REPAIRS AND INSURANCE OF PLANT / MACHINERY / FURNITURE

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Repairs & Insurance of plant and machinery and Furniture: Should be USED for the purpose of Business and Profession

10. Sec 32: DEPRECIATION

The claiming of depreciation is mandatory, and depreciation shall be allowed by the AO even if the assessee does not claim.

Depreciation is allowed not only in respect of assets "wholly" owned by the assessee but also in respect of assets "partly" owned by him and used for the purposes of his business or profession.

10.1. Conditions for claiming the depreciation:

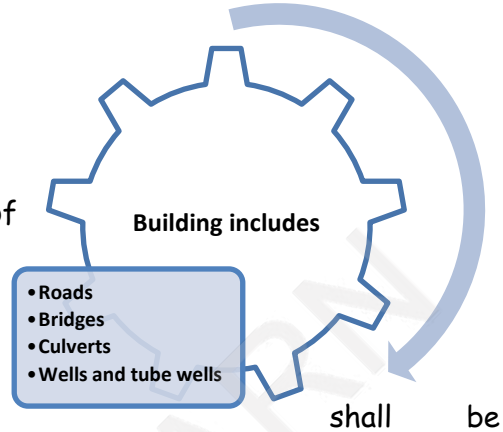
In order to claim depreciation, the Assessee has to fulfill the following conditions -

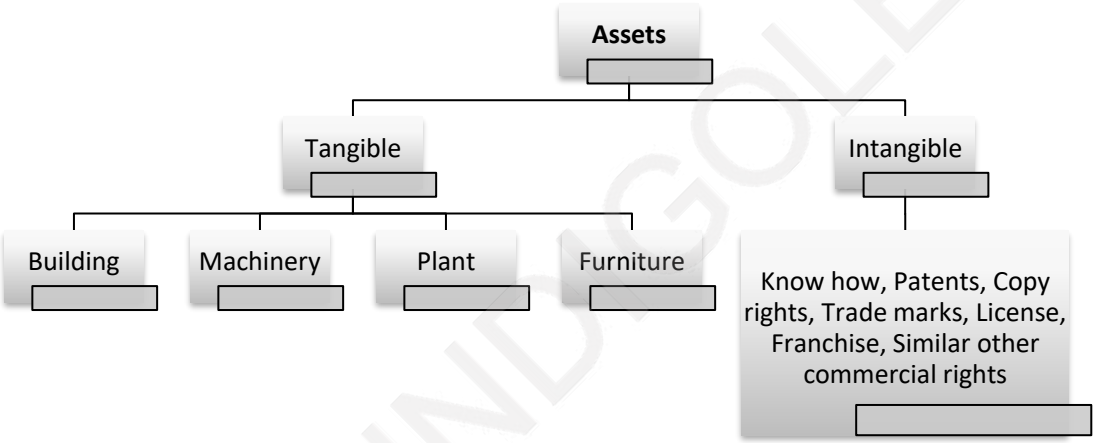
a) **Ownership:** The asset shall be **wholly or partly owned by the** Assessee.
b) **Use:** The Assets should be **wholly or partly used for the purpose of business** during the previous year.
c) **Block of Assets:** It shall fall within the classification of Block of Assets.

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10.2. Depreciation is allowable on:

- **TANGIBLE ASSETS:**
  - **Building**
    - Includes residential quarters occupied by employees of assessee if letting of quarters to employees is subservient and incidental to the business
    - Excludes cost of site
    - <u>Clarification on Buildings:</u>
      In the light of various court decisions following items shall be treated as buildings-
      - Overhead Water Tank unless it is a part of plant.

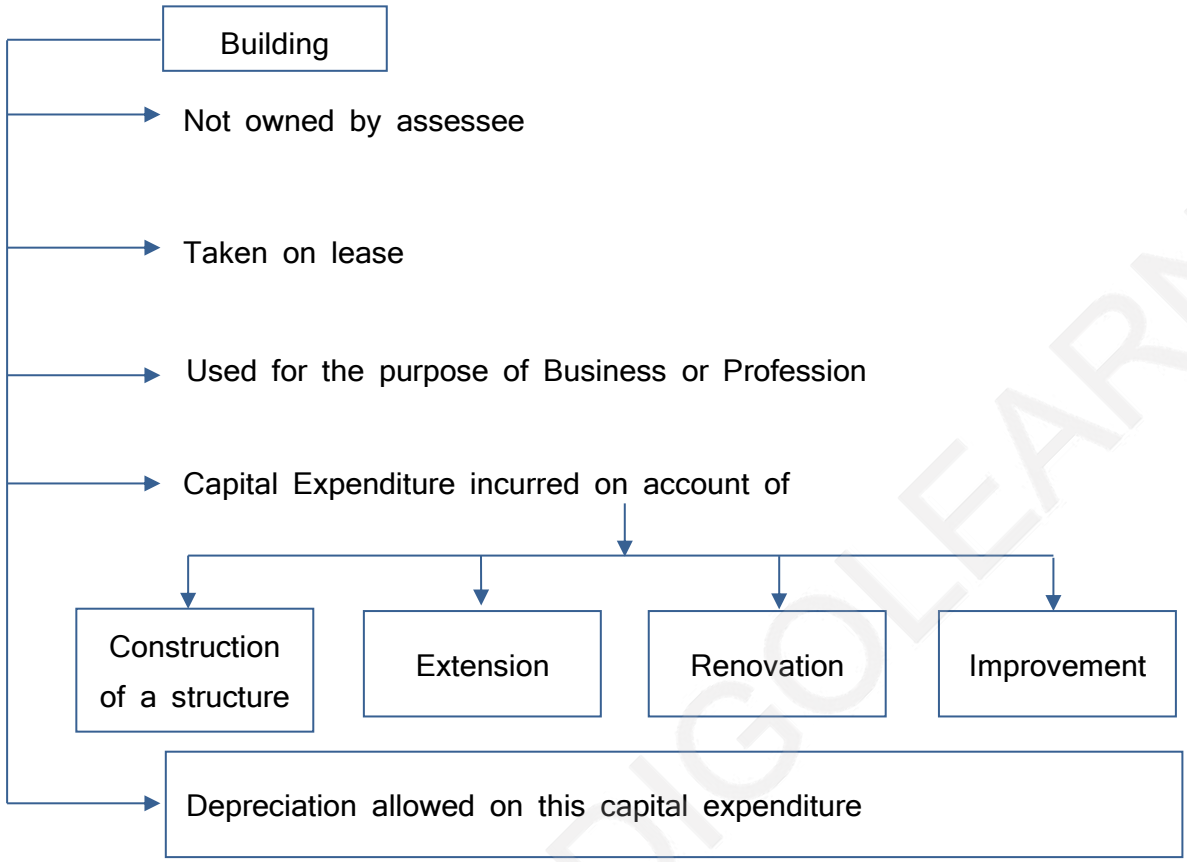




      - Cinema building or Hotel Building [CIT Vs Anand Theaters (SC)].

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Concept of deemed building- Explanation 1 to Sec 32(1)



NOTE:

1. This is an exception to the rule that the depreciation is allowed only with respect to the assets owned by the assessee.
2. This is called the concept of deemed building, since the capital expenditure incurred in construction etc. of a structure in a building taken on lease is regarded as separate building in itself and is eligible for depreciation.
3. Depreciation on residential quarters by the assessee's employees is subservient to and necessary for the business, the properly is considered as occupied by owner for the purpose of his business, depreciation is allowed.

➢ **Furniture**

- Includes fans, air-conditioners, refrigerators provided at the quarters of employees, where letting of quarters is incidental to the business

➢ **Plant**

- Includes ships, Books, Vehicles, Scientific equipment, surgical equipment
- Excludes tea bushes and livestock, building, furniture, and fittings.

➢ **Machinery**

❖ **Partly used for business purpose (Sec 38(2)):**

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- Where the building, machinery, plant or furniture is not exclusively used for the purpose of business or profession, the assessee will not get deduction with respect to the full depreciation allowance.

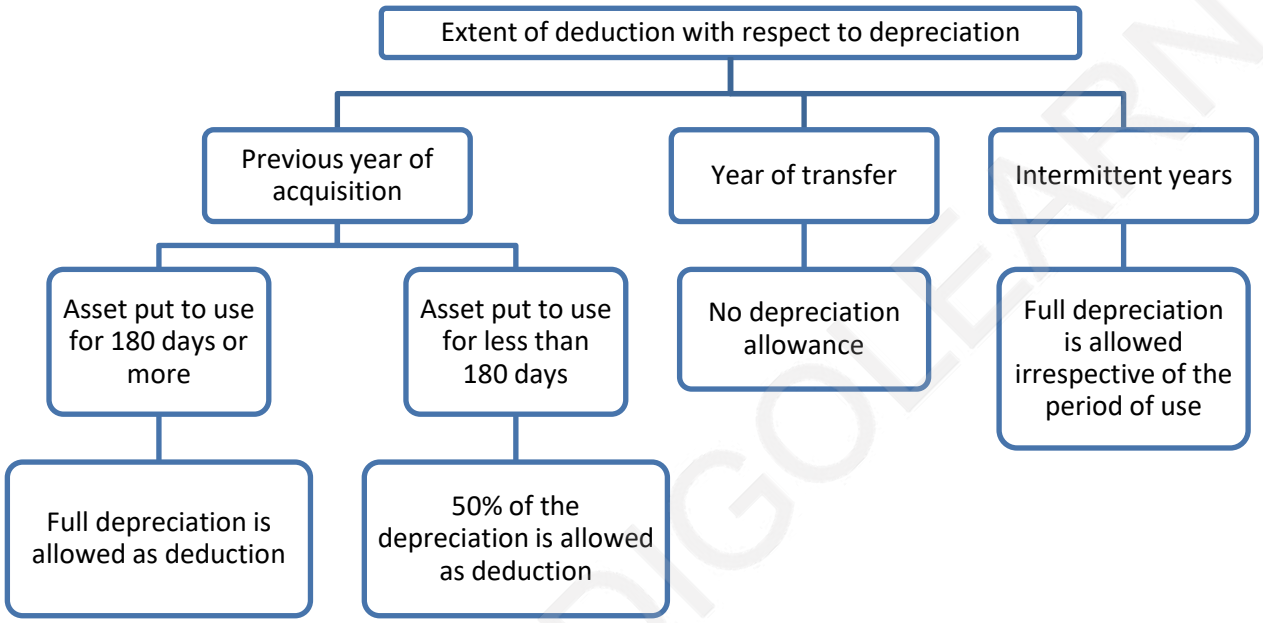
Assets partly used	
For business purpose	For personal purpose
• Proportionate part of depreciation determined by AO allowed as deduction	• Proportionate part of depreciation not allowed as deduction

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Deduction with respect to Depreciation:

- **INTANGIBLE ASSETS:** Such as knowhow, patents, copyrights, trademarks, licenses, any other business or commercial rights of similar nature, being acquired after 31.3.1998 (But not fictitious assets).

NOTE:



1. To get depreciation, physical and value in the block should exist.
2. Asset must fall under eligible block of assets. Depreciation shall be computed block wise and not asset wise.
3. The block system is not applicable in case of SLM. In such case, depreciation shall be computed on individual asset basis.

Computation:

The Income-Tax Act permits normally WDV method. In such a case depreciation is to be computed on WDV of the Block of Assets.

To understand method of computation of depreciation, one must know the meaning of the following terms:

1. Block of assets
2. Written down value
3. Actual cost

10.3. Block of Assets [sec 2(11)]:

Block of Assets means -

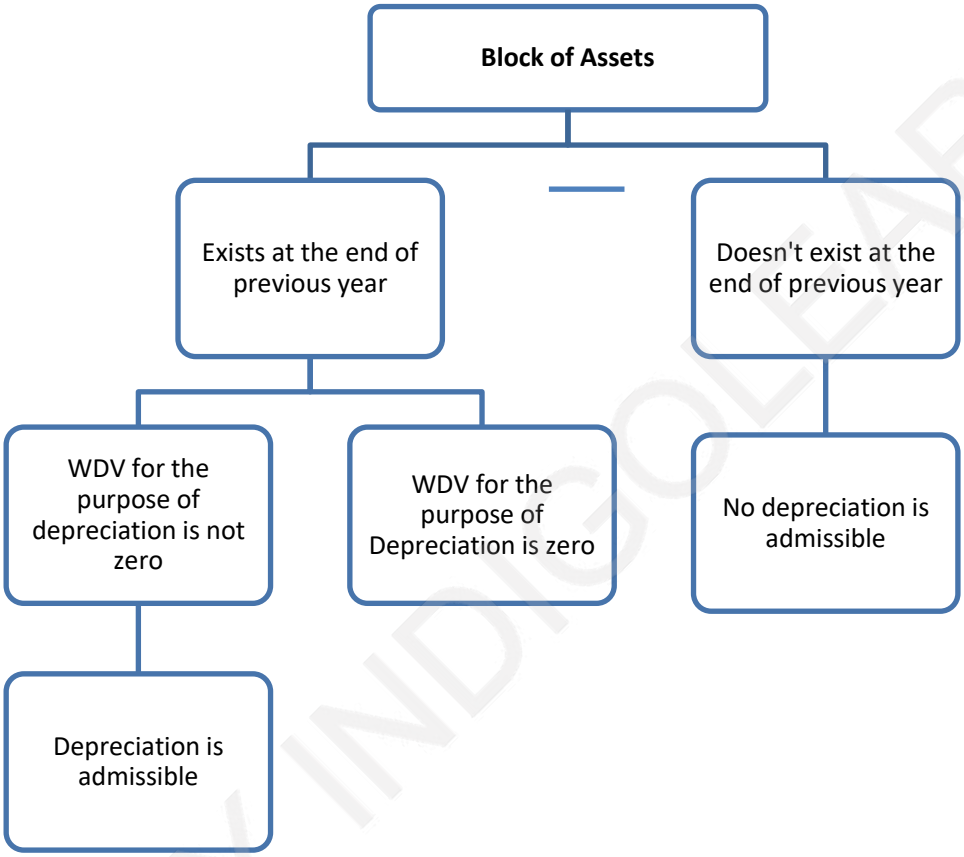
a) **Same Class of Assets:** Group of Assets falling within the same class of assets, and

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b) **Same Rate of Depreciation:** In respect of which same rate of depreciation shall be charged under WDV Method as per Income Tax Rules.

Block of Assets: [Rule 5 of IT Rules, 1962]

The Income Tax Rules specify the rates at which is depreciation is allowable on various categories of assets –



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TABLE OF RATES AT WHICH DEPRECIATION IS ADMISSIBLE UNDER WDV METHOD

ASSET	Depreciation Rate %
PART A - TANGIBLE ASSETS	
I. Building	
(1) Buildings which are used mainly for residential purposes, except Hotels & Boarding Houses.	5
(2) Buildings other than those used mainly for residential purposes and not covered by sub-items (1) above and (3) below.	10
(3) Buildings acquired on or after 1st September 2002, for installing Machinery and Plant forming part of Water Supply Project or Water Treatment System, and which is put to use for the purpose of business of providing infrastructure facilities u/s 80-IA (4) Clause (I)	40
(4) Purely temporary erections such as wooden structures.	40
II. Furniture and Fittings	
Furniture and fittings including electrical fittings ["Electrical fittings" include electrical wiring, switches, sockets, other fittings, and fans, etc.]	10
III. Machinery and Plant	
(1)	
(i) Motor cars other than those used in a business of running them on hire, acquired during the period from 23.8.2019 to 31.03.2020 and put to use on or before 31.03.2020	30
(ii) Motor cars other than those used in a business of running them on hire, acquired or put to use on or after 1-4-1990 [Other than motor cars mentioned in (i) above]	15
(2)	
(i) Motors buses, motor lorries, motor taxis used in a business of running them on hire, acquired during the period from 23.8.2019 to 31.03.2020 and put to use on or before 31.03.2020	45
(ii) Motors buses, motor lorries, motor taxis used in the business of running them on hire [Other than mentioned in (i) above]	30
(3) Moulds used in rubber and plastic goods factories	30
(4) Aeroplanes, Aeroengines	40
(5) Specified air pollution control equipments, water pollution control equipments, solid waste control equipment and solid waste recycling and resource recovery	40
(6) Plant & Machinery used in semi-conductor industry covering all Integrated	30
(7) Lifesaving medical equipment	40
(8) Machinery and plant, acquired and installed on or after the 1st day of September, 2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing infrastructure facility	40
(9) Oil wells	15
(10) Renewable Energy Saving Devices (as specified)	40

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(i) Windmills and any specially designed devices which run on windmills installed on or after 1.4.2014	40
(ii) Any special devices including electric generators and pumps running on wind energy installed on or after 1.4.2014 would be eligible for depreciation	40
(iii) Windmills and any specially designed devices running on windmills installed on or before 31.3.2014 and any special devices including electric generators and pumps running on wind energy installed on or before	15
(11) Computers including computer software	40
(12) Books (annual publications or other than annual publications) owned by assessees carrying on a profession	40
(13) Books owned by assessees carrying on business in running lending libraries	40
(14) Plant & machinery (General rate)	15
IV. Ships and other Water Vessels	
(1) Ocean-going ships	20
(2) Vessels ordinarily operating on inland waters not covered by Block (3) below	20
(3) Speed boats operating on inland water	20
PART B - INTANGIBLE ASSETS	
Know-how, Patents, Copyrights, Trademarks, Licenses, Franchises or any other business or commercial rights of similar nature. Note: [W.e.f. 01.04.2021] Intangible Assets exclude Goodwill of a Business or Profession	25

1.1. Written down value:

Opening WDV of the block	xxx
Add: Actual cost of assets acquired during the year*.	xxx
Less: Money payable in respect of assets sold, destroyed etc.	xxx
Closing WDV	xxx
Less: depreciation on closing WDV	xxx
Closing Balance (Depreciated value)	**xxx**

***Actual cost:**

Cost price	xxx
Add: Expense like freight insurance, loading and unloading, Traveling expenses, erection cost	xxx
Add: Interest up to the date Asset was put to use	xxx
Less: subsidy/grant received; Cenvat credit	xxx
Actual cost	**xxx**

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1.2. Expln. To Sec. 43(1): (Determination of actual cost under different circumstances)

Expln.	Mode of acquisition	Actual cost
8,9 &10	Acquisition of Asset: Where assessee himself acquired the asset	Purchase price Add: (a) Interest on loan for the Period up to the date of Usage of the asset. (b) Freight and insurance (c) Loading, Unloading Charges (d) Installation and erection charges Less: (a) Any amount met by any Other person by way of Subsidy or grant, (b) GST credit.
1	**Assets used in Scientific Research** subsequently put into use for business.	Nil [Since Asset Cost wholly deductible u/s 35(l)(iv)]
1A	**w.e.f AY 19-20** Capital Asset referred u/s 28(via) used for Business or Profession	FMV which has been taken into account for the purpose of Sec.28(via)
2	Asset received under **Gift, Will or Inheritance.**	WDV to the Previous Owner.
2C	**Unlisted Public Company or Private Company To LLP:** Transfer By An Unlisted Public Company Or Private Company To Limited Liability Partnership.	WDV of the Block of Assets on the date of conversion from Company to LLP
3	**Acquisition** of asset to claim depreciation on enhanced cost **to reduce tax liability, in the opinion of A.O.**	Cost as determined by the Assessing Officer, having regard to all circumstances of the case, with the prior approval of Joint Commissioner of Income Tax.
4	**Transfer and Re-acquisition:** Transfer of an asset and re-acquisition of the same.	WDV at the time of Original Transfer or re-purchase price, whichever is **less.**
4A	**Sale and Lease Back:** Sale of an asset to the Lessor and taking them back on lease.	WDV to the Transferor.
5	**Building previously used for private purpose:** Building used for private purpose and subsequently put into use for the purpose of business.	Cost of Acquisition or Construction, as reduced by the **Notional/Deemed Depreciation** for the period of personal use. **Notional/Deemed Depreciation:** Total Depreciation that would have been

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		allowable had the building been used for Business since its acquisition.
	Succession of Business	WDV to the Previous Owner.
7	**Amalgamation**	**WDV** to the Amalgamating Company.
6	**Parent to Subsidiary:** Transfer by Holding Company to Subsidiary Company.	WDV to Holding Company.
6	**Subsidiary to Parent:** Transfer by Subsidiary Company to Holding Company.	WDV to Subsidiary Company.
7A	**Demerger:** In the hands of **Demerged Company** after demerger.	WDV of Demerged Company before Demerger **Less:** WDV of Assets transferred to Resulting Co. **Note:** The Actual Cost shall not exceed the WDV of the Asset.
7A	**Demerger:** In the hands of **Resulting Company**.	WDV to Demerged Company (Before Demerger as if the Company continues to hold the Asset)
11	**Assets brought into India by a Non-Resident.**	Actual Cost of Acquisition **Less:** Notional Depreciation for the period held outside India
12	Asset acquired by a Company under a **scheme of Corporatisation** of **Recognised Stock Exchange.**	Actual Cost, as if there is no such corporatisation.
13	Asset used in Business u/s 35 AD subsequently transferred by gift, will, irrevocable trust, Holding to Subsidiary Company & vice versa, Amalgamation,Demerger,Firm / Proprietary Concern to Company or Company to LLP.	Actual Cost is Nil.
Proviso	Where any Capital Asset for which deduction or part of deduction allowed u/s 35AD is deemed to be the income of the assessee u/s 35AD(7B), then,	Actual Cost of the asset = Actual Cost to the Assessee (-) Amount of Depreciation that would, have been allowable from the date of its acquisition.
14	Receipt of Subsidy / Grant / Reimbursement for the acquisition of asset from Central Government or State Government	Actual Cost shall be reduced by cost as related with such Subsidy/ Grant / Reimbursement

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11. UNABSORBED DEPRECIATION:

- It shall be allowed to be carried forward u/s 32(2) and treated as part of current year depreciation. Even if there is no depreciation claim in the current years, unabsorbed depreciation brought forward shall be deemed as the current year's depreciation.

  As a result of this, such unabsorbed depreciation can be set off not only against income under PGBP but also against income under any other head.
- It can be carried forward to the subsequent years indefinitely for set off.
- Continuity of business is not a mandatory requirement in order to get the benefit of carry forward of unabsorbed depreciation.
- Even if no valid return is filed for the PY; set off and carry forward is available provided ROI is to be filed u/s 139(4).

12. ADDITIONAL / ENHANCED DEPRECIATION

12.1. Conditions:

- The assessee should be engaged in the manufacture or production of any article or thing.
- Additional depreciation is available in respect of new P&M acquired and installed after 31-3-2005.
- However, this additional depreciation is not available in respect of the following assets:
  - Ships, aircrafts and road transport vehicles;
  - Any office appliances in India or outside India by any person;
  - Any P&M installed in office or residence including guest house;
  - P&M whose total cost is allowed as a deduction (whether by way of depreciation or otherwise) in computing taxable income under the head "PGBP" of any one previous year.



12.2. Rate of Additional depreciation:

- 20% actual cost of machinery or plant.
- If the asset is put to use for less than 180 days during the PY, then rate of depreciation is 10% actual cost (i.e. 50% of normal depreciation).

Note: Additional depreciation is available even if there is no balance in the block.

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- If the asset is put to use for less than 180 days in the year of acquisition, then additional depreciation would be 10% of the cost of acquisition in the first year and the balance 10% would be available in the immediately succeeding previous year.

12.3. Other Points:

- Proportionate depreciation: Where in any previous year there is a,
  - Succession of a business as per section 170, or
  - Succession of a partnership firm by a company as per section 47 (xiii) or
  - Succession of a proprietary concern by a company as per section 47 (xiv) or
  - Amalgamation of companies as per section 2 (IB) or
  - Demerger of a company

The deduction of depreciation shall be allowed as follows:

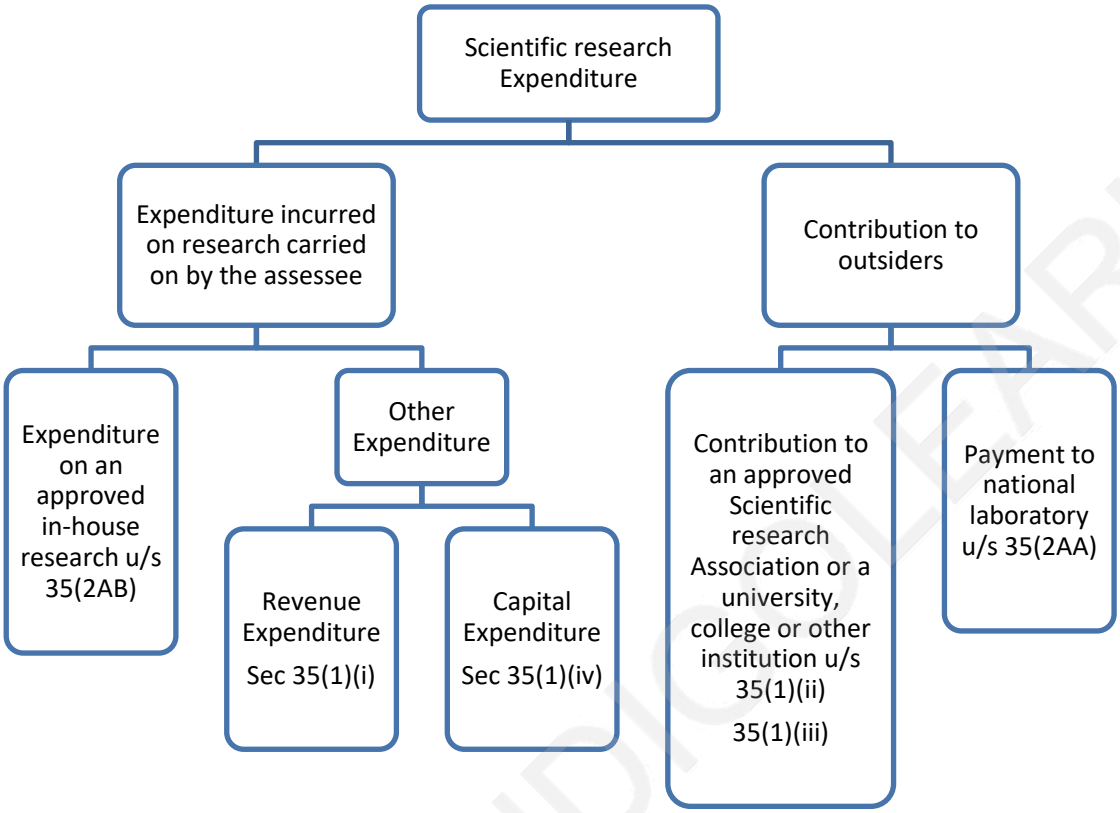
- The aggregate depreciation allowable to the transferor and transferee shall not exceed the deprecation calculated at the prescribed rate as if no such succession, amalgamation or demerger has taken place (i.e. depreciation shall be computed ignoring the change of ownership) and
- The amount of depreciation shall be apportioned between the transferor and the transferee in the ratio of the number of days for which the assets were used by them.
- **No Depreciation:** No Depreciation is allowed on following asset -
  - Wasting assets - such as oil well, mines etc.,
  - Livestock
  - Land [CIT Vs Alps Theater 65 ITR 377 (SC)]
  - Where any deduction is allowed under any other section of the act e.g. if capital expenditure is claimed u/s 35.
- **Spare / Standby Equipments:** Depreciation is allowable on an asset when it is kept as spare / standby to the needs of business, as it is required for smooth conduct of business.

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13. SEC 35: EXPENDITURE ON SCIENTIFIC RESEARCH

Scientific Research means any activity for the extension of knowledge in the fields of natural science, applied science agriculture, animal husbandry or fisheries.

- If scientific research relates to his business and carried on by assessee himself, then the deduction is as follows:



  - Revenue Expenditure - 100%
  - Capital expenditure (excluding cost of land) - 100%
  - Prior period expenditure being salary (Other than expenditure on providing perquisites) to research staff, Material used (to the extent certified by the prescribed authority) and Capital expenditure (excluding cost of land) incurred within 3 years immediately preceding the commencement of business, is deductible in the previous year in which business is commenced.

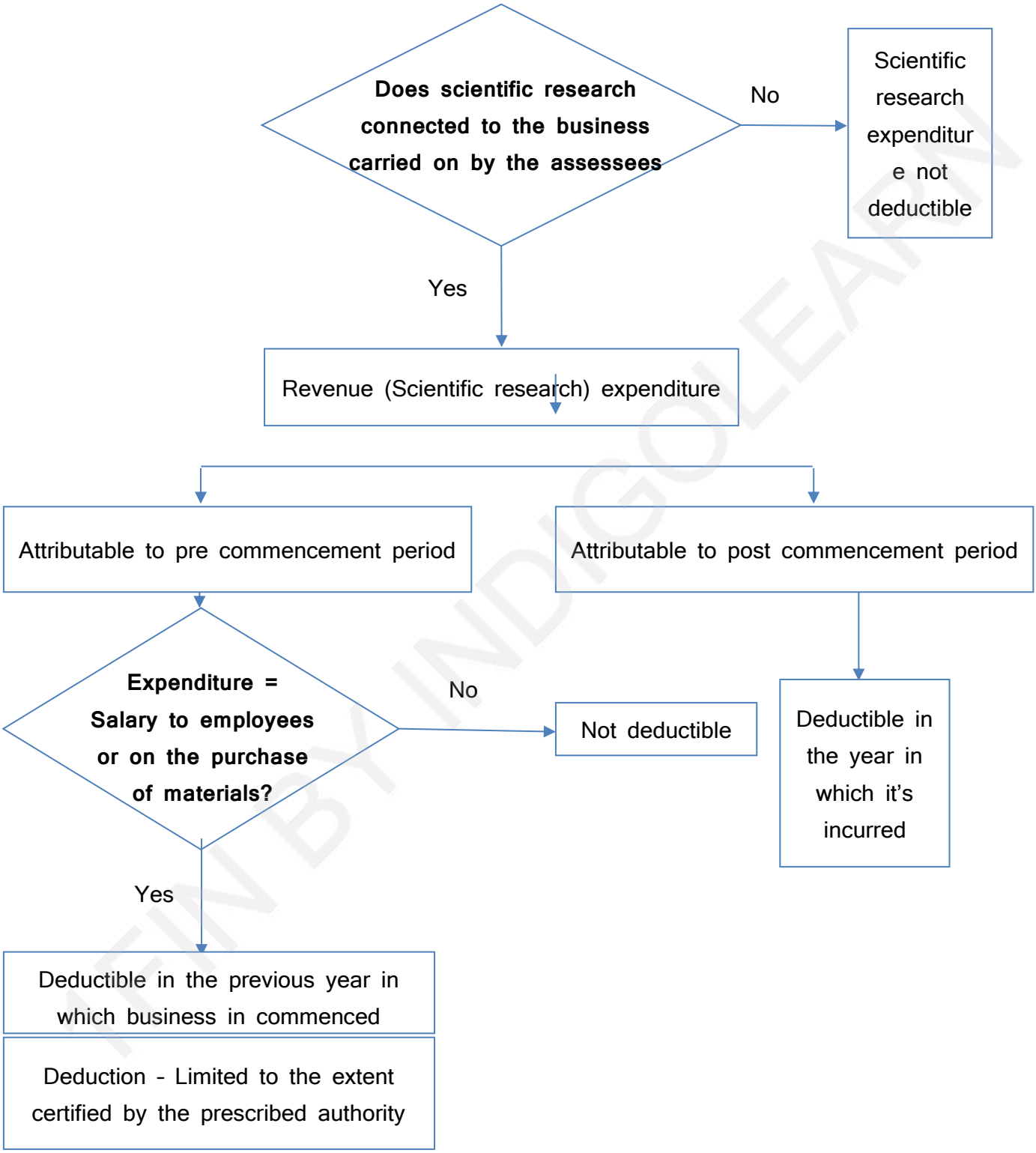
- **Contributions are made to any Laboratory owned or financed by Govt, or approved university, college, IIT. National Laboratory or other institution, then the amount of deduction is 100% of amount paid by the assessee.**

  Donations to approved research associations/ institutions/ college engaged in scientific research – deduction is equal to 100% of amount paid by assessee {Sec 35(1)(ii)}

  Contribution to approved university/ college/ institution/ association for social science/ statistical research – Deduction @ 100% of the amount paid by assessee {Sec 35(1)(iii)}

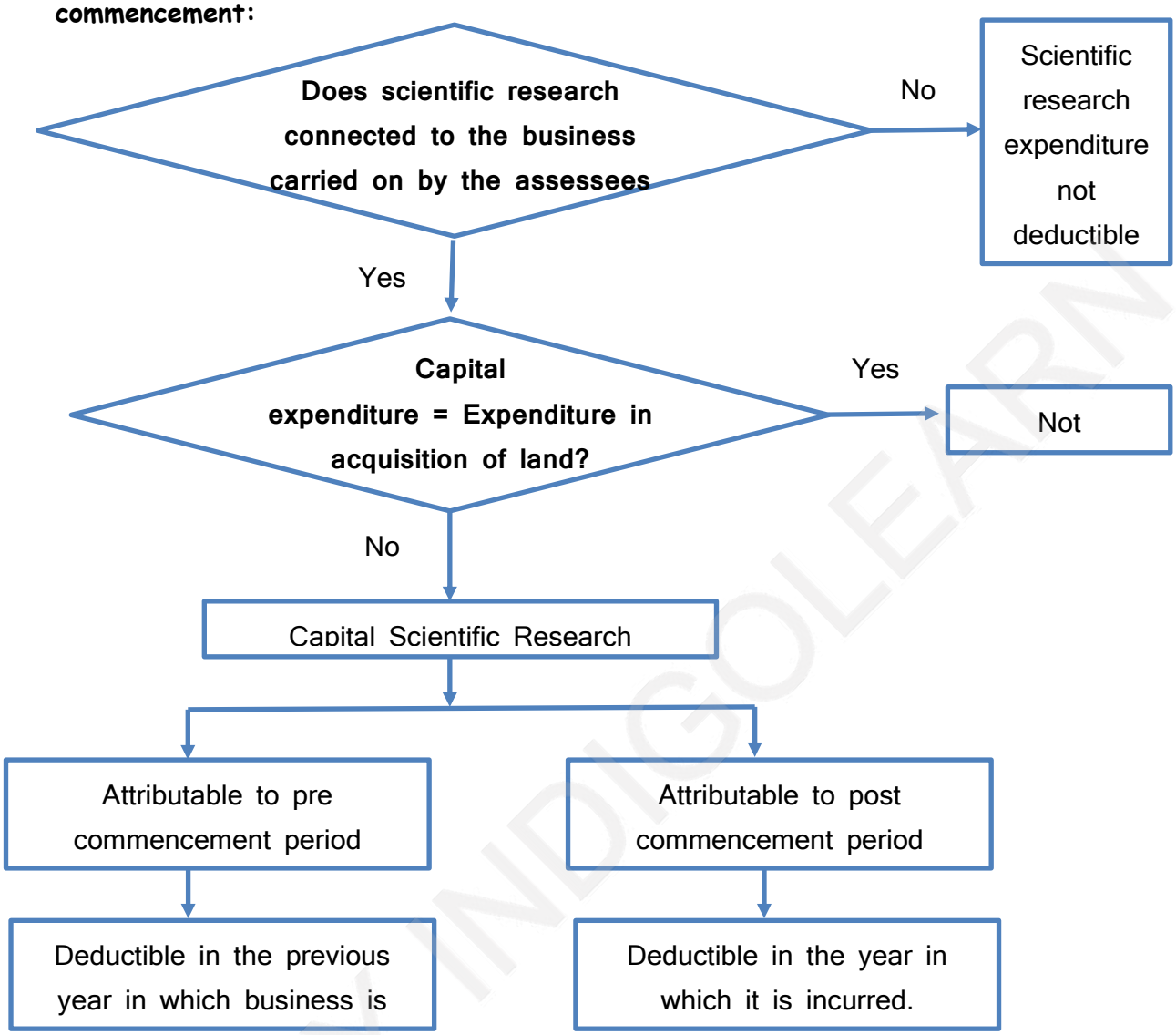
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➢ Tax Treatment of Revenue expenditure



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- **Tax treatment of capital expenditure during pre-commencement and post-commencement:**



13.1. Sec 35(1)(iia): An amount equal to **100% of any sum paid to a company registered in India** which has as its main object the scientific research and development and which is approved for this purpose.

13.2. Sec 35(2AB):- Expenditure (not being in nature of cost of any land or buildings) incurred on or before 31-3-2017 on in-house research and development facility incurred by a company engaged in the business of bio-technology, or, any business of manufacture or production of any article or thing, not being an article or thing specified in' the list of the Eleventh Schedule [Amendment by the Finance (No.2) Act, 2009 w.e.f. 1 -4-2010].

Expenditure on scientific research in relation to drugs and pharmaceuticals includes expenditure on clinical drug trial, obtaining approval from any regulatory authority and filing an application for patent. In case of above Expenditure, 100% of actual amount of expenditure shall be allowed as deduction, if the following conditions are satisfied:

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13.2.1. Conditions:

- ❖ This section is applicable to companies only.
- ❖ The assessee must be engaged in the business of manufacture or production of drugs, pharmaceuticals, electronic equipments computers, telecommunication equipments, chemicals or any other article or thing notified by CBDT (The CBDT has notified manufacture of helicopter or aircraft, and computer software.)
- ❖ The assessee incurs any expenditure on in-house-scientific research and development facility approved by the prescribed authority.
- ❖ The assessee must enter into an agreement with the prescribed authority for cooperation in such research and development facility and for audit of accounts maintained for this facility.

This section does not allow deduction in relation to the cost of any land or building acquired by the assessee for the purpose of in-house scientific research. Hence, the cost of building can be claimed under normal provision of section 35 i.e. 100% deduction. Cost of land does not qualify for any deduction.

- ➢ In order to have a better and meaningful monitoring mechanism for weighted deduction allowed under section 35(2AB) the following amendments have been made with effect from the AY 2016-17-
  1. Deduction under section 35(2AB) shall be allowed only if the company enters into an agreement with the prescribed authority for co-operation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnish prescribed reports.
  2. Reference to the Principal Chief Commissioner has been inserted in the section 35(2AA) and section 35(2AB) so that the report referred to therein may be sent to the principal Chief Commissioner and Chief Commissioner having jurisdiction over the company claiming the weighted deduction under the said section.

With effect from 1st April, 2016 ***(Amendment by Finance Act 2015)***

13.3. Other points:

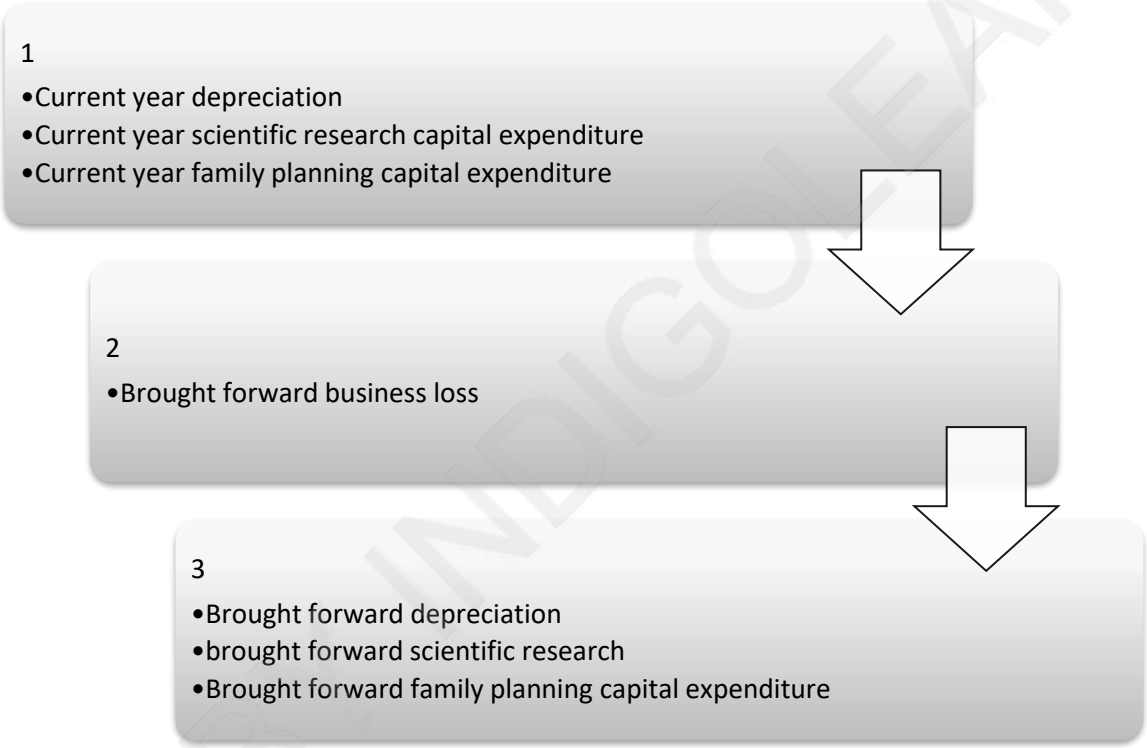
- ➢ Where deduction is allowed u/s 35 in respect of any asset, no depreciation shall be allowed u/s 32 in respect of the same asset.
- ➢ Unabsorbed capital expenditure on scientific research can be carried forward and claimed.

1	Where in a previous year, owning to there being no profit chargeable to tax U/H PGBP or owning to profit being less than the capital expenditure incurred in relation to scientific research, such expenditure or part of expenditure could not be claimed as deduction, it shall be known as unabsorbed capital expenditure on scientific research.
2	It can be carried forward to the subsequent years and be set off against income under any head other than salary. If it still remains unabsorbed it

	could be carried forward for set off for any number of years. In nutshell, it shall be treated on par with unabsorbed depreciation.

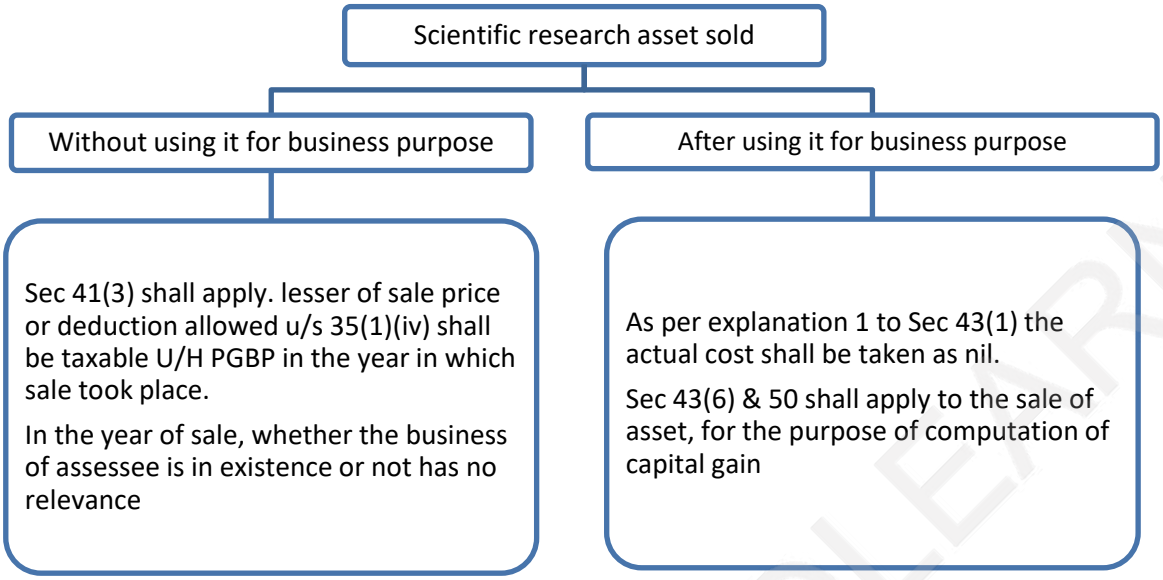
- **Priority for set off {Section 72(2)}**

- In the case of an amalgamation of companies, provisions of this section shall continue to apply to the amalgamated company in the same manner, as they would have been applicable to the amalgamating company.



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- **Tax implications of transfer of scientific research asset after it ceases to be used for scientific research.**



14. SEC 35AD: DEDUCTION OF CAPITAL EXPENDITURE OF SPECIFIED BUSINESS

Sec 35AD has been inserted w.e.f A.Y 2010-11, to provide 100% deduction in respect of any capital expenditure incurred by an assessee during the previous year for specified business subject to the fulfillment of certain conditions.

14.1. 100% of Deduction available to assessees carrying on specified business

- Setting up and operating cold chain facilities for specified products
- Setting up and operating warehousing facility for storage of agricultural produce
- Laying and operating a cross-country: (i) natural gas; or (ii) crude; or (iii) petroleum oil pipeline network distribution, including storage facilities being an integral part of such network
- Building and operating a new hotel of two star or above category as classified by the Central Government
- Building and operating a hospital, anywhere in India, with atleast 100 beds for patients
- Developing and building a housing project under a notified scheme for slum redevelopment or rehabilitation framed by the Central Government or State Government
- Developing and building a housing project under a notified scheme for affordable housing framed by the Central Government or State Government.
- Setting up and operating an inland container depot or a container freight station notified or approved under the customs Act, 1962. Such business should commence its operations on or after 01-04-2012.
- Bee-keeping and production of honey and beeswax. Such business should commence its operations on or after 01-04-2012.

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- Setting up and operating a warehousing facility for storage of sugar. Such business should commence its operations on or after 01-04-2012.
- **Laying and operating a slurry pipeline for the transportation of iron ore**
- **Setting-up and operating a semi-conductors wafer fabrication manufacturing unit, if such unit is notified by the board in accordance with the prescribed guidelines**
- Developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility
- Production of fertilizer in India

14.2. Deduction Amount

- 100% of capital expenditure incurred wholly & exclusively for the above specified business will be allowed as a deduction in the year in which incurred.
- Expenses on acquisition of land, goodwill or any financial instrument will not be allowed as a deduction.
- If expenditure is exceeding INR 10,000 in a day then it must be paid by A/c payee cheque or account payee draft or ECS.
- Expenditure incurred prior to commencement of business will be allowed as a deduction in the year in which business is commenced if the expenditure is capitalized in the books of assessee as on the date of commencement.
- Entity should not be formed by splitting up or reconstruction of business already in existence.
- Entity should not be set up by transfer of plant and machinery previously used for any purpose. However, 20% of the total P&M can be old plant and machinery
- Imported second hand machine is treated as new machine for the purpose of Section 35AD provided it was never used in India and no person has claimed any depreciation on such machine.
- Loss from specified business can be set off against profits from any other specified business even if the latter is not eligible for deduction.
- Deduction shall be allowed only if the accounts have been audited by a Chartered Accountant.
- Section 35AD(7A) provides that any asset in respect of which a deduction is claimed and allowed under section 35AD shall be used only for the specified business for a period of eight years beginning with the previous year in which such asset is acquired or constructed
- If any asset on which a deduction u/s 35AD has been claimed and allowed, is demolished, destroyed, discarded or transferred, the sum received or receivable for the same is chargeable to tax under clause (vii) of section 28
- As per section 35AD(7B), if asset is used for any purpose other than the specified business during 8 years beginning with the previous year in which such asset is acquired, the total amount of deduction so claimed and allowed in any previous year(s) in respect of such asset, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction had been allowed u/s 35AD, shall be deemed to be income of

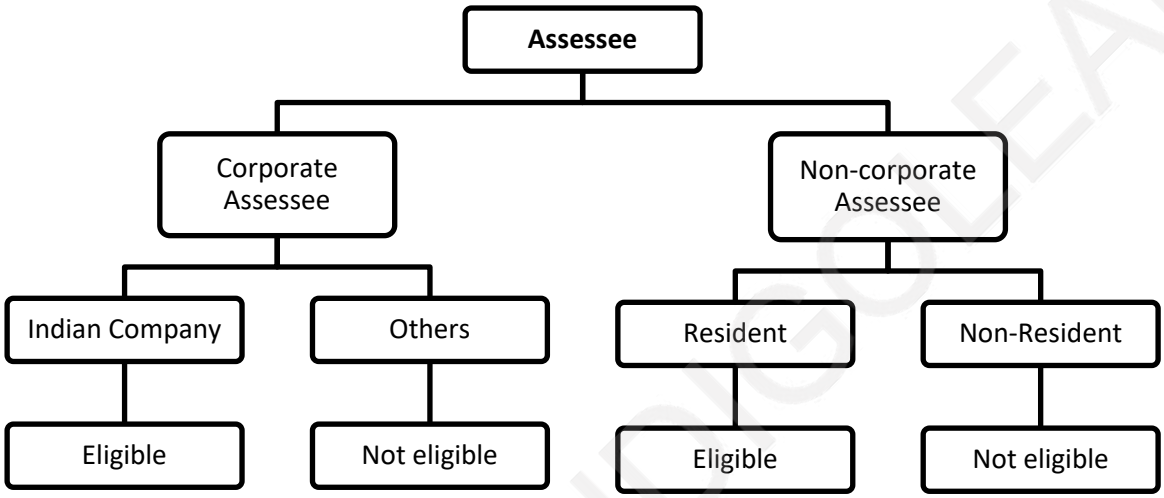
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the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used. However, the deeming provision u/s 35AD(7B) shall not be applicable to a company which has become a sick industrial company u/s 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, during the intervening period of eight years specified in section 35AD(7A)

15. SEC 35D: AMORTIZATION OF CERTAIN PRELIMINARY EXPENSES

15.1. Eligible assessee:

- Indian companies or a resident non-corporate assessee
- The benefit u/s 35D is also available to non-industrial undertakings incurring expenditure with extension of its business after its commencement.



15.2. Time and purpose of expenditure:

Time of expenses	Purpose of expenses
Before commencement of business	For setting up of any undertaking or business
After commencement of business	For setting up of a new industrial unit or for extension of an industrial undertaking.

Qualifying expenditure:

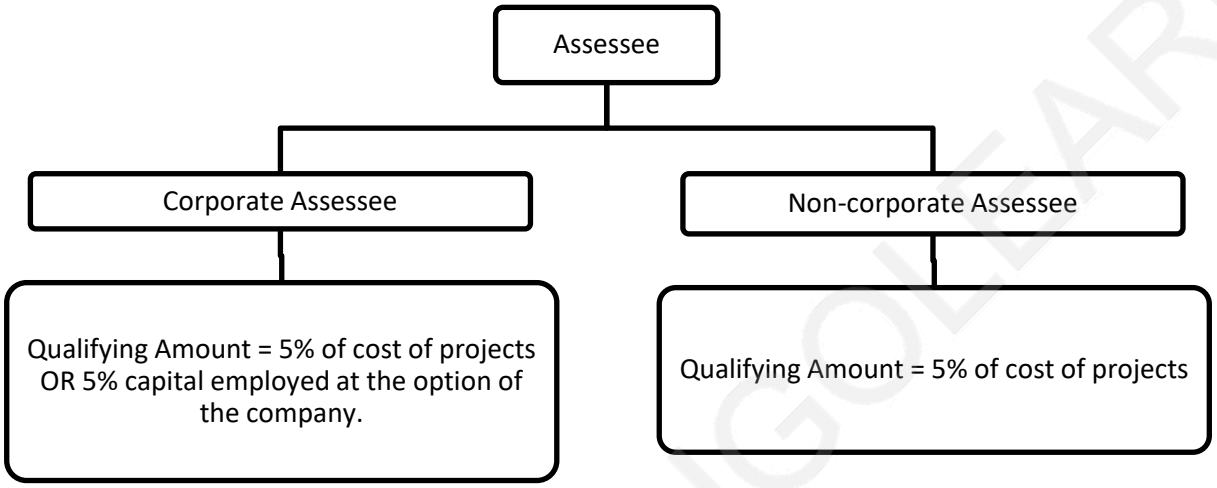
- Expenses incurred for preparation of feasibility report, preparation of project report, Conducting market survey or any other survey necessary for business and engineering services relating to the business of assessee.
- Legal charges for drafting any agreement between the assessee and any other person for setting up or conduct of the business.
- the case of a company, the following additional expenses are also eligible:
  - Legal Charges for drafting of MOA, AOA - Printing Expenses of MOA and AOA

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- ❖ Company registration fee under companies Act
- ❖ Underwriting commission, brokerage & charges for drafting typing, printing and advertisement of prospectus for public issue of shares or debentures.

15.3. Maximum permissible expenditure:

- ➢ In case of companies: 5% of cost of projects OR 5% capital employed, at the option of the company.
- ➢ In case of any other assessee: 5% of cost of projects



No. of years: Deduction is allowed over a period of 5 years in equal installments.

15.4. Cost of project: Cost of fixed assets, viz. land, building, leaseholds, plant, machinery, furniture fittings, railway sidings, development of land/building (Shown in the books as on the last day of the year in which the assessee commences business / extension of the undertaking is completed / new industrial unit commences production).

15.5. Capital employed:

Issued share capital + Debentures + Long-term borrowings repayable after 7 years, as on the last day of the year in which business is commenced.

15.6. Audit Report:

In the case of a person (other than a company / co-operative society), deduction is available only if a report of audit is obtained from a CA in Form No. 3AE.

15.7. Amalgamation / demerger of companies: In case of amalgamation of demerger, amalgamated or resultant company can get deduction u/s 35D for balance period.

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16. SEC 35DD: AMORTIZATION OF EXPENDITURE IN CASE OF AMALGAMATION / DEMERGER:

- Where an assessee, being an Indian Company incurs any expenditure, wholly and exclusively for the purpose of amalgamation / demerger of an undertaking, the entire expenditure is allowed as deduction in 5 equal installments over a period of 5 successive years starting from the year in which amalgamation / demerger takes place.
- No deduction shall be allowed in respect of the above expenditure under any other provision of the Act.

17. SEC 35DDA: AMORTIZATION OF EXPENDITURE UNDER VOLUNTARY RETIREMENT SCHEME

- It applies to all assessees.
- **Conditions:**
  - The retirement should be in accordance with the scheme of Voluntary Retirement
  - The payment can be made in any year, each such payment independently being admissible for amortization over a period of five years.
- **Amount of deduction:**
  The amount of expenditure so paid to employees at the time of VR is deductible over a period of 5 years in equal installments commencing from the PY in which such payment / part payment was made.
- In case of amalgamation, demerger, succession of firm or proprietary concern by company; the amalgamated company, resulting company and Successor Company will get deduction for the balance of years.
- No deduction shall be allowed to the amalgamating company, demerged company or the firm or proprietary concern in the year of amalgamation, demerger or conversion.

Note: It may be noted that the payment made to an employee for retrenchment / compulsory termination (i.e. otherwise than by way of VRS) from services is fully deductible u/s 37(1).

18. SEC 36: OTHER DEDUCTIONS:

36(1)	Nature of Expenditure	Applicability	Amount of Deduction / Conditions
(i)	Insurance premium on risk of damage or destruction of stocks/stores used in business	All assesses	Deduction allowable only in the year of payment
(ia)	Insurance Premium on life of cattle owned by a member of a primary co-operative society	Federal milk co-operative societies	Deduction will be allowed only in the year of payment
(ib)	Insurance premium paid on health of employees	All employers	Payment should be made by any mode other than cash under an

			approved scheme of General Insurance Corporation of India or scheme framed by any insurer and approved by IRDA
(ii)	Bonus or Commission paid to employees	All employers	1. Allowable as deduction only if such sum is not payable as profit or dividend. 2. Payment shall be made before due date of filling return, [subject to Sec.43B]
(iii)	Interest on borrowed capital Interest will be deductible irrespective of the fact that it is borrowed for working capital or for acquiring capital asset.	All assesses	1. Money should be borrowed for purpose of business. Interest on borrowed capital not used for the purpose of business shall not be allowed as deduction. 2. In case of amount borrowed from financial institutions or any loan or advance from banks, interest should be paid on or before due date of filling return. [subject to Sec 43B] 3. The interest on the capital borrowed for the purchase of asset, paid from the date on which the capital was borrowed upto the date such asset was first put to use shall not be allowed as a deduction.
(iiia)	Discount on Zero Coupon Bonds	Companies issuing Zero Coupon Bonds	1. Discount can be written off on a pro- data basis over the period of the bond. 2. Discount is the difference between Maturity / redemption Value and the issue price.
(iv)	Contribution to Recognised PF or approved Superannuation Fund	All employers	The payment should be made before the due date of filling ROI. Payment directly to LIC towards group gratuity fund is deductible.
(iva)	Employer's contribution towards pension fund	All employers	There is a ceiling on the annual contribution which an employer can make to pension fund. It is 10% of the salary of the employee in the PY.
(v)	Employer's contribution to an approved Gratuity Fund	All employers	8.33% of salary of each employee is allowed as deduction.

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(va)	Contribution from employees towards welfare fund accounts	All employers	The remittances must be made before the due date under the relevant Act for the relevant fund.
(vi)	Allowance in respect of dead or permanently useless animals which were used for the purpose of business	All assesses	1. Animals should not be held as stock-in- trade. 2. Amount of deduction = Actual cost of animals Less Amount realised on sale of the animal or their carcasses.
(vii)	Bad debts (Excluding provision for bad debts) The successor of the business is entitled to write off predecessor's debt. **[NOTE 1]**	All assesses	1. The debt must be incidental to the business. 2. Such debt should be revenue in nature. 3. It must have been taken into account in computing the income of the assessee. 4. The debt may be money lent in the ordinary course of banking or money lending business. 5. The Bad debt must have been written off in the books of the assessee. 6. The business in which such debt is incurred should be continued during the previous year. 7. Amount written off in P&L account, as bad debts are allowable as deduction on fulfillment of above conditions.
(viia)	Provision for bad debts	Scheduled or Non-Scheduled Bank incorporated in India. Co-operative Bank other than primary Agricultural Credit Society or Primary Co-operative Agricultural and Rural Development Bank.	8.5% of Gross Total Income + 10% of aggregate of Average Rural advances. Rural branch means branch situated in a place which has a population of not more than 10,000 as per the latest census on the first day of the relevant previous year.

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(viib)	Provision as per RBI guidelines	Bank incorporated outside India & Public Financial Institution, SFCs & State Industrial Investment Corporation.	5% of Gross Total income.
(ix)	Promoting family planning amongst employees	Companies	1. Revenue Expenditure is fully allowed as deduction 2. Capital expenditure incurred will be allowed in 5 years in equal installments commencing from the previous year in which it was incurred. 3. Unabsorbed family planning expenditure shall be carried forward in the same manner as unabsorbed depreciation 4. In case of amalgamation, the amalgamated Company will be allowed to write off the balance amount un-allowed in the hands of the amalgamating Company.
(xv)	Securities Transaction Tax paid [w.e.f. AY 2009-10]	All Assessees	1. Taxable Securities transactions should be entered into in the course of his business during the previous year. 2. Income arising from such transactions is included under the head profits & Gains of business or profession.
(xvi)	Commodities Transaction Tax paid [w.e.f. AY 2014-15] **[NOTE 3]**	All Assessees	1. Taxable Commodities transaction should be entered into in the course of his business during the previous year 2. Income arising from such transactions is included under the head profits & Gains of business or profession.

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18.1. Notes:

1. 'Taxable commodities transaction' means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations.

- A "commodity derivative" means –
  1. A contract for delivery of goods which is not a ready delivery contract
  2. A contract for differences which derives its value from prices or indices of prices-
     (i) of such underlying goods; or
     (ii) of related services and rights, such as warehousing and freight; or
     (iii)with reference to weather and similar events and activities having a bearing on the commodity sector.

19. SEC 37 (1) - GENERAL DEDUCTIONS:

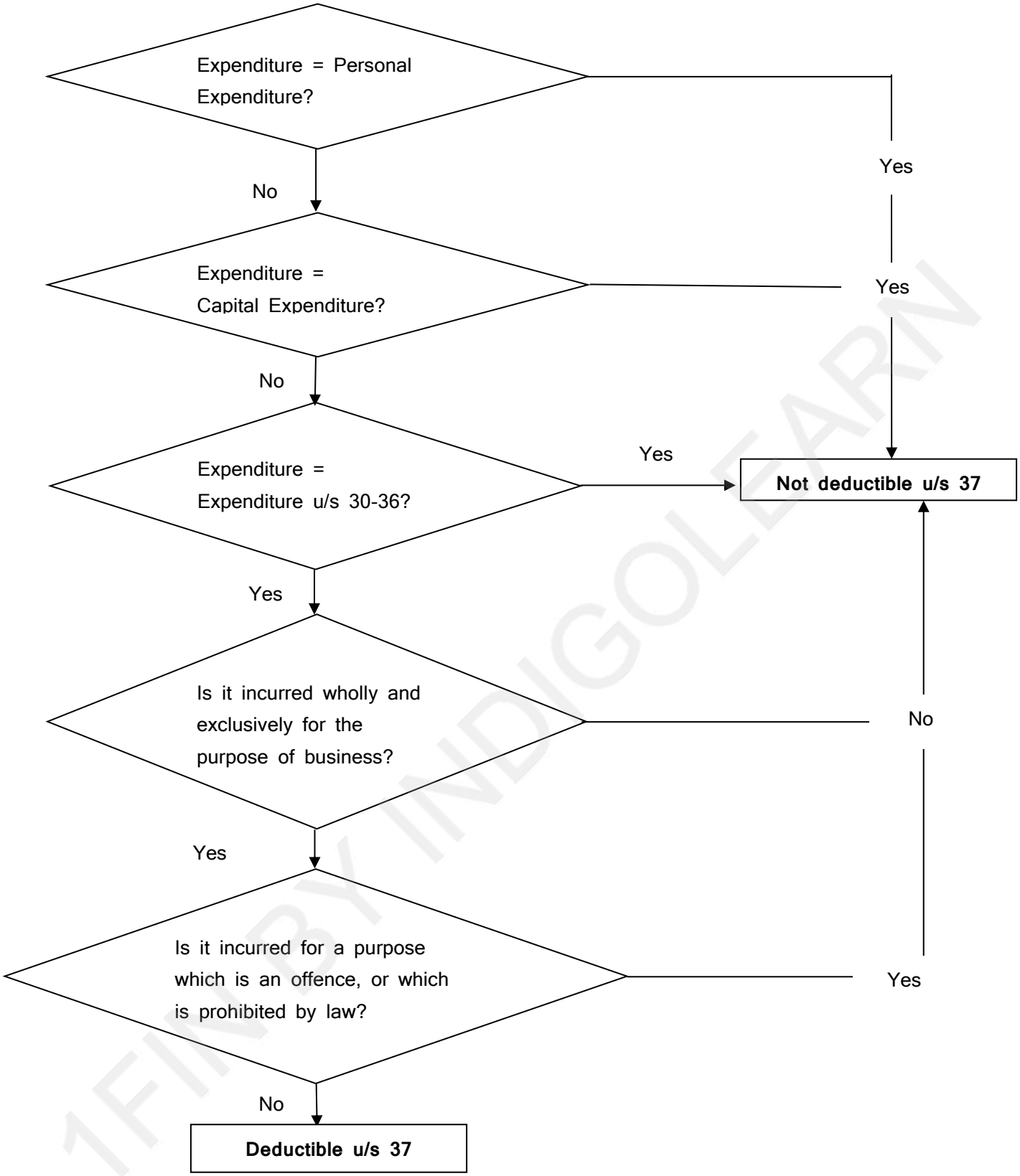
The assessee can claim deduction u/s 37(1) if following conditions are satisfied.

- The expenditure is not capital expenditure.
- The expenditure is not personal expenditure.
- The expenditure is not of the nature described in section 30 to 36.
- The expenditure should have been incurred in the previous year wholly and exclusively for the purpose of the business/profession.
- The expenditure is not incurred for any purpose which is an offence or is prohibited by any law.
- A new explanation has been inserted in section 37(1) so as to clarify that for the purposes of section 37(1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility refered to in section 135 of the companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession from the assessment year 2015-16. However, deduction may be claimed under any other section (if otherwise possible).

Note:

There is no specific deduction covered under Section 37. It is like general deduction where deduction is allowed if all conditions are satisfied. Ex: Pooja expense at office, staff welfare expenses, travelling expenses, business promotion expenses etc.

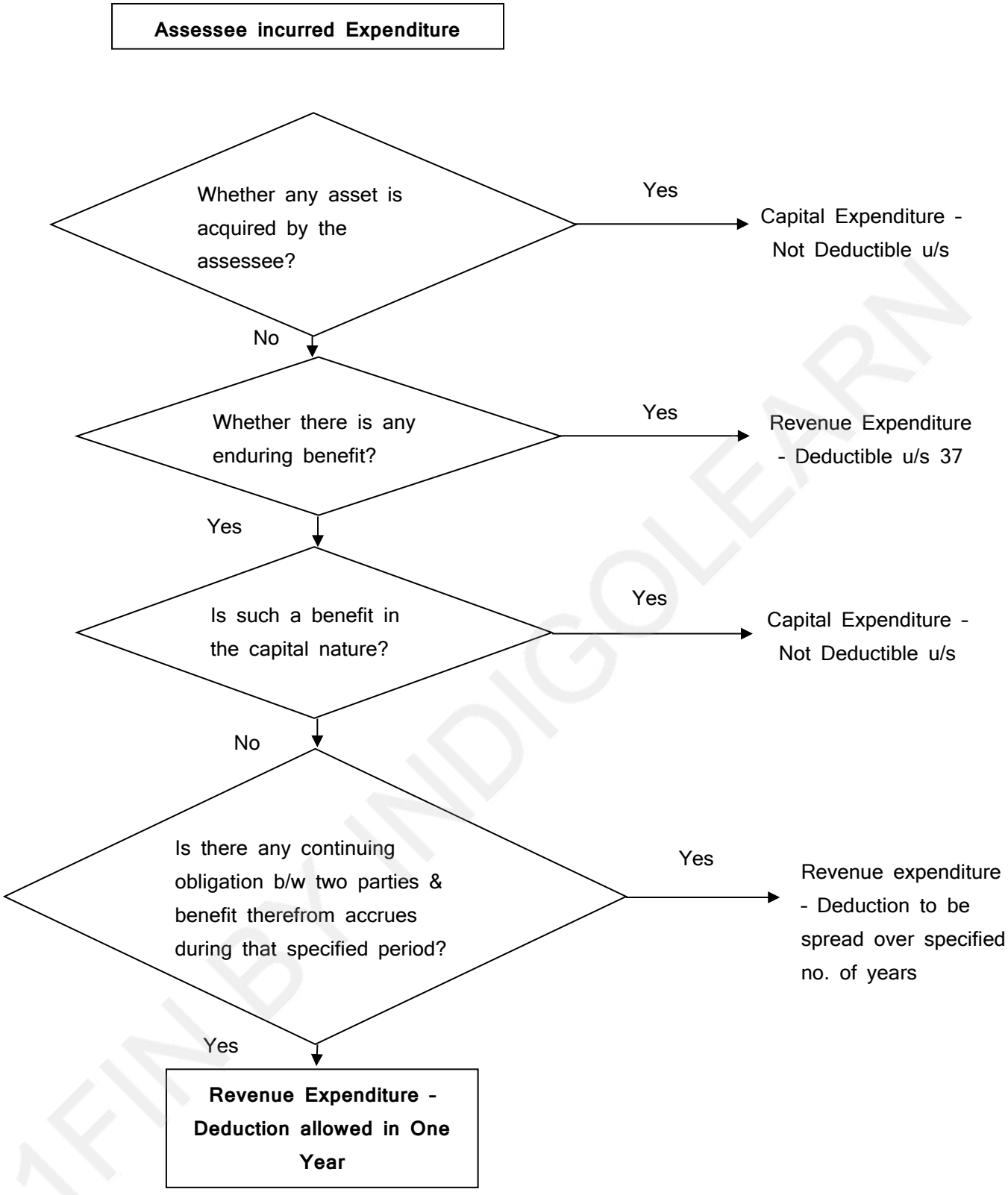
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- **Expenditure incurred by an assessee may be classified into:**

a) Revenue expenditure
b) Capital expenditure



Dr. T. A. Quereshi v. CIT [2006] 287 ITR 547 (SC): Illegal business loss is different from illegal expenditure covered by section 37(1). In computing income from illegal business, the losses sustained are allowable as deduction. Therefore, in case of doctor engaged in heroin business, the value of seized heroin, which formed part of his stock-in-trade, is allowable as deduction as business loss.

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Circular No. 5/2012 dated 1-8-2012

Inadmissibility of expenses incurred in providing freebees to medical practitioner by pharmaceutical and allied health sector industry

The Central Board of Direct Taxes, has clarified that considering the fact that the claim of any expense incurred in providing freebees to medical practitioner is in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, the expenditure so incurred shall be inadmissible under section 37(1) of the Income- tax Act, 1961, being an expense prohibited by the law. The disallowance shall be made in the hands of such pharmaceutical or allied health sector industry or other assessee which has provided aforesaid freebees and claimed it as a deductible expense in its accounts against income.

This circular has also clarified that a sum equivalent to value of freebees enjoyed by the aforesaid medical practitioner or professional associations is also taxable as business income or income from other sources, as the case may be, depending on the facts of each case.

20. SEC 37 (2B): ADVERTISEMENT EXPENDITURE:

- Capital expenditure is not allowed.
- Revenue expenditure:
  - Expenditure incurred on advertisement in any souvenir, brochure, pamphlet or the like published by a political party is not allowed. However, the assessee can claim deduction u/s 80GGB.
  - Any other revenue expenditure is deductible u/s 37(1).

21. SEC 38: BUILDING ETC. PARTLY-USED FOR BUSINESS:

This section provides that where a building, plant, machinery or furniture is not exclusively used for business purpose (i.e. partly for personal and partly for business purposes), then deductions allowable u/s 30, 31 and 32 shall be allowed proportionately for business use. In other words, no deduction shall be allowed in relation to personal use.

22. SECTION 40 (a): DISALLOWANCES IN THE CASE OF ALL ASSESSEES:

Section	Nature of expenditure	Amount Inadmissible / condition
40(a)(i)	Interest, royalty, fees for technical services or other similar sum payable outside India or in India to Non-resident not being a company or Foreign Company on which tax has not been paid or deducted at source or after deduction, tax has not been paid before the prescribed time u/s. 139(1). {FA 2014}	Disallowance provisions will not be applicable if TDS is deposited upto the due date of submission of return of income under section 139(1). if TDS is deposited after this date, expenditure will be deductible in the year in which TDS is deposited
40(a)(ia)	Any amount payable to a resident on which Tax is deductible, but tax has not been	1. Amount paid without deduction of Tax or Where tax has been

	deducted or after deduction, tax has not been paid before the prescribed time u/s. 139(1). **(Amendment by Finance Act 2014)**	deducted, amount not remitted to the Government. 2. Will be allowed as a deduction in computing the income of the previous year in which such tax has been paid. 3. Only 30% expenditure to be disallowed – In case of TDS default, 30% of expenditure (Not 100%) will be disallowed. {FA 2014}
40(a)(ii)	Rates or taxes levied on profits or gains of any business or profession	Amount paid including tax paid abroad eligible for relief u/s 90/90A or deduction from income tax payable u/s 91.
40(a)(iib)]	Disallowance of royalty, licence fee, service fee etc. levied exclusively on **State Government Undertakings** by the State Government	Amount paid or any amount appropriated, directly or indirectly from a SGU by the SG.
40(a)(iii)	Salaries payable outside India or to a non-resident without deduction of tax at source	Amount paid
40(a)(iv)	Payment to provident Funds / Other Funds established for the benefit of the employees for which no effective arrangements are made to secure or deduct tax at source.	Amount paid
40(a)(v)	Any tax of the employee paid by the employer u/s 10(10CC).	Amount paid

Note:

In case, assessee fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under the first proviso to section 201(1) by reason that such payee –

(i) has furnished his return of income under section 139;

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum. The date of deduction and payment of taxes by the payer shall be deemed to be the date on which return of income has been furnished by the payee. Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, 30%

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of such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 40(a)(ia) in the year in which the said expenditure is incurred.

However, 30% of such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.

23. SEC 40(b): DISALLOWANCE IN THE CASE OF PARTNERSHIP FIRMS

Payment of interest to the partners:

23.1. Conditions:

- It should be authorised by and in accordance with the partnership deed.
- It should relate to a period falling after the date of the Partnership deed.
- Rate of interest should not exceed 12% p.a. (simple rate of interest)

23.2. Exception: The above condition does not apply in the following situations -

- Where an individual is a partner on behalf of or for the benefit of any other person (Karta of HUF, Director of a Company), and interest is paid by the Firm to the individual otherwise than as partner in a representative capacity.
- Where an individual is a partner in his individual capacity and interest is received by such individual from the Firm on behalf of or for the benefit of any other person (Karta of HUF, Director of a Company).

Note: Interest on current account of a partner will not be allowed as deduction.

23.3. Payment of remuneration to the partners:

Conditions: Any salary or bonus or commission or remuneration paid by a Firm to a Partner is allowable as deduction subject to the following conditions:

- It should be authorised by and in accordance with the partnership deed.
- It should relate to a period falling after the date of the Partnership deed.
- It should be paid to a working Partner.
- It should not exceed the permissible limits and is as follows:

BOOK PROFITS	REMUNERATION
On the first ₹ 3 lakhs of Book profits (or) in case of loss	₹ 1,50,000 or 90% of Book profits whichever is HIGHER.
On the balance of Book Profits	60% Of Book Profits.

Book Profits:

Net profit as per P&L a/c	xxx
Adjustments (+/-): as provided by Sec. 28 to 44D	xxx
	xxx

Add: Inadmissible Interest and Remuneration to partners which are already debited to the P & L a/c.	xxx
Book profit	**xxx**

24. SEC. 40(ba): DISALLOWANCE IN THE CASE OF AOP AND BOI:

Any payment by way of interest, salary, bonus, commission paid by AOP or BOI to any of its members shall be disallowed.

25. SEC 40A (2): EXCESSIVE AND UNREASONABLE EXPENDITURE

25.1. Conditions:

- The assessee incurs any expenditure, in respect of which payment has been made or is to be made.
- The payee is a "specified person" and
- The amount of expenditure is unreasonable or excessive and shall be determined having regarded to-

  *The fair market value of goods, facilities or services or

  *The legitimate needs of the business or

  *The benefit accruing or arising from such expenditure.

25.2. Disallowance: The excessive / unreasonable portion shall be disallowed.

25.3. Meaning of "Specified persons"

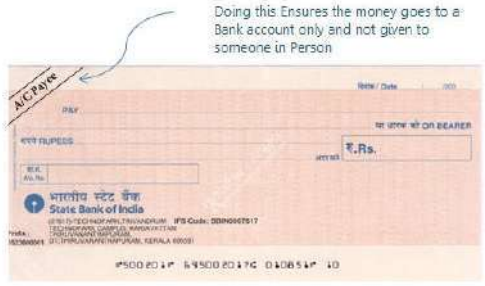
Assessee (payer)	Specified person (payee)
Individual	Any relative
	Any person in whose business The assessee or his relative is substantially interested
HUF / AOP/ Firm / Company (Non-individual)	Any member (M) of a HUF
	Any member (M) of an AOP
	Partner (P) of a firm
	Director (D) of a Company
	Or any relative of such MMPD
	Any person in whose business- The assessee / any MMPD of assessee / any relative of such MMPD, is substantially interested
	Any person who is substantially interested in the assessee's business- a. if such person is an Individual- Such person/his relative b. If such person is a HUF / AOP / Firm / Company- Such person / any MMPD of such person / any relative of such MMPD.

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	An HUF / AOP / Firm / Company whose MMPD is substantially interested in the business of assessee OR any other MMPD of such HUF / AOP / Firm / Company OR any relative of such other MMPD.

26. SEC 40A(3): PAYMENTS OTHERWISE THAN BY WAY OF AN ACCOUNT PAYEE CHEQUE:

The assessee incurs expenditure which is otherwise deductible in computing the business income. If the assessee makes payment of an expenditure in a day to a person otherwise than by way or an account payee cheque or account payee demand draft, and aggregate of such payment exceeds ₹ 10,000/-(₹35000/- in case of goods transport agencies), then no deduction shall be allowed in respect of such expenditure.



Note: This section does not apply where the payment is made towards any capital asset, for example, purchase of land, building or equipment. If however, any asset is purchased for which deduction is to be claimed u/s. 35/36 (1) (ix) etc., the section shall apply. If the asset is purchased in cash, depreciation shall not be allowed.

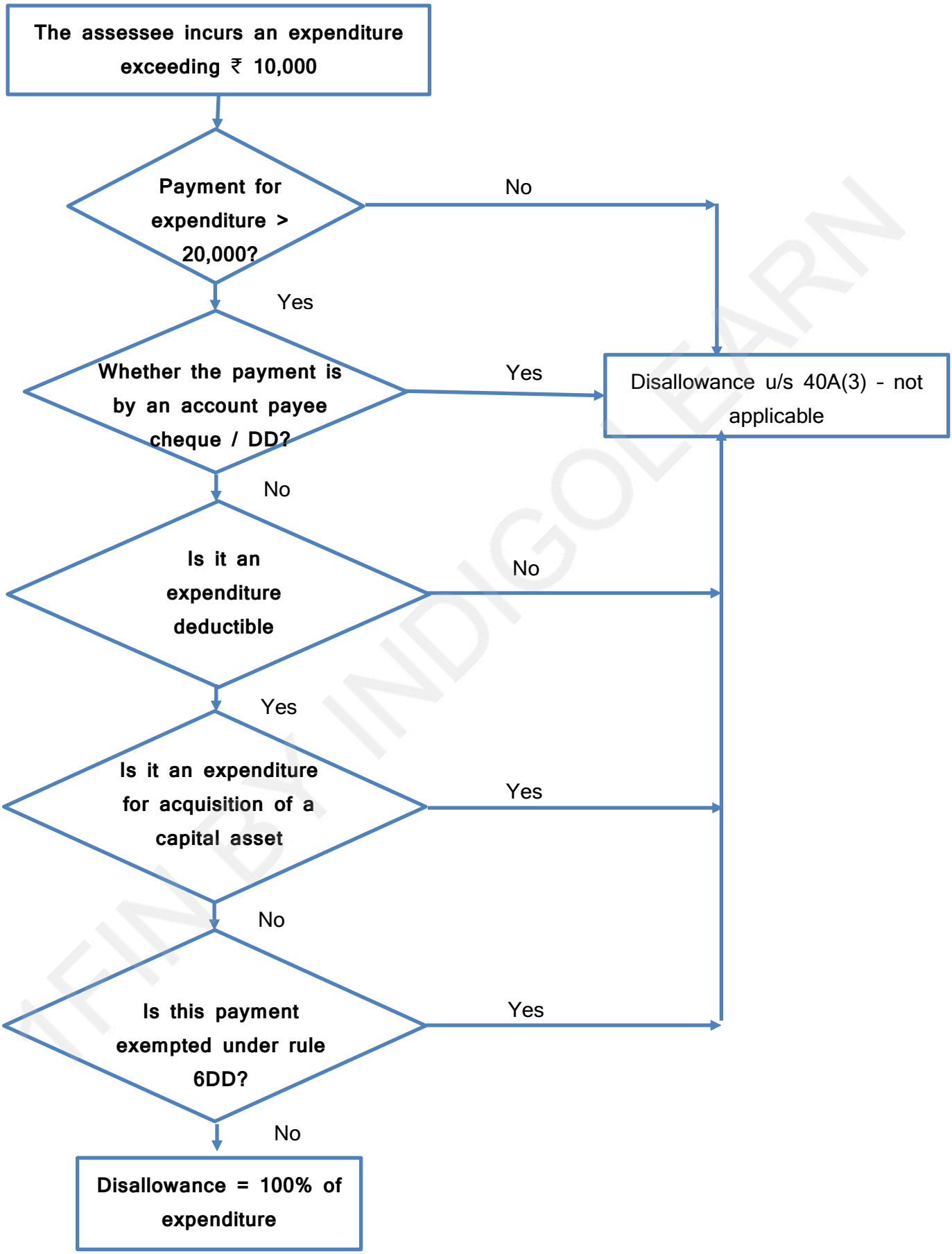
The assessee incurs expenditure which is otherwise deductible in computing the business income.

26.1. Exceptions (Rule 6DD):

In following exceptional situations, no disallowance shall be made-

1. Payment to banking or other credit institutions such as RBI, Commercial banks, Co-operative bank, public financial Institutions, State Financial Corporations, State Industrial Investment Corporations etc.,
2. Payment to State / Central Government if under the rules framed by Govt, the payment is required made in legal tender. (E.g. Sales Tax, custom/Excise duty, Railway freight).
3. Payment through banking system (e.g. TF, MT, LC, debit card, credit card, bill of exchange made payable to a bank).
4. Payment to a cultivator / grower / producer towards purchase of agricultural produce, fore produce, produce of animal husbandry including hides and skins, produce of dairy or poultry farming, fish or fish products, or the products of horticulture or apiculture.
5. Salary payment, after deduction of tax at source u/s 192, made to an employee who temporarily posted for a continuous period of 15 days or more at a place other than his normal place of duty or on a ship and such employee doesn't maintain any bank account at such place on ship.
6. Payment required to be made on a day on which banks are closed due to holiday or strike.
7. Payment made by any person to his agent who is required to make payment in cash for goods on services on behalf of such person.
8. Payment made by an authorised dealer or a money changer against purchase of foreign currency or travelers cheques in the normal course of his business.

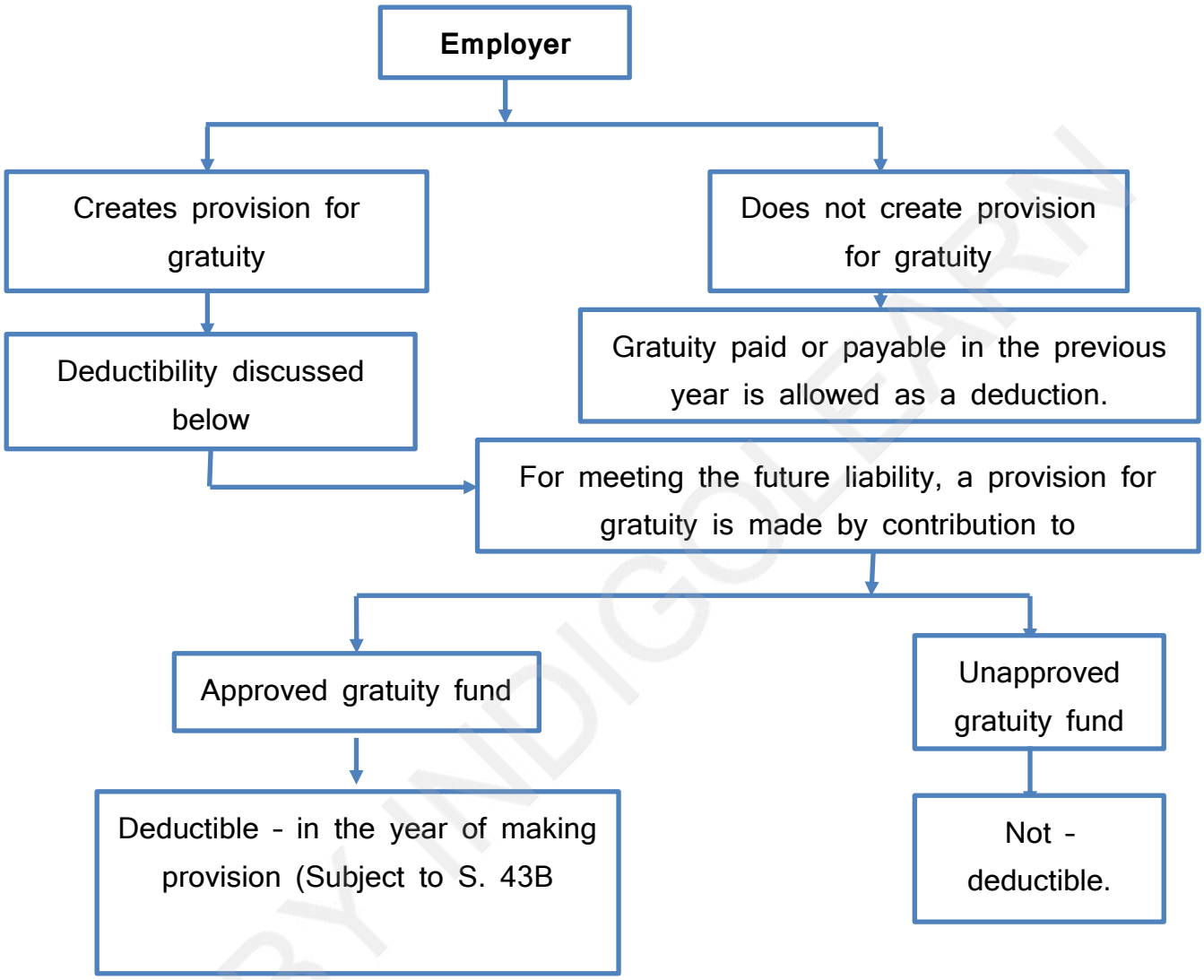
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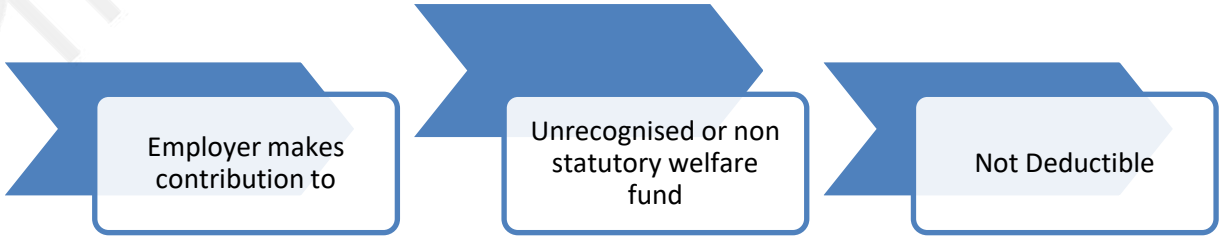
27. SEC 40A (7): PROVISION FOR UNAPPROVED GRATUITY FUND

Allowance in respect of provision for gratuity – S 40A(7):



28. SEC 40A (9) / (10) / (11): CONTRIBUTION TO NON-STATUTORY/UNRECOGNIZED WELFARE FUND

Any contribution made by the assessee (as an employer) to non-statutory/unrecognized welfare fund accounts is not deductible.



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29. SEC 41: DEEMED PROFITS CHARGEABLE TO TAX:

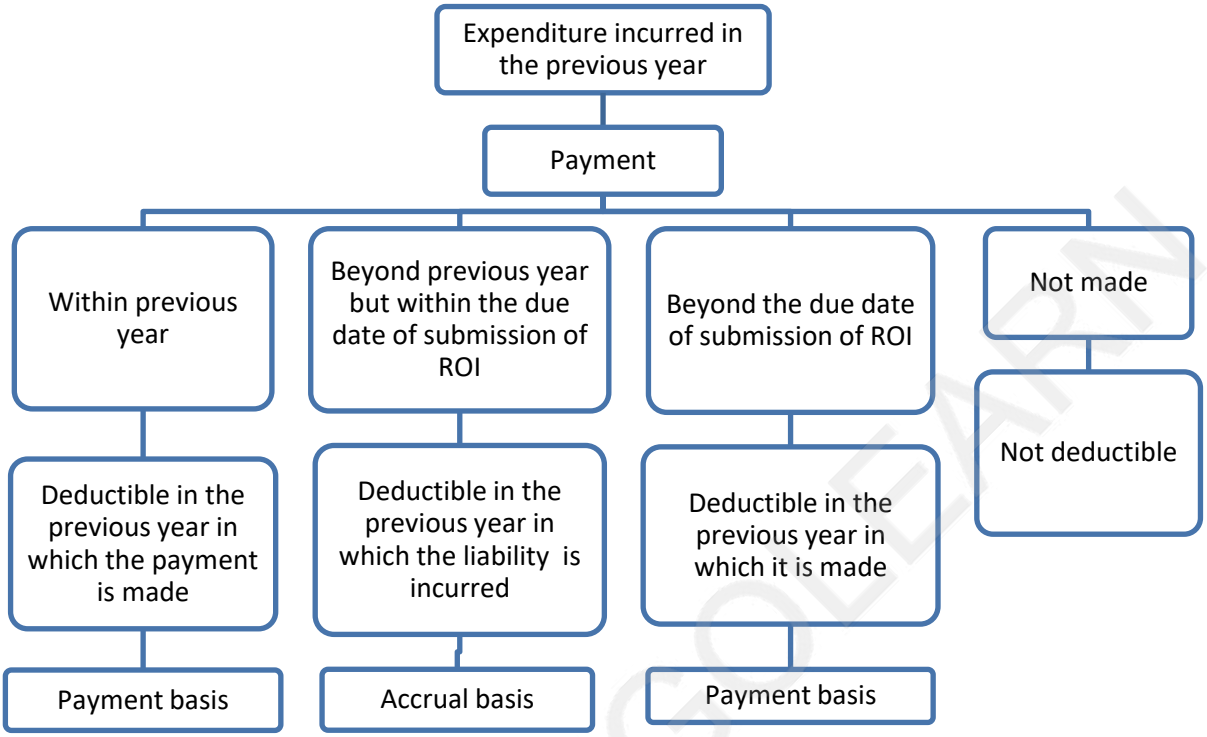
Sec. 41	Deduction already allowed u/s	Applicability	Nature of Receipt-Deemed Income	Year in which taxable
(1)	30-38	All Assessees including successor of business	Recovery of loss or expenditure or trading liability, which was already allowed, including remission or cessation of liability effected by unilateral act	Year in which recovered or written off by the assessee by remission or cessation
(2)	32(l)(i)	Undertaking engaged in generation and /or distribution of power	Balancing charge on assets in respect of which depreciation is claimed, is sold / discarded / demolished/ destroyed	Taxable in the year in which the amount becomes due
(3)	35(2)/ 35(1)(iv)	All Assessees	Amount realised on sale of capital assets used for scientific research	Year in which transfer takes place
(4)	36(1)(vii)	All Assessees excluding successor of business	Bad debts earlier allowed subsequently recovered by the Assessee. Predecessor debt recovered by the successor shall not be treated as income of the successor.	Year in which it is received

30. SEC. 43B: DEDUCTION BASED ON ACTUAL PAYMENT

- Deduction is allowed only on payment basis even if books of account are maintained on the basis of mercantile system.
- If the payment in respect of the following expenses is actually made on or before the due date of furnishing of ROI and the evidence of such payment is furnished along with the ROI, then the expenditure is deductible on accrual basis in case the assessee follows mercantile system of accounting.
- Any tax, duty, cess or fee payable under any law in force;
  - Bonus or commission or leave salary to employees;
  - Interest on any loan or borrowing from any Public Financial Institution (PFI), State Financial Corporation (SFC), or State Industrial Investment Corporation;
  - Interest on loan/advance taken from a scheduled bank or a co-operative bank;
  - License fee payable to Government;
  - Any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee;

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- ❖ Contribution of employer towards staff welfare scheme, for example provident Fund, Superannuation fund, Gratuity fund or any other fund for the welfare of employees.
- ❖ Any sum payable to Indian railways for use of railway assets



- ➢ If the payment is not made on or before the due of furnishing of ROI [u/s 139(1)], even then deduction can be claimed but in the year of payment.

31. STAMP DUTY VALUE OF LAND AND BUILDING TO BE TAKEN AS THE FULL VALUE OF CONSIDERATION IN RESPECT OF TRANSFER, EVEN IF THE SAME ARE HELD BY THE TRANSFEROR AS STOCK-IN-TRADE (SEC 43CA)

- ➢ where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the value so adopted or assessed or assessable (i.e., the stamp duty value) shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and gains of business of profession".
- ➢ Further, where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer instead of on the date of registration for such transfer, provided a t least a part of the consideration has been received by any mode other than cash on or before the date of the agreement.
- ➢ The Assessing Officer may refer the valuation of the asset to a valuation officer as defined in section 2(r) of the Wealth-tax Act, 1957 in the following cases -

(1) Where the assessee claims before any Assessing Officer that the value adopted or assessed or assessable by the authority for payment of stamp duty exceeds the fair

market value of the property as on the date of transfer and

(2) the value so adopted or assessed or assessable by such authority has not been disputed in any appeal or revision or no reference has been made before any other authority, court or High Court.

- Where the value ascertained by the Valuation Officer exceeds the value adopted or assessed or assessable by the Stamp Valuation Authority, the value adopted or assessed or assessable shall be taken as the full value of the consideration received or accruing as a result of the transfer.

32. TRADING IN COMMODITY DERIVATIVES NOT A SPECULATIVE TRANSACTION [SECTION 43(5)]

- Section 43(5) defines a "speculative transaction" to mean a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.
- The proviso to section 43(5) specifies the contracts and transactions which shall not be deemed to be a speculative transaction.
- An "eligible transaction" in relation to commodity derivatives has been defined as a transaction -

a) carried out electronically on screen based systems;

b) supported by a time stamped contract note issued by such member or intermediary to every client.

The contract note should indicate the –

a. unique client identity number allotted under FCRA, 1952 and related rules, regulations etc.,
b. unique trade number; and
c. permanent account number (PAN) allotted under the Income tax Act, 1961.

- Eligible transaction in respect of trading in commodity derivatives carried out in a recognized association and chargeable to commodities transaction tax under shall not be considered to be a speculative transaction. **(Amendment by Finance Act 2014)**

Presumptive income in case of specific business or profession:

Particulars	Sec 44AD	Sec 44AE
Applicability	Any business except the business of plying, hiring or leasing goods carriages specified u/s 44AE, and whose turnover does not exceed ₹ 2,00,00,000	Persons carrying on business of plying, hiring, and leasing goods carriages and not owing more than 10 goods carriages at any time during the previous year.
Amount of Presumptive income	8% or more of gross turnover or gross receipts or more.	For each heavy goods vehicle, INR 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every

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		month or part of a month during which the vehicle is owned by the assessee Others- **₹ 7,500*** Per month or part of a month; or more Income shall be considered from the date of ownership. Ownership includes possession. ***Amendment by Finance Act 2014**

COMMON ISSUES:

Allowability of deduction u/s 30 to 38	Deemed to be allowed
Allowability of deduction in case of subsequent previous year	WDV of the assets shall be computed as if depreciation had been allowed in earlier years.
Consideration of turnover for Compulsory audit u/s 44AB	Shall not be considered if the assessee opts for section 44AD/AE.
When assessee declares lower Income	Books of accounts to be maintained u/s 44AA and audit u/s 44AB have to be fulfilled.
Computation of presumptive income in case the assessee is a Firm.	Compute presumptive income as above Less interest, salary and remuneration to partners. The balance is chargeable to tax.
Benefit of Chapter VIA	Deduction u/s 80C to 80U shall be available to the assessee.

Note:

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg

33. OTHER IMPORTANT CONSIDERATIONS:

33.1. Sec 44AD:

- Provisions of Sec 44AD shall not apply to
  - Person carrying on profession as referred to in sub section (1) of section 44AA;
  - Person earning income in the nature of commission or brokerage; or
  - Person carrying on agency business.

33.2. Sec 44AE:

- An assessee who is in possession of a goods carriage, whether taken on hire purchase or on installments and for which whole or part of the amount payable is still due, is deemed to be owner of such goods or carriage
- Income from vehicles is to be computed for every month or part of the month during which these were owned by the assessee even though these are not actually used for business.

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The presumptive income u/s 44 AD, 44AE or a higher sum declared by the assessee will be deemed to be the profits and Gains of Business or Profession.

33.3. Common points for 44AD/AE.

- In all cases for the purpose of WDV of assets, depreciation will be deemed to be claimed and value of assets will be reduced accordingly.
- Turnover of such business is excluded for the purpose of limit of turnover for tax audit u/s 44AB.
- No disallowance can be made for any expenditure if profits are in conformity with the above sections.
- Only remuneration & interest to partners is allowed after calculating the assumed income.
- Set off & carry forward of losses will be applicable. Since 44AD & AE covers all deductions allowed u/s 32 to 44, therefore B/F unabsorbed depreciation will not be allowed as a set off from income computed under Section 44AD / AE. However, brought forward business losses are allowed as a set off since it is covered by the provisions of Section 72.
- Deduction under Chapter VIA is available.
- Though the assessee is not required to maintain any books of accounts if profits are declared u/s 44AD/AE but the income tax department during assessment proceedings may enquire the following items:
  - Sundry Debtors
  - Sundry Creditors
  - Stock
  - Cash

Problems

1. State with reasons the allowability or otherwise of the following items under the Income-tax Act, 1961 while computing income under the head "Profits and gains of business or profession" for the Assessment Year 2024-25;
   1) Payment made in cash ₹ 30,000 to a transporter in a day for carriage of goods
   2) Expenses incurred in providing freebies to medical practitioner by Medical enterprises, a pharmaceutical organization
   3) Municipal tax relating to office premises ₹ 20,000 not paid till 31.10.2024 by Mr. Arun having turnover of ₹ 108 lacs during financial year 2023-24
   4) Capital expenditure of ₹ 15,00,000 on scientific research incurred by ABC Ltd. Engaged in manufacturing of tires, which includes cost of land ₹ 5,00,000
   5) Tax deducted at source on salary paid to employees in India not remitted till the due date for filing the return prescribed in section 139
   6) An electric generator has been purchased for ₹ 50 lacs by an assessee engaged in the business of generation of power, on 1.04.2023 and installed on the same day.

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2. State with reasons, whether the following expenses are allowable as deduction while computing income from business or profession for the Assessment Year 2024-25, and if so, the amount allowable as deduction:
   a. ₹ 15 lakh and ₹ 5 lakh, respectively, incurred on purchase of land and building by Z Ltd., being expenditure incurred on in-house research and development facility approved by the prescribed authority.
   b. ₹ 20 lakh incurred by B Ltd. in March, 2023 for purchase of building for setting up and operating a warehousing facility for storage of sugar. B Ltd. commenced operations on 1.04.2023
   c. Expenditure of ₹ 20 lakh incurred by Y Ltd. during the previous year 2023-24 on payment to its employees in accordance with a scheme of voluntary retirement.

3. State any four of the specified business eligible for deduction under section 35AD?

4. M/s. Dollar Ltd., a manufacturing concern, furnishes the following particulars:

S.No.	Particulars	Amount (₹)
1.	Opening writing down value under Income-tax of block plant and machinery	5,00,000
2.	Purchase of plant and machinery (put to use before 01.10.2023)	2,00,000
3.	Sale proceeds of plant and machinery which became obsolete- the plant and machinery was purchased on 01-04-2022 for ₹ 5,00,000.	5,000

Further, out of purchase of plant and machinery:

a. Plant and machinery of ₹ 20,000 has been installed in office.
b. Plant and machinery of ₹ 20,000 was used previously for the purpose of business by the seller.

Compute depreciation and additional depreciation as per Income-tax Act, 1961 for the Assessment Year 2024-25.

5. Vivitha Bio-medicals Ltd. is engaged in the business of manufacture of bio-medical items. The following expenses were incurred in respect of activities connected with scientific research:

Year ended	Item	Amount (₹)
31.03.2022	Land	10,00,000
(Incurred after 1.9.2022)	Building	25,00,000
31.03.2023	Plant and machinery	5,00,000

31.03.2024	Raw materials	2,20,000
31.03.2024	Raw materials and salaries	1,80,000

The business was commenced on 01-09-2023.

In view of availability of better model of plant and machinery, the existing plant and machinery were sold for ₹ 8,00,000 on 1.03.2024.

Discuss the implications of the above for the assessment year 2024-25 along with brief computation of deduction permissible under section 35 assuming that necessary conditions have been fulfilled.

6. Mr. Praveen Kumar has furnished the following particulars relating to payments made towards scientific research for the year ended 31.3.2024:

	₹ (in lacs)
Payments made to K Research Ltd.	20
Payment made to LMN College	15
Payment made to OPQ College	10

Note: K Research Ltd. and LMN College are approved research institutions and these payments are to be used for the purposes of scientific research.

Payment made to National Laboratory	8
Machinery purchased for in-house scientific research	25
Salaries to research staff engaged in in-house scientific research	12

Compute the amount of deduction available under section 35 of the Income-tax Act, 1961 while arriving at the business income of the assessee.

7. Mr. Anirudh commenced operations of the business of setting up a warehousing facility for storage of pulses and edible oil on 1.4.2023. He incurred capital expenditure of ₹ 50 lacs and 70 lacs respectively, on purchase of land and building during February 2023 and March 2023 exclusively for the above businesses, and capitalized the same in the books of accounts as on 1st April, 2023. The cost of land included in the above figures is ₹ 30 lacs and ₹ 20 lacs, respectively. Further, during the P.Y. 2023-24, it incurred capital expenditure of ₹ 20 lacs and ₹ 10 lacs, respectively, for extension of the building purchased and used exclusively for the above businesses. Compute the income under the head "Profits and gains of business or profession" for the A.Y. 2024-25 and the loss to be carried forward, assuming that Mr. Anirudh has fulfilled all the conditions specified for claim of deduction under section 35AD and has not claimed any deduction under Chapter VI-A. The profits from the business of setting up a warehousing facility

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for storage of pulses and edible oil (before claiming deduction under section 35AD and section 32) for the A.Y. 2024-25 is ₹ 14 lacs and ₹ 25 lacs, respectively. [RTP Nov 2013]

8. Sai Ltd. has a block of assets carrying 15% rate of depreciation, whose written down value on 01.04.2023 was ₹ 40 lacs. It purchased another asset (second-hand plant and machinery) of the same block on 01.11.2023 for ₹ 14.40 lacs and put to use on the same day. Sai Ltd. was amalgamated with Shirdi Ltd. with effect from 01.01.2024

   You are required to compute the depreciation allowable to Sai Ltd. & Shirdi Ltd. for the previous year ended on 31.03.2024 assuming that the assets were transferred to Shirdi Ltd. at ₹ 60 lacs. [Nov 10]

9. M/s Arora Ltd., submits the following details of expenditure pertaining to the financial year 2023-24:
   i. Payment of professional fees to Mr. Mani ₹ 50,000. Tax was not deducted at source.
   ii. Interior works done by Mr. Hari for ₹ 2,00,000 on a contract basis. Payment made in the month of March 2024. Tax deducted in March 2024 was paid on 30.06.2024.
   iii. Factory Rent paid to Mr. Rao ₹ 15,00,000. Tax deducted at source and paid on 01.10.2023
   iv. Interest paid on Fixed Deposits ₹2,00,000. Tax deducted on 31.12.2023 and paid on 28.09.2024.

   Examine the above with reference to allowability of the same in the assessment year 2024-25 under the Income-tax Act, 1961. You answer must be with reference to section 40(a) read with relevant tax deduction at source provisions.

10. The following are the particulars in respect of a scheduled bank incorporated in India –

	Particulars	₹ in lakh
(i)	Provision for bad and doubtful debts under section 36(1)(viia) upto A.Y.2023-24	100
(ii)	Gross Total Income of A.Y.2024-25 [before deduction under section 36(1)(viia)]	800
(iii)	Aggregate average advances made by rural branches of the bank	300
(iv)	Bad debts written off (for the first time) in the books of account (in respect of urban advances only) during the previous year 2022-23	210

   Compute the deduction allowable under section 36(1)(vii) for the A.Y.2024-25.

11. During the financial year 2023-24, the following payments / expenditure were made/incurred by Mr. Yuvan Raja, a resident individual (whose turnover during the year ended 31.3.2023 was ₹59 lacs):

i. Interest of ₹ 42,000 was paid to Rehman & Co., a resident partnership firm, without deduction of tax at source;

ii. Interest of ₹ 84,000 was paid as interest to Mr. R.D. Burman, a non-resident, without deduction of tax at source;

iii. ₹ 8,00,000 was paid as salary to a resident individual without deduction of tax at source;

iv. Commission of ₹ 25,000 was paid to Mr. Vidyasagar on 2.7.2023 without deduction of tax at source.

Briefly discuss whether any disallowance arises under the provisions of section 40(a)(i)/40(a)(ia) of the Income-tax Act, 1961.

12. Rao & Jain, a partnership firm consisting of two partners, reports a net profit of ₹ 7,00,000 before deduction of the following items:

ii. Salary of ₹ 20,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership).

iii. Depreciation on plant and machinery under section 32 (computed) ₹ 1,50,000.

iv. Interest on capital at 15% per annum (as per the deed of partnership). The amount of capital eligible for interest ₹ 5,00,000.

Compute:

a. Book-profit of the firm under section 40(b) of the Income-tax Act, 1961.

b. Allowable working partner salary for the assessment year 2024-25 as per section 40(b) of the Income-tax Act, 1961. [Nov 11]

13. Mr. Sivam, a retail trader of Cochin gives the following Trading and Profit and Loss Account for the year ended 31st March, 2024:

Trading and Profit and Loss Account for the year ended 31.03.2024

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening stock	90,000	By Sales	12,11,500
To Purchases	10,04,000	By Income from UTI	2,400
To Gross Profit	3,06,000	By Closing stock	1,86,100
Total	**14,00,000**	**Total**	**14,00,000**
To Salary	60,000	By Gross Profit b/d	3,06,000
To Rent and rates	36,000		
To Interest on loan	15,000		
To Depreciation	1,05,000		
To Printing & stationery	23,200		
To Postage & telegram	1,640		
To Loss on sale of shares	8,100		

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(Short term)			
To Other general expenses	7,060		
To Net Profit	50,000		
Total	**3,06,000**	**Total**	**3,06,000**

Additional Information:

i. It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were:

Opening stock ₹ 9,000

Closing stock ₹ 18,000

ii. Salary includes ₹ 10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.

iii. The whole amount of printing and stationery was paid in cash by way of onetime payment.

iv. The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information:

The written down value of plant and machinery is ₹ 4,20,000 as on 01.04.2023. A new plant falling under the same block of depreciation was bought on 1.7.2023 for ₹ 70,000. Two old plants were sold on 1.10.2023 for ₹ 50,000.

v. Rent and rates includes sales tax liability of ₹ 3,400 paid on 7.4.2024.

vi. Other general expenses include ₹ 2,000 paid as donation to a Public Charitable Trust.

You are required to advise Mr. Sivam whether he can offer his business income under section 44AD i.e. presumptive taxation.

14. Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2024.

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2024

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening Stock	71,000	By Sales	32,00,000
To Purchase of Raw Materials	16,99,000	By Closing stock	2,00,000
To Manufacturing Wages & Expenses	5,70,000		
To Gross Profit	10,60,000		
Total	**34,00,000**	**Total**	**34,00,000**
To Administrative charges	3,26,000	By Gross Profit	10,60,000
To State VAT penalty	5,000	By Dividend from domestic companies	15,000
To State VAT paid	1,10,000	By Income from agriculture (net)	1,80,000
To General Expenses	54,000		
To Interest to Bank			

(On machinery term loan)	60,000		
To Depreciation	2,00,000		
To Net Profit	5,00,000		
Total	**12,55,000**	**Total**	**12,55,000**

Following are the further information relating to the financial year 2023-24:

i. Administrative charges include ₹ 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is ₹ 36,000.

ii. The assessee paid ₹ 33,000 in cash to a transport carrier on 29.12.2023. This amount is included in manufacturing expenses (Assume that the provisions relating to TDS are not applicable to this payment.)

iii. A sum of ₹ 4,000 per month was paid as salary to a staff throughout the year and this has not been recorded in the books of account.

iv. Bank term loan interest actually paid upto 31.03.2024 was ₹ 20,000 and the balance was paid in November 2024.

v. Housing loan principal repaid during the year was ₹ 50,000 and it relates to residential property occupied by him. Interest on housing loan was ₹ 23,000. Housing loan was taken from Canara Bank. These amounts were not dealt with in the profit and loss account given above.

vi. Depreciation allowable under the Act is to be computed on the basis of following information:

Plant & Machinery (Depreciation rate @ 15%)	₹
Opening WDV (as on 01.04.2023)	12,00,000
Additions during the year (used for more than 180 days)	2,00,000
Total additions during the year	4,00,000

Note: Ignore additional depreciation under section 32(1)(iia)

Compute the total income of Mr. Raju for the assessment year 2024-25.

Note: Ignore application of section 14A for disallowance of expenditures in respect of any exempt income.

15. On June 17, 2023, X purchases a new machine for ₹ 18,00,000. The following expenses incurred by him in respect of the machine- freight and insurance: ₹ 20,000, loading/unloading charges: ₹ 40,000, installation: ₹ 17,500 (it includes GST), clearing agent commission: ₹ 8,000. Besides, x incurs an expenditure of ₹ 80,000 on repairing a broken part of the machinery before its operation and ₹ 24,000 on training of an employee to operate the new machine. The machine is put to use on September 17, 2023, for trail run. Commercial production is, however, stated with effect from December 1, 2023.

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The above machine is qualified for depreciation at the rate of 15 percent. On April 1, 2023, X owns two plants –a and b in the block of assets which is qualified for 15 per cent depreciation (opening balance of the block being ₹ 4,80,000). On March 10, 2024, x transfer plant A for ₹ 3,00,000 and plant B for ₹ 4,80,000.

Net profit as per profit and loss account for the year ending March 31, 2024 is ₹ 17,75,000 after debiting depreciation of ₹ 75,000. Find out income under the head "profits and gains of business or profession" for the assessment year 2024-25.

16. Profit and loss account of X ltd. for the year ending March 31, 2024 is given below-

	₹		₹
Office expense	16,56,000	Gross profit	95,00,000
Salary to employees	28,90,000	Other receipts	3,50,000
Employer's contribution to recognized provident fund	2,10,000		
Interest	9,55,000		
Taxes	11,27,000		
Road construction expenses	90,000		
Entertainment expenditure	1,92,000		
Reserve for bad debts	1,55,000		
Penalty levied by excise department	90,000		
Depreciation	10,80,000		
Miscellaneous expenditure	3,67,000		
Net profit	10,38,000		
Total	98,50,000		98,50,000

Additional information-

1. Office expenses include payments of ₹ 45,000 to a relative of managing director. Market value service provided by him is ₹ 48,000. Payment is, however, made by an account payee cheque.
2. Office expenses also include a bogus bill of ₹ 10,000.
3. Salary to employees includes commission of ₹ 70,000 payable on purchase to the employees of purchase department. The payment is, however, made on November 20, 2024. Return of income for the assessment year 2024-25 will be submitted in December 2024.
4. Salary to employees also includes employee's contribution towards recognized provident fund. Contribution for March 2024 of ₹ 40,000 is paid after the due date of making

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payment under provident fund regulation but before the due date of submission of return of income

5. Out of the employer's contribution to provident fund, a payment of ₹ 44,000(pertaining to March 2024) is paid after the due date of making payment under provident fund regulations but before the due date of submission of return of income
6. Interest includes the following-
   a. ₹ 30,000 for late payment of sales tax;
   b. ₹ 40,000 for late payment of income-tax;
   c. ₹ 10,000 on loan taken to purchase shares in Indian companies;
   d. ₹15,000 on loan taken to purchase shares in foreign companies;
   e. ₹ 8,000 on loan taken to pay income-tax.
7. Taxes debited to profit and loss account include income-tax of ₹ 50,000 for the assessment year 2023-24.
8. Entertainment expenditure include expenditure of ₹ 10,000 for arranging new year party for employees.
9. Other receipts credited to profit and loss account include-
   a. Dividend from foreign companies: ₹ 80,000,
   b. Dividend from Indian companies: ₹ 6,000,
   c. UTI interest: ₹ 14,000,
   d. Sales tax refund (earlier not allowed as deduction): ₹ 20,000,
   e. Income tax refund: ₹ 24,000,
   f. Interest of ₹ 11,500 received from government on refund of income tax.
10. Road construction expenditure is incurred during January 2024 for repairing the road connecting office and canteen in the factory of the company. The entire amount is paid by an account payee cheque to the contractor and tax is deducted at source.
11. Depreciation given in profit and loss account is depreciation of building and machinery. It is calculated as per section 32. However, depreciation on road newly constructed between office and canteen is not included as the entire amount is debited to profit and loss account.
12. X ltd. gives a contribution of ₹ 11,500 to a political party. But is not debited to profit and loss account.

Determine the net income and tax liability of X ltd for the assessment year 2024-25.

17. X owns the following assets on April 1, 2023:

Assets	Written down value on April 1, 2023	Rate of depreciation
PLANT A	70,000	40%
PLANT B	6,90,000	15%
PLANT C	17,000	15%
PLANT D	18,000	40%

FURNITURE	44,000	10%
BUILDING A	5,90,000	10%
BUILDING B	4,10,000	10%
BUILDING C	86,000	5%

He acquires the following second-hand assets during the previous year 2023-24:

Assets	Cost price ₹	Date of purchase	Date when the asset is put to use	Rate of depreciation
PLANT E	55,000	April 10, 2023	May 1, 2023	15%
PLANT F	70,000	April 30, 2023	May 15, 2023	15%
PLANT G	4,90,000	May 17, 2023	June 1, 2023	40%
PLANT H	14,70,000	June 15, 2023	June 15, 2023	15%
BUILDING D	1,90,000	July 18, 2023	November 30, 2023	10%
BUILDING E	4,36,000	September 7, 2023	September 8, 2023	5%

He sells the following assets during 2023-24:

Assets	Sale consideration(₹)
PLANT B	12,90,000
PLANT D	4,000
PLANT C	76,000
BUILDING A	3,80,000
BUILDING C	15,91,000

Determine the amount of depreciation for the assessment year 2024-25. Ignore additional depreciation.

18. X ltd. Is engaged in the business of manufacture of telecommunication equipments. During the previous year 2023-24, it incurs the following expenditure on in-house research and development facility-

	₹
Purchase of land	26,00,000
Construction of building	12,90,000
Purchase of plant and equipment	7,80,000
Research material	2,10,000

Find out the amount of deduction under section 35 if the research and development facility is approved by the prescribed authority for the purpose of section 35.

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19. X (32 years), a resident individual, furnishes the following particulars for the assessment year 2024-25:

Profit and loss account for the year ending March 31, 2024

	₹		₹
Office expenses	2,84,000	Gross profit	31,42,500
Salary to staff	9,20,000	Sundry receipts	52,000
Depreciation	85,000		
Travelling expenses for business	44,000		
Loss of cash by an employee through embezzlement	1,000		
Transfer to special reserve account	2,000		
Expenditure on festival	2,400		
Interest and legal expenses	12,000		
Sundry expenses	2,100		
Deposit under tatkal telephone scheme	6,000		
Net profit	18,36,000		
Total	**31,94,500**		**31,94,500**

Other information:

1. Salary to staff includes payment of ₹46,000 out of India on which tax has not been deducted at source nor paid to the government.
2. Depreciated value of plant and machinery on April 1, 2023 is ₹ 3,20,000 (rate of depreciation : 15 per cent).
   - An air-conditioner (cost price: ₹ 22,000) whose written down value on April 1, 2023, is ₹ 6,000, is disposed of for ₹ 1500.
   - A typewriter whose written down value on April 1, 2023 is ₹ 2,000 is sold for ₹ 80.
   - X purchases a telephone set for ₹ 30,000 on November 1, 2023 which is eligible for depreciation at the rate of 15 per cent.
3. Travelling expenses include ₹ 6000 being hotel expenditure of an employee in respect of an official visit to madras for 3 days.
4. Amount debited as expenditure on festival is cost of a gift presented to a relative.
5. Sundry expenses include expenditure of ₹ 2,000 on maintenance of a guest house at Bombay.
6. Legal expenses include cash payment of ₹ 8,000 to an advocate (who is not an employee of x) for giving income-tax advice.

Determine the taxable income and tax liability of x for the assessment year 2024-25, assuming that sundry receipts include ₹ 40,000, being amount of a loan taken from public provident fund account to which x annually contributes ₹ 20,000.

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20. State with reasons, the deductibility or otherwise of the following expenses/payments under the Income-tax Act, 1961, while computing income under the head "Profits and gains of business or profession" for the Assessment Year 2024-25:

(i) MNO Ltd. paid ₹ 2,50,000 as technical fees to a non-resident on which tax is deducted during the previous year 2023-24 but deposited on 31.8.2024

(ii) Bus & Train Pvt. Ltd. incurred ₹ 1,80,000 towards CSR Expenditure during the previous year 2023-24.

(iii) XYZ Ltd. has not deducted tax at source on the amount of ₹ 7,50,000 paid as annual salary to Mr. Raghav, an employee of the company during the previous year 2023-24. Mr. Raghav has not furnished any declaration to his employer regarding any investment made by him or any other income earned, or loss incurred by him for the previous year 2023-24.

(iv) Rise & Co. has set up a warehousing facility for storage of sugar. It commenced operations on 01.04.2021. In July 2023, Rise & Co. incurred capital expenditure of ₹ 72 lakhs on purchase of building.

21. Mr. Xavier commenced the business of operating goods vehicles on 1.4.2023. He purchased the following vehicles during the P.Y. 23-24 .

Compute his income under section 44AE for A.Y.2024-25. (RTP May-15)

	Type of Vehicle	Number	Date of purchase
(1)	Light Goods Vehicles	1	10.4.2023
		3	15.3.2024
(2)	Medium goods vehicle	2	16.7.2023
		1	2.1.2024 (11 tonnes)
(3)	Heavy goods vehicle	1	29.8.2023 (13 tonnes)
		2	23.2.2024 (14 tonnes)

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Chapter 7

Capital Gains

Before we Begin,

Income also arises out of sale proceeds received when we sell our assets, and here the tax treatment is different and very important as this is one time taxation at special rates.

You will learn about the following

- What is a Capital Asset?
- What is Transfer
- How the period of holding is determined
- Dissemination of Long-term and Short-term capital Gains
- Capital gains arising on specific situations
- Exceptions of transfer
- Concept of Indexation
- Deductions from Capital Gains Tax implications

A professional can play a very vital role in terms of Asset handling of his clients by possessing in depth tax knowledge in this chapter for informed decision-making of his clients/assessees.

Happy learning!



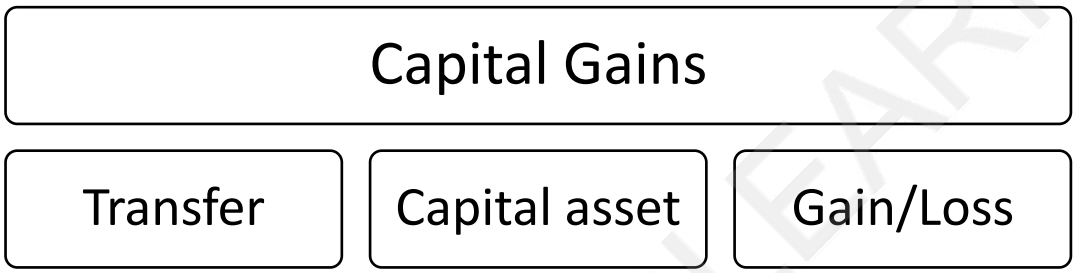
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SEC 45 (1): BASIS OF CHARGE

Any profit or gain arising from the **transfer** of a **capital asset**, effected in the PY, in which **transfer took place**, is chargeable to tax under the head capital gains.

Thus, in order to attract the capital gains tax-

- There should be **capital asset**,
- Such **asset is transferred during the P.Y** by assessee; and
- There arises **gain or loss from such transfer**.



Section 2 (14): Definition of Capital Asset

Capital Asset means -	• Property of any kind held by assessee, whether or not connected with business or profession • Any other securities held by foreign institutional investor (FII) • Unit Linked Insurance Policy (ULIP) issued on or after 01-02-2021, to which exemption u/s 10(10D) does not apply on account of – 1. Premium payable exceeding Rs. 2,50,000 /- for any of the previous years during the term of insurance policy 2. The aggregate amount of premium exceeding Rs. 2,50,000 in any of the previous years during the term of any such ULIP(s), in a case where premium is payable by a person for more than one ULIP issued on or after 01-02-2021.
Capital Asset does not include (excludes)	1. Stock in trade (RM/ WIP/FG) 2. Movable personal property used by assessee or his dependent family member for personal purpose. (Personal Effects) But Excludes: Jewellery, Drawings, Painting, Sculpture, Archaeological Collection or Any other work of Art. 3. Rural Agricultural Land in India 4. Gold Deposit Bonds, 1999 or Deposit Certificates issued under the Gold Monetisation Scheme, 2015,
	Note: Interest on such bonds & deposit certificates also exempt u/s 10(15)

Determination of Rural and Urban Agricultural Land

- The following points determine the Urban Area

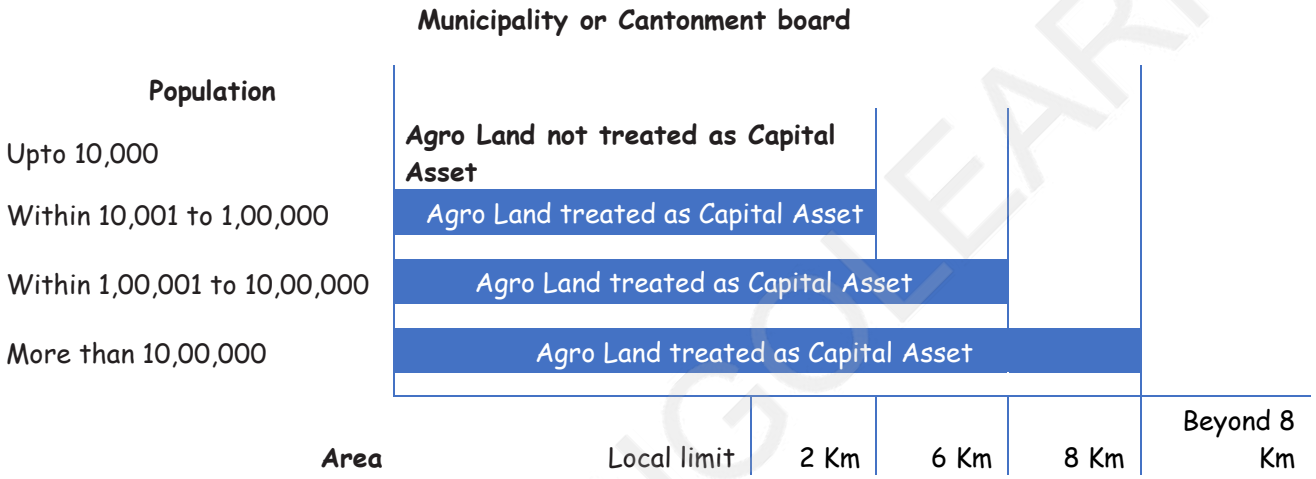
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(a) Any area (municipality) which has a population of 10000 or more.

(b) In the following area within the distance, measured aerially

Shortest distance from area referred in point (a)	Population according to last census
Upto 2 kms	>10,000 up to 1,00,000
Upto 6 kms	> 1,00,000 to 10,00,000
Upto 8 kms	> 10,00,000

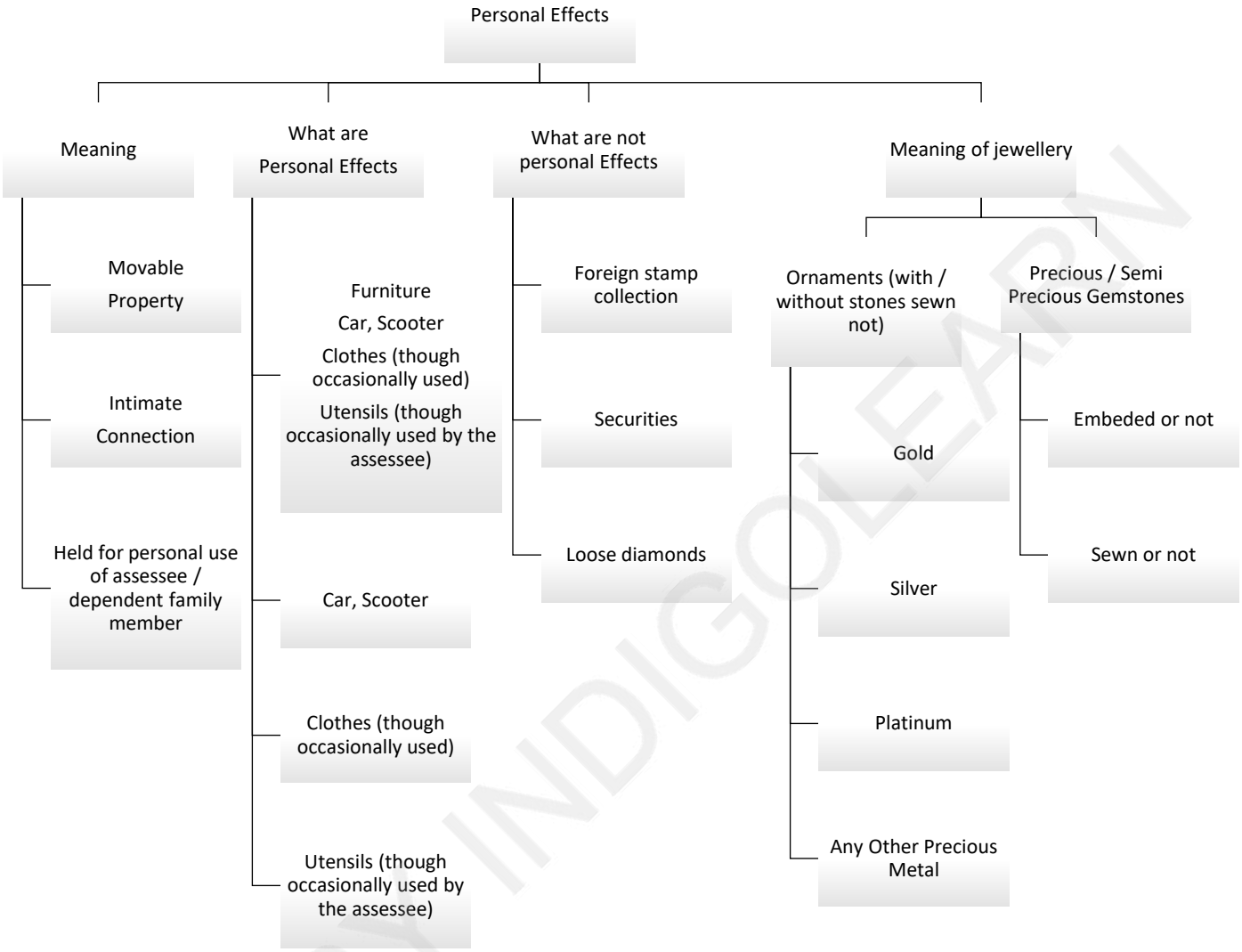
- Rural area means area which is not Urban area



Some Important Points regarding Personal Effects

1. Assets used for personal purpose of assessee		
2. T.V., car, Mobile etc.	-Not a Capital Asset	- CG not Applicable
3. Jewellery, Drawings, Paintings	-Capital Asset	- CG Applicable
4. Gold Utensils, Silver Bard, Silver Coins were held not to be Consider as Personal Effect (Maharaja Rana Hemanth Singh)		- CG Applicable
5. Silver Utensils held to be Personal Effect (Benarshilal Kataruka)		- CG Applicable
6. Car used in the business	-Capital Asset	- CG Applicable
7. Jewellery means: a) Ornament made of gold, silver, platinum or any other precious metals or any alloy containing such metals b) Precious stones whether or not set in any furniture, utensil or other article		

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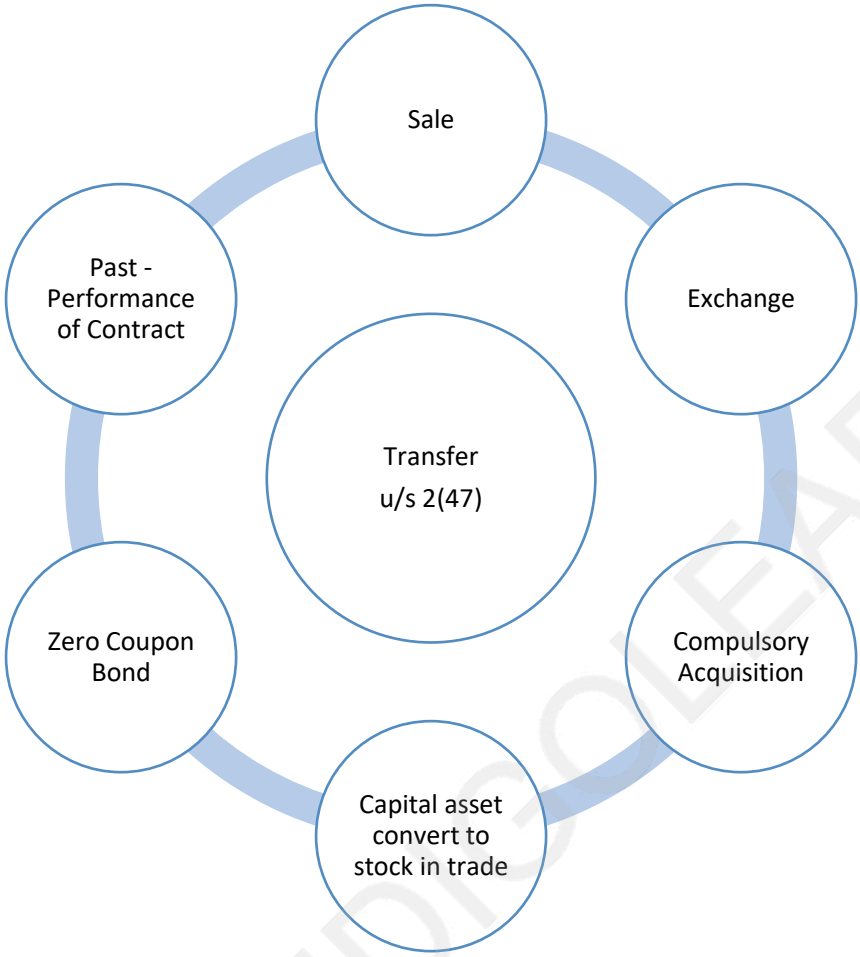


Transfer: What it Means [Section 2(47)]

The Act contains an inclusive definition of the term 'transfer. Accordingly, transfer in relation to a capital asset includes the following types of transactions:

(1) The **sale, exchange** or relinquishment of the asset: or
(2) The **extinguishment** of any rights therein; or
(3) The **compulsory acquisition** thereof under any law: or
(4) The owner of a **capital asset may convert the same into the stock-in-trade** of a business carried on by him. Such conversion is treated as transfer: or
(5) The maturity or redemption of a **zero-coupon bond**; or
(6) **Part-performance of the contract**: sometimes, possession of an immovable property is given in consideration of part-performance of a contract (Sec 53A of transfer of property Act)

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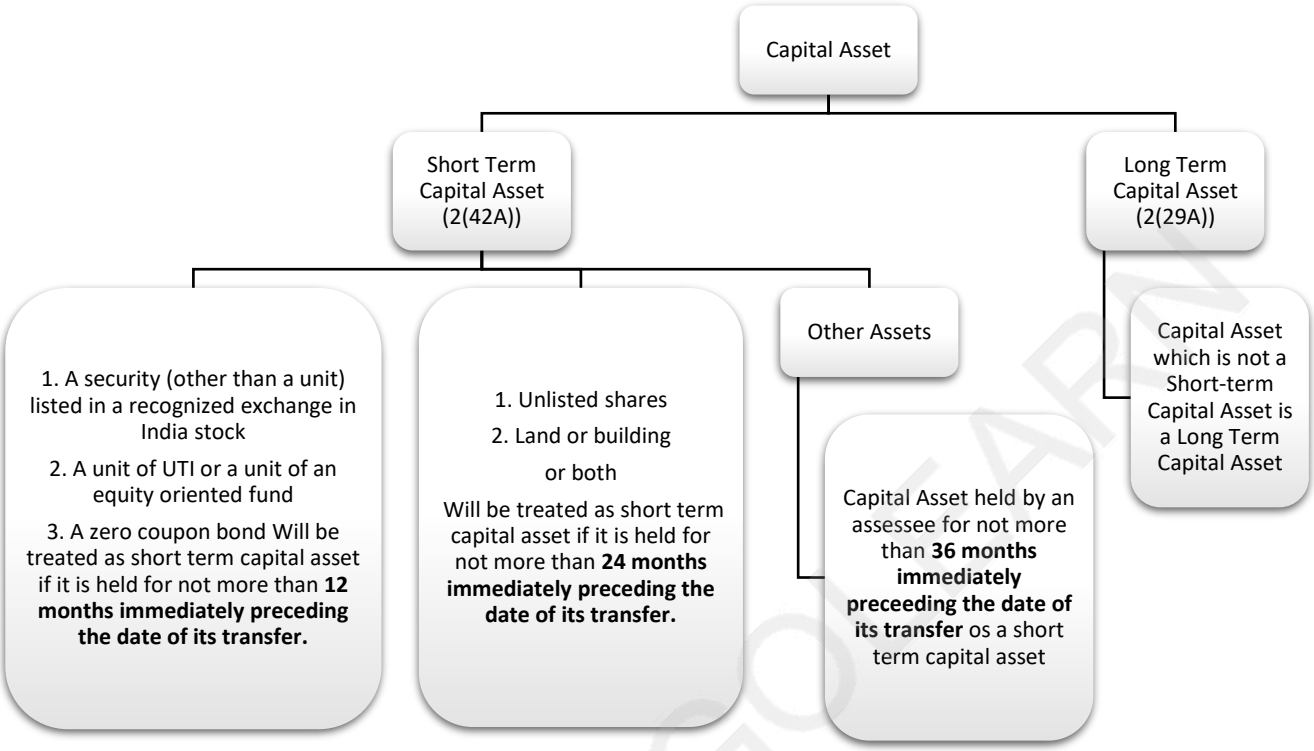
(7) Lastly, there are certain types of transactions which have the effect of transferring or enabling the enjoyment of an immovable property.

Difference between Relinquishment and Extinguishment

- Relinquishment means to withdraw, abandon or give up something. In other words, the owner withdraws himself from the property and abandons his rights thereto.
- It covers every possible transaction which result in the destruction, annihilation, extinction, termination, cessation or cancellation etc. Ex: Reduction of share capital

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Types of Capital Asset



Period of Holding

While computing the period of holding of any capital asset, the following points are to be considered to decide the nature of asset, whether short term or long term –

(a) **Period after liquidation:** In case of shares, if company goes into liquidation, the period after the date of commencement of liquidation is to be excluded.

(b) **Date of transfer:** For calculating the period of holding of a capital asset, the date on which the asset is transferred is to be excluded.

(c) **Conversion of preference shares into equity shares:** In such case, period of holding includes the period for which the preference shares were held by the assessee. Similarly, period of holdings of units in the consolidated plan of the scheme of the mutual fund includes the period for which units in a consolidating plan of a mutual fund scheme were held by the assessee.

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SEC 47: THE FOLLOWING TRANSACTIONS ARE NOT REGARDED AS TRANSFER:

Sec	Nature of transaction not regarded as Transfer	Conditions to be fulfilled not to be regarded as Transfer between transferor and transferee (Sec 47)	If subsequent transfer by transferee, holding period in the hands of Transferee	Cost in the hands of Transferee
47(i)	Distribution of capital asset in **total or partial partition of HUF**	-	Previous owner's holding period shall be included	Cost to previous owner
47(iii)	Transfer of a capital asset under a **gift or will or irrevocable trust**	Capital assets other than shares, debentures or warrants allotted directly or indirectly under ESOP	Previous owner's holding period shall be included	Cost to previous owner
47(iv)	Transfer of capital assets by **Holding company to its subsidiary**	➢ Holding co., or its nominees hold 100% shares in subsidiary company ➢ Subsidiary is an Indian company	Previous owner's holding period shall be included	Cost to previous owner
47(v)	Transfer of capital asset by **Subsidiary company to its Holding Company**	➢ Whole of the share capital of the subsidiary company held by holding company ➢ Holding Company is an Indian Company	Previous owner's holding period shall be included	Cost to previous owner
47(vi)	Transfer in a scheme of **amalgamation**, of a capital asset by the amalgamating company to amalgamated company	Amalgamated Company is an Indian Company	Previous owner's holding period shall be included	Cost to previous owner
47 (vib)	Transfer of capital asset by a **Demerged Company to the Resulting Company**	Resulting company is an Indian Company	-	Cost to previous owner
47(vid)	Transfer of **issue of shares by a resulting company to the**	The issue is made in consideration of demerger of the undertaking.	The Holding period in Demerged	

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	shareholders of demerged Company.		Company shall be included	
47(vii)	Transfer of shares by a shareholder in amalgamating co., to amalgamated co., under a scheme of amalgamation in consideration of shares of amalgamated company	The amalgamated company is an Indian Company Note: If the consideration consists of something more than the share/shares in the amalgamated company then the assessee is not entitled to exemption u/s 47	Period of holding of amalgamating company shares shall be included	Cost of previous asset
47 (viiaa)	Transfer of Rupee Denominated Bond	• Any transfer made outside India, of a Capital asset being Rupee Denominated Bond of an Indian Company • Issued outside India, • By a Non-Resident to another Non-Resident shall not be regarded as Transfer.	Not Applicable	Not Applicable
47 (viib)	Any transfer of a capital asset, being a Government security carrying a periodic payment of interest, Payment made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident shall not be considered as transfer for the purpose of charging capital gains.			
47 (viic)	Transfer of Sovereign Gold Bond issued by RBI	Transfer of Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015 by way of redemption, by an assessee being an Individual	Not Applicable	Not Applicable
47(ix)	Transfer of the following: Work of Art, Archaeological, scientific or art Collections, Books, Manuscripts, Drawings,	The transfer is made to: Government, University, National Museum, National Art Gallery, National	Not Applicable	Not Applicable

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	Paintings, photographs, printings.	Archives, any institution notified by Central Government to be of national importance.		
47(x)	Transfer by way of conversion of Bonds, Debenture Stock and Deposit Certificates in any form into shares or Debentures of that Company.	-	Holding period of earlier asset cannot be taken into account	Cost of new asset = portion of cost of old asset that is converted
47(xb)	Conversion of Preference Shares to Equity Shares	Capital Asset, being Equity Share of a Company, became the property of the Assessee in consideration of a transfer u/s 47(xb)		
47(xvi)	Transfer of a Capital Asset in a transaction of Reverse Mortgage	The scheme shall be notified by the Central Government	Not applicable	Not applicable

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Note:

1. Cost of Acquisition of Specific Securities or Sweat Equity Shares [Sec.49(2AA)] = Fair Market Value which has been taken into account for the purpose of valuation of perquisites on which tax were paid under the head "Salaries". Holding Period shall be reckoned from Date of Allotment or Transfer of such Shares.

2. In case of reverse mortgage, amount received by the Senior Citizen as loan either in lumpsum or in installments would be exempt under Section 10(43).

3. Cost of Acquisition of Gifts: Cost of Acquisition of property received as gift shall be the Market Value of the Gifts on which Income Tax was paid under the head Income from Other Sources.

4. Cost of Acquisition of Resulting Company's Shares on Demerger [Sec.49(2C)] =

$$\frac{Cost\ of\ Acquisition\ of\ Demerged\ Co's\ Shares\ X\ Net\ Book\ Value\ of\ Assets\ transferred\ to\ Resulting\ Co}{Net\ Worth\ of\ the\ Demerger\ Company\ Before\ Demerger}$$

   Net Worth of Demerged Company Paid up Share Capital and General Reserve as per books, before demerger.

5. Cost of Acquisition of Demerged Company's Shares after Demerger [Sec.49(2D)]
   Original Cost of Acquisition of Shares in Demerged Company
   Less: Cost of acquisition of Resulting Company's Shares as above

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COMPUTATION OF CAPITAL GAINS (SEC.48)

Short-term Capital Gain means the gain arising on transfer of short-term capital asset [Sec. 2(42B)].

Long-term Capital Gain means the gain arising on transfer of long-term capital asset [Sec. 2(29B)].

Computation of Short-Term Capital Gain (STCG)

At a glance, computation of capital gain of_____for the Assessment Year ……..

Particulars	Details	Amount
Sale consideration (Full value of consideration)		****
Less: Expenses on transfer		****
Net sale consideration		****
Less: i) Cost of acquisition	****	
ii) Cost of improvement	****	****
Short Term Capital Gain		****
Less: Exemption u/s 54B, 54D, 54G, etc.		(****)
Taxable Short Term Capital Gain		**** *

Note: No deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax.

Computation of Long-Term Capital Gain (LTCG)

At a glance, computation of capital gain of_____for the Assessment Year ……..

Particulars	Details	Amount
Sale consideration (Full value of consideration)		****
Less: Expenses on transfer		****
Net sale consideration		****
Less: i) Indexed cost of acquisition	****	
ii) Indexed cost of improvement	****	****
Long Term Capital Gain		****
Less: Exemption u/s 54, 54B, 54D, 54EC, 54F, etc.		****
Taxable Long Term Capital Gain		****

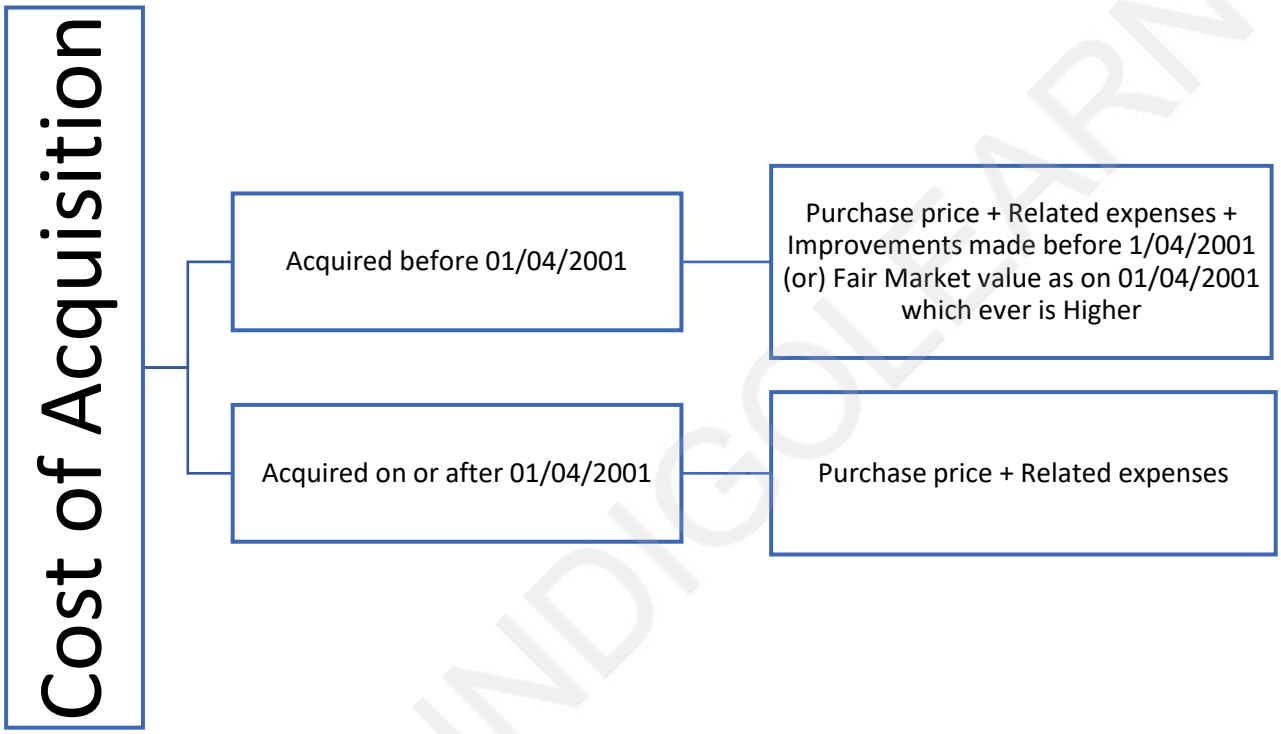
Note: No deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax.

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The meaning of terms used in the computation:

What is called Cost of Acquisition?

- In layman language, cost of acquisition means the purchase price and it shall include all the expenses incurred in relation to purchase.
- While going into the chapter we will discuss cost of acquisition under different circumstances.



Cost of Improvement:

- Cost of improvement means all expenditure of a capital nature incurred in making any addition or alteration to the capital asset on or after the said date by the previous owner or the assessee.
- Cost of improvement made before 01/04/2001 shall be ignored.
- Cost of improvement for intangible assets (Goodwill, business right, etc.) shall be taken to be nil.

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What is called Indexation?

- Indexation means Adjusting the price to Inflation
- Formulae for Computation if Indexed Cost of Acquisition

$$\text{Indexed cost of acquisition} = \text{Cost of acquisition} \times \frac{\text{Index of the year of transfer}}{\text{Index of the year of acquisition}}$$

- Formulae for Computation if Indexed Cost of Improvement

$$\text{Indexed cost of improvement} = \text{Cost of improvement} \times \frac{\text{Index of the year of transfer}}{\text{Index of the year of improvement}}$$

- Indexation benefit cannot be availed on the following capital assets or Transactions
  - Short term Capital Assets
  - Listed Equity Shares/ Units of equity-oriented Fund on which STT paid
  - Depreciable Assets
  - Slump Sale Transactions
  - Capital Indexed bonds and Sovereign gold bonds

Cost Inflation Index for different financial years is as follows:

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

Note: Indexed cost of acquisition has to be ascertained with reference to the date of acquisition and not with reference to the date when such asset became a capital asset.

- Cost of improvement incurred before 01.04.2001 is ignored
- Site and Building are separate assets for the purposes of capital gain. If site acquired before 2 years and building constructed within 2 years then we have to calculate separate capital gain for both the assets, Capital gain on land is treated as LTCG and on building treated as STCG.
- Where such capital asset became the property of the assessee before 01.04.2001: Cost of the asset to the assessee, or FMV as on 01.04.2001, at the option of the assessee. However, in case of capital asset being land or building, FMV as on 01.04.2001 shall not exceed stamp duty value as on 01.04.2001

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Chargeability of Capital Gains (Sec 45)

- Any profits or gains arising from the transfer of a capital asset effected in the previous year shall be chargeable to Income-tax under this head in the previous year in which the transfer took place.

Exceptions to the charging section:

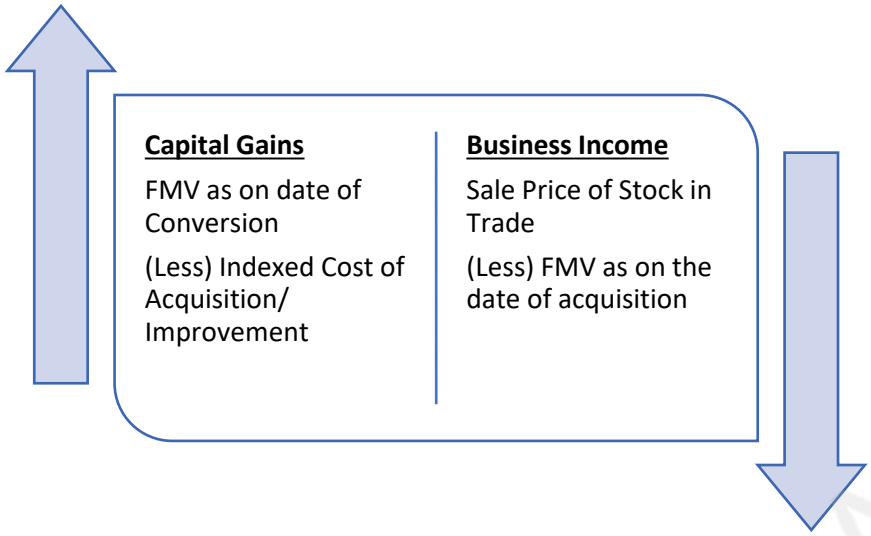
1. Insurance receipts 45(1A):

- Where any person receives any money or other assets under any insurance from an insurer on account of damage or destruction to capital asset on account of any accident, riot etc., shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person for the previous year in which such money or other asset was received.
- In simple chargeability is postponed to the year of receipt of asset or money from insurance company
- Sale consideration = FMV of asset received or money received
- Chargeability alone is postponed to the year of receipt of insurance claim whereas indexation can be availed only till the date of transfer. (Date of accident)

2. Conversion or treatment of capital asset into stock-in-trade 45(2):

- Conversion of capital asset into stock-in-trade is a transfer. However, conversion made before 01/04/1984 are not regarded as transfer.
- Whereas the chargeability of capital gains is postponed to the year of sale of stock-in trade.
- If the stock-in-trade is not sold in a single year, then the capital gains are chargeable to tax in proportionate to the stock-in-trade sold
- Chargeability alone is postponed till the year of sale of Stock-in-trade, whereas indexation can be availed only till the date of transfer.
- On sale of stock-in trade, both computation of capital gains and business income will arise, hence the computations will be as follows:

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3. Transfer of Beneficial Interest in Securities 45(2A)

- Transfer made by the Depository or participant of such beneficial interest in respect of securities shall be chargeable to tax as the income of the beneficial owner not the depository
- Chargeability is in the year of transfer.
- Where the securities are purchased in demat form, cost of acquisition shall be determined on the basis of FIFO method.

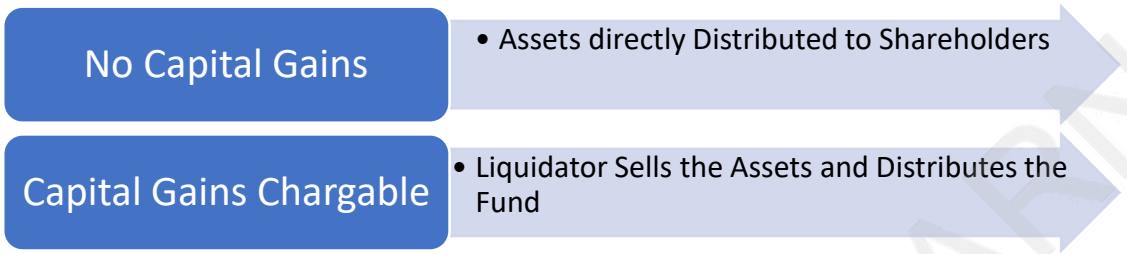
4. Compensation on compulsory acquisition 45(5):

- A building or some other capital asset belonging to a person may be taken over by the Central Government by way of compulsory acquisition. In that case, the consideration for the transfer is determined by the Central Government of RBI.
- Capital gains chargeability is postponed to the year of receipt of compensation, whereas indexation of COA/COI shall be only till the date of transfer.
- If Court awards a compensation which is higher than the original compensation, the difference thereof will be chargeable to capital gains in the year in which the same is received from the government which is called as enhanced compensation.
- Cost of acquisition and cost of improvement in case of enhanced compensation shall be taken to be nil.
- Where the enhanced compensation is reduced then the capital gain of that year shall be recomputed.
- In certain cases, the court may award even interest on compensation or enhanced compensation which is chargeable to tax under the head income from other source However, 50% interest deduction can be claimed on it.

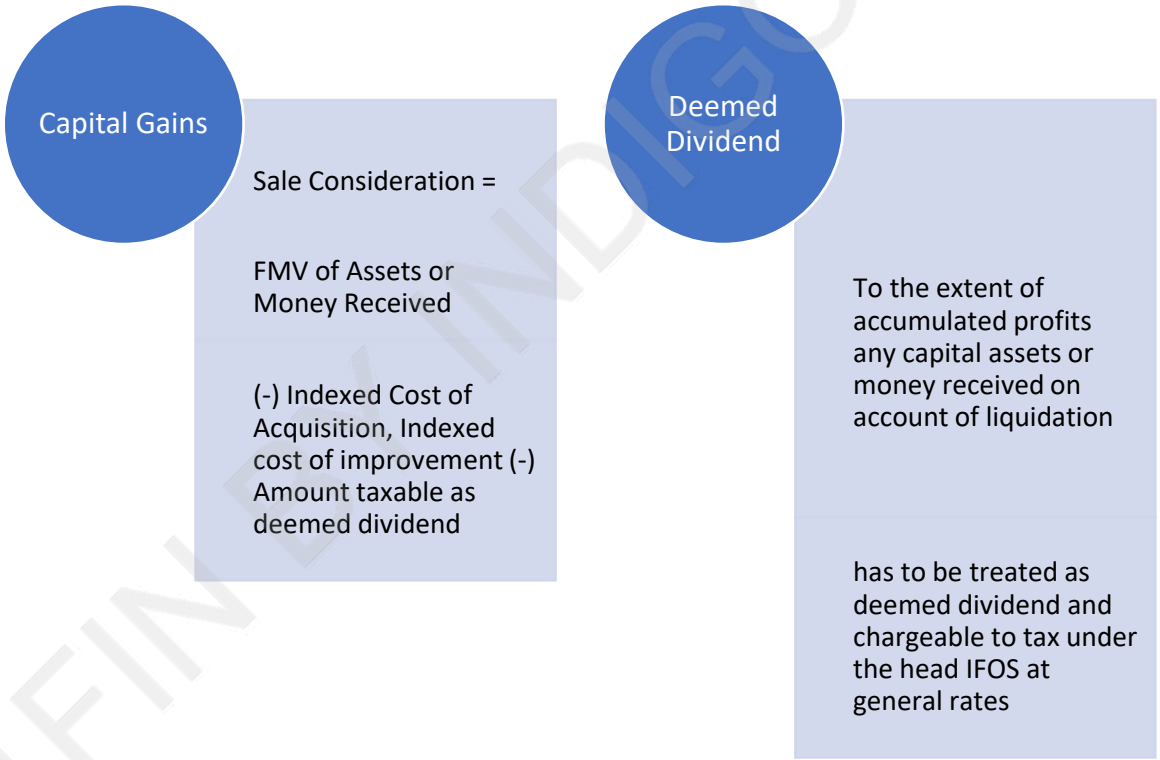
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Capital gains on Distribution of Assets by companies in Liquidation:

In the Hands of Company



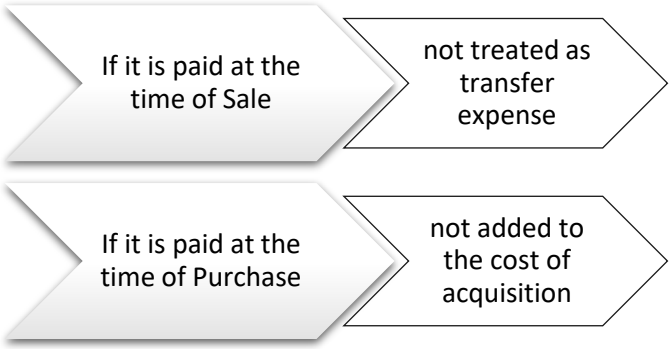
In the Hands of Shareholder:



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Seventh proviso to Section 48: Security Transactions Tax (STT) not Allowed

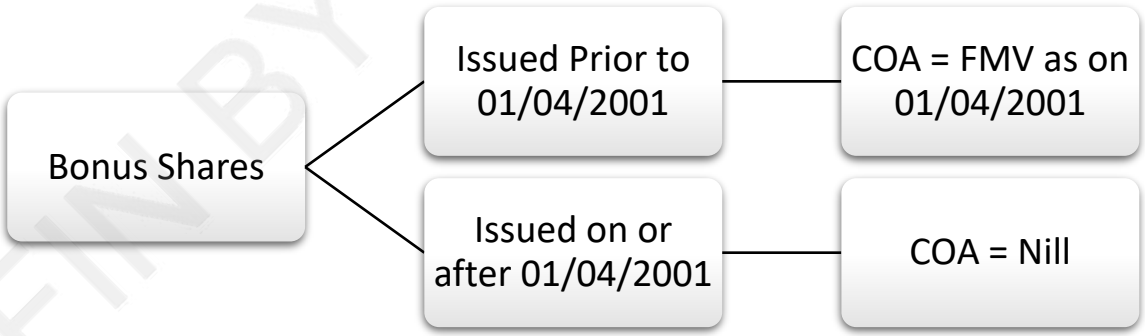
STT paid on sale/purchase of shares/unit shall not be allowed under capital gain



CONVERSION OF COST OF ACQUISITION INTO INDEXED COST OF ACQUISITION

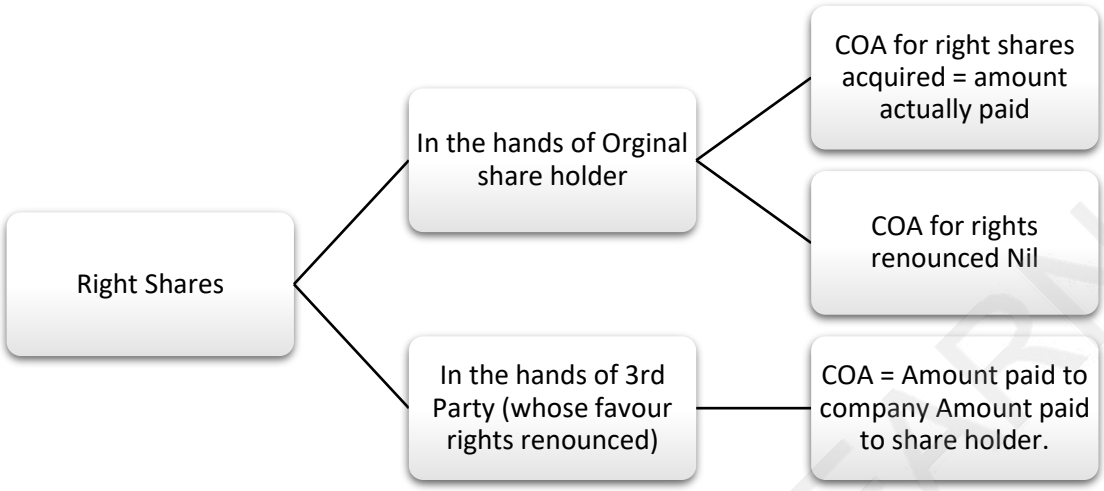
Treatment 1	Treatment 2
The previous owner holding period is to be ignored for computing indexed cost of acquisition	The previous owner holding period is to be considered for computing indexed cost of acquisition.

Cost of Acquisition of Bonus Shares:

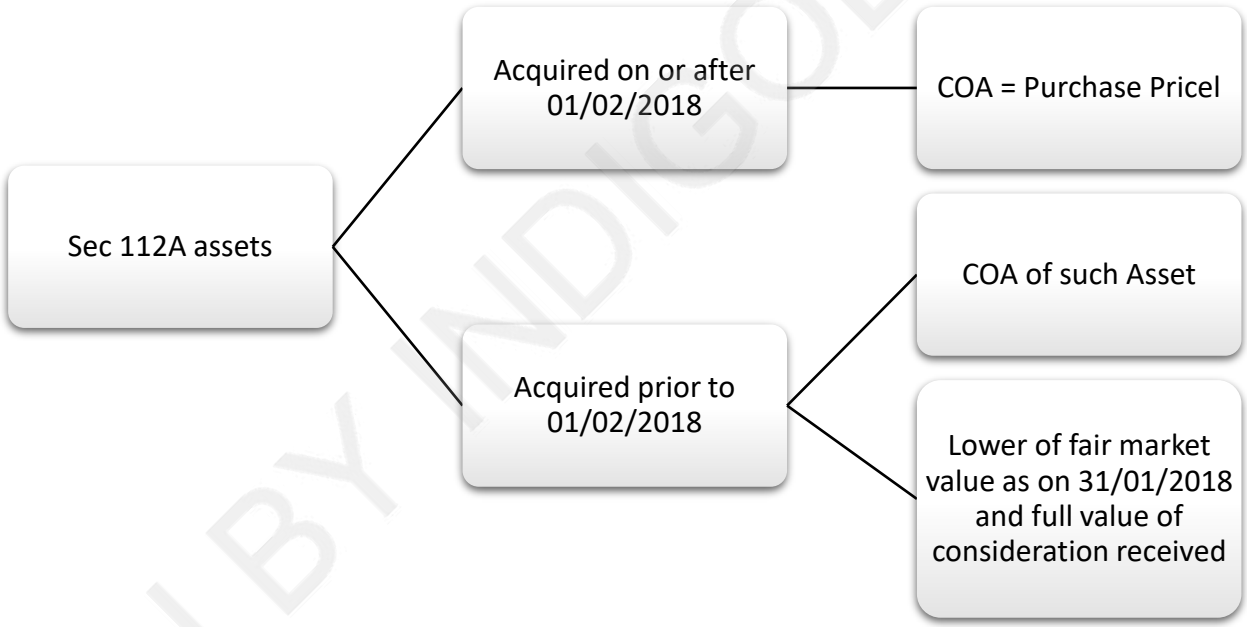


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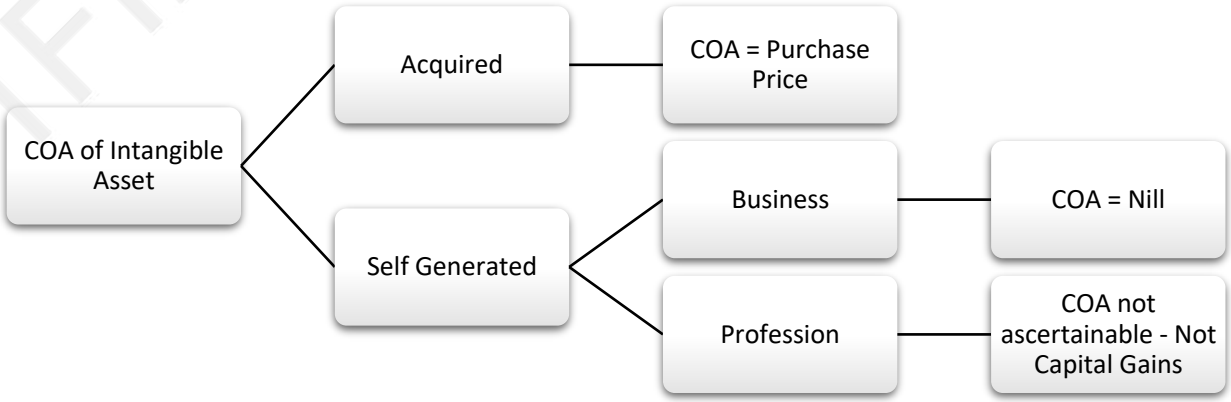
Cost of Acquisition of Right Shares:



Cost of Acquisition for LTCA referred in Sec 112A:



Cost of Acquisition of Intangible Asset:



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Determination of period of holding

Situations	Period of holding
1) Shares held in a company in liquidation	Period subsequent to the date of liquidation should be excluded
2) Capital asset which becomes property of assessee U/s 49(1)	Period of holding by previous owner should be included
3) Shares became property in a scheme of amalgamation [Also see 47(vii)]	Period of holding in the amalgamating company should be included
4) Rights shares: (i) If subscribed by original shareholder (ii) If subscribed by others to whom rights are renounced (iii) If Rights are renounced	Period shall be reckoned from the date of allotment of Rights shares Period shall be reckoned from the date of allotment of Rights shares. Period shall he reckoned from the date of offer to the date of renouncement (Normally it will be short term)
5) Bonus shares.	Period will reckoned from the date of allotment of bonus shares
6) Shares held by assessee in the resulting company	Period of holding in the demerged company shall be included
7) Sweat Equity shares allotted by Employer	The period of holding shall be counted from the date of allotment of such share
8) Flat in a cooperative society	The period of holding shall be counted from the date of possession.
9) Transfer of a security by a depository (i.e., demat account)	The period of holding shall be determined on the basis of FIFO Method.

First proviso to section 48: Capital Gain in case of Non-Resident

In case of

- Assessee who is a Non-Resident (includes foreign company)
- Asset should be shares or debentures of Indian company, &
- Such asset was acquired in foreign currency by way of purchase or re-investment then capital gain shall be calculated in foreign currency & after that it shall be reconverted into Indian currency

Rule 115A: Method of conversion

COA	Avg of TTBR & TTSR	On the date of acquisition
Transfer expenditure	Avg of TTBR & TTSR	On the date of transfer
Sale consideration	Avg of TTBR&TTSR	On the date of transfer
CG into Indian currency	TTBR	On the date of transfer

Notes:

1. Assessee should be NR in the year of sale
2. Index benefit not available where first proviso applies

Fifth proviso to section 48:

Foreign Exchange Fluctuation gain on RDB in case of NR assessee

Any gain arising on rupee appreciation against foreign currency at the time of redemption of RDB (Rupee denominated bonds) of Indian company, shall be ignored for the purpose of computation of full value of consideration

Note:

1. For computation of capital gain First Proviso to Sec. 48 applies.

2. If there is a loss due to rupee depreciation, then it shall be allowed as capital loss and can be set-off and C/F

3. Exemption is not available if RDB is transferred before maturity.

4. Exemption is available to any person who holds the bonds, that is, even a secondary holder also

Section 50: Computation of Capital Gain in Case of Depreciable Assets

- For the purpose of computing capital gains (sec 50) depreciable assets has to be considered as Short-term capital assets irrespective of period of holding.
- On transfer of depreciable assets, capital gains computation will be made only when the block ceases to exist
- Block ceases to exist under two circumstances:
    - Where all the assets in the block are transferred (or)
    - When a single or multiple assets transferred and the sale proceeds exceed total block value

Format:

Full value of Sale consideration on sale of Depreciable Asset	XXXXX
(-) Transfer related Expenses	XXXXX
(-) WDV of block at the beginning of Previous Year	XXXXX

Conditions for Claiming Depreciation:

Depreciation u/s 32 can be claimed provided as the last day of the previous year, the following two requirements are fulfilled-

1. There must be at least one asset in the block and;

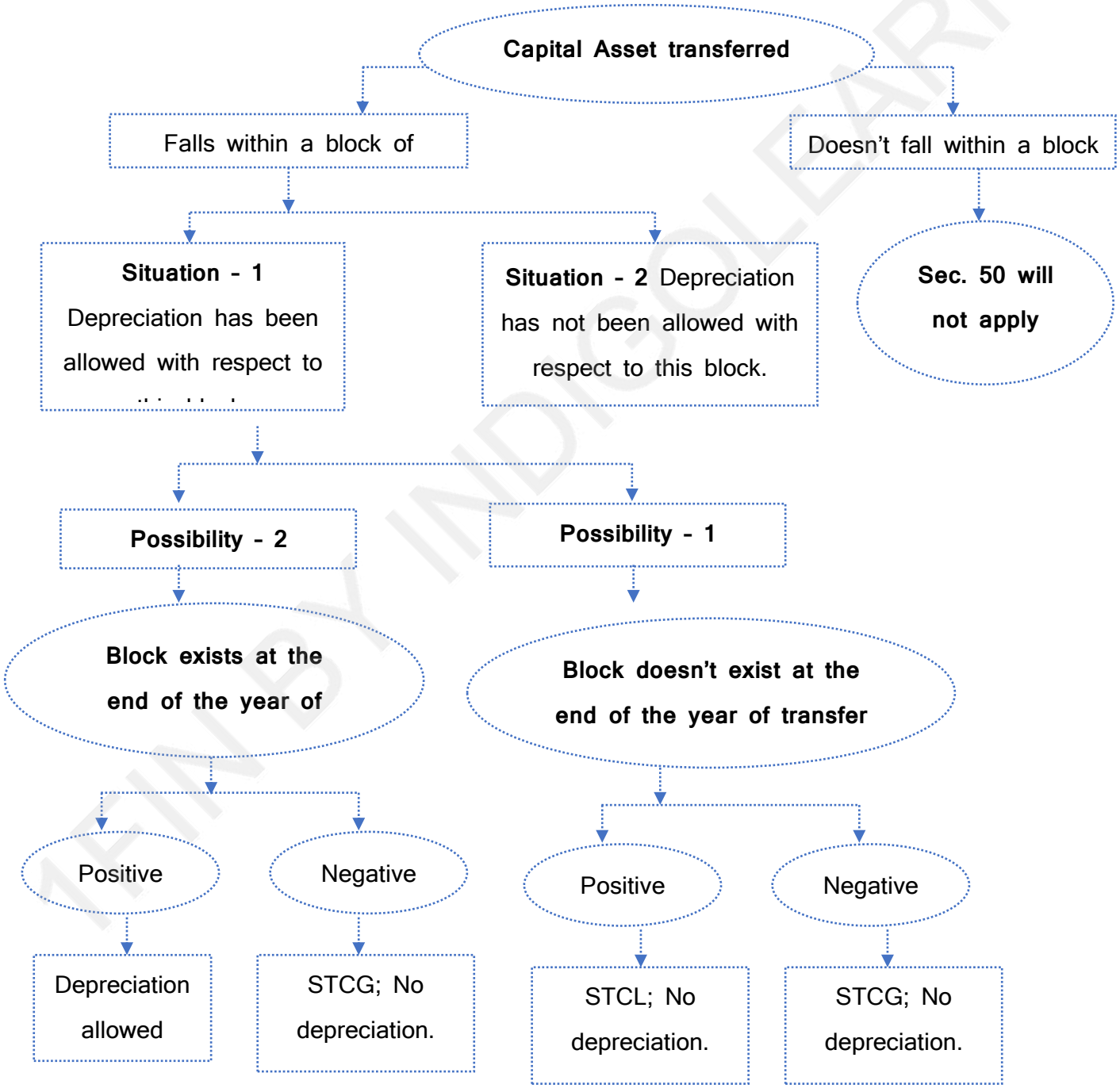
2. There must be some value for the block on which prescribed percentage can be applied.

Sec 50 come into picture:

i. Where any one or both of above requirements not satisfied, section 32 not applicable and automatically the provisions of section 50 become applicable resulting STCG OR STCL.

ii. Sec. 50 gets attracted under the following circumstances.

- When one or some of the assets in the block were sold for a consideration which is more than value of block (STCG).
- When all the assets are transferred for consideration which is more than (STCG) or less then the value of the block (STCL).



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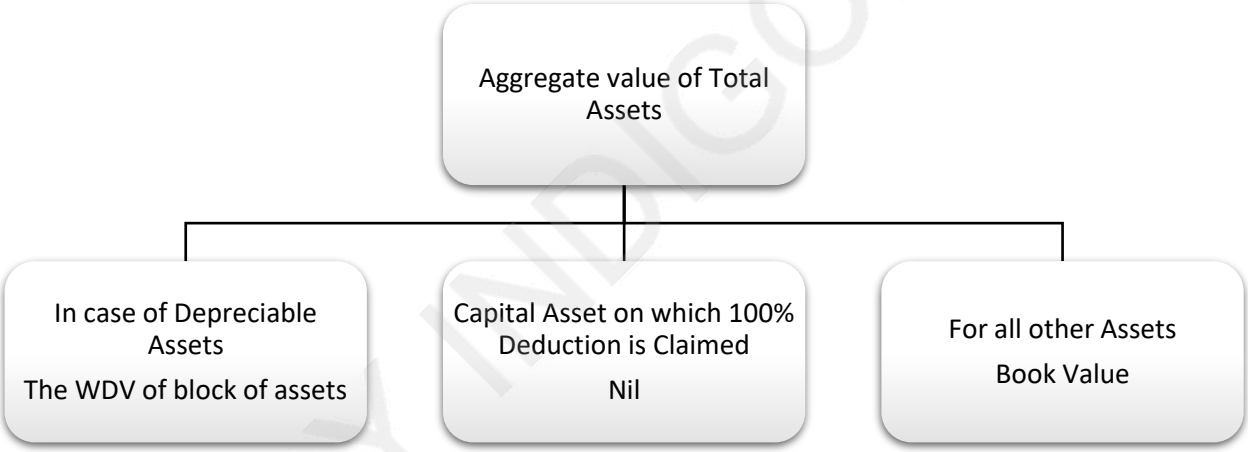
Section 50AA: Capital gain on transfer of unit of specified mutual fund or Market Linked Debentures

- Section 50AA provided for computation of capital gains in case of transfer of unit of specified mutual fund acquired on or after 1.4.2023 or units of market linked debenture
- Capital gain arising on the above would be deemed to be short term capital gains and would be chargeable at normal rate of tax.
- Market linked debenture means "A security which has an underlying principal component in the form of debt security; and where the returns are linked to market returns on other underlying securities or indices". It includes any security classified or regulated as a market linked debenture by SEBI.
- Specified Mutual Fund means "A mutual fund where not more than 35% of its total proceeds are invested in equity shares of domestic companies." However, the percentage of equity shareholding held in respect of specified mutual fund shall be computed with reference to annual average of the daily closing figures.

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Capital gains in respect of Slump sale Sec 50B:

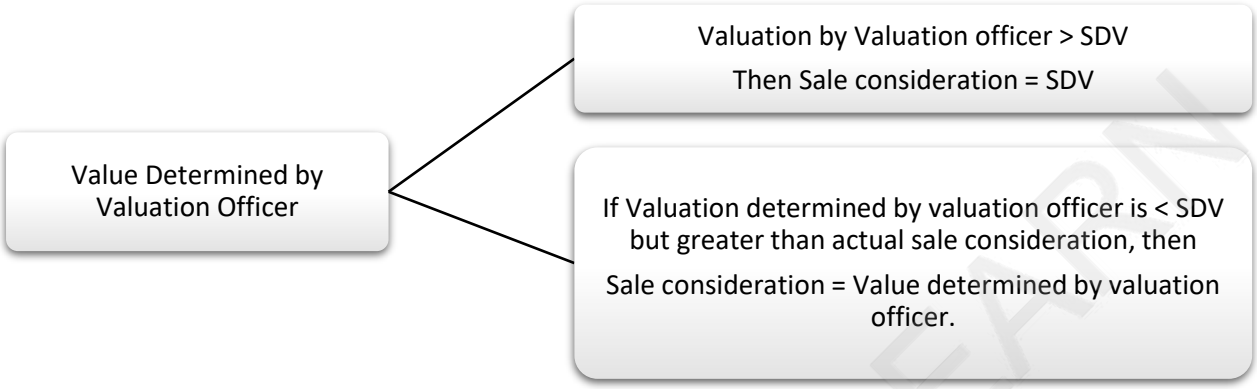
- Where a unit, branch, division, or undertaking has been sold as a whole aggregately including all the assets and liabilities then it is called as slump sale.
- If the undertaking is held for more than 36 months, then the resulting gains or losses arising are called as Long-term capital gains or losses.
- Full value of consideration shall be higher of "FMV of the capital assets transferred by way of slump sale" or "FMV of the consideration (monetary and non monetary) received or accruing as a result of transfer by way of slump sale.
- The net worth of the undertaking or the division shall be deemed to be the cost of acquisition and the cost of improvement.
- Net-worth: Aggregate value of Total Assets - Value of liabilities of such undertaking.
- Revaluation adjustment has to be ignored while calculating value of total assets.



Deemed full value of consideration: Sec 50C

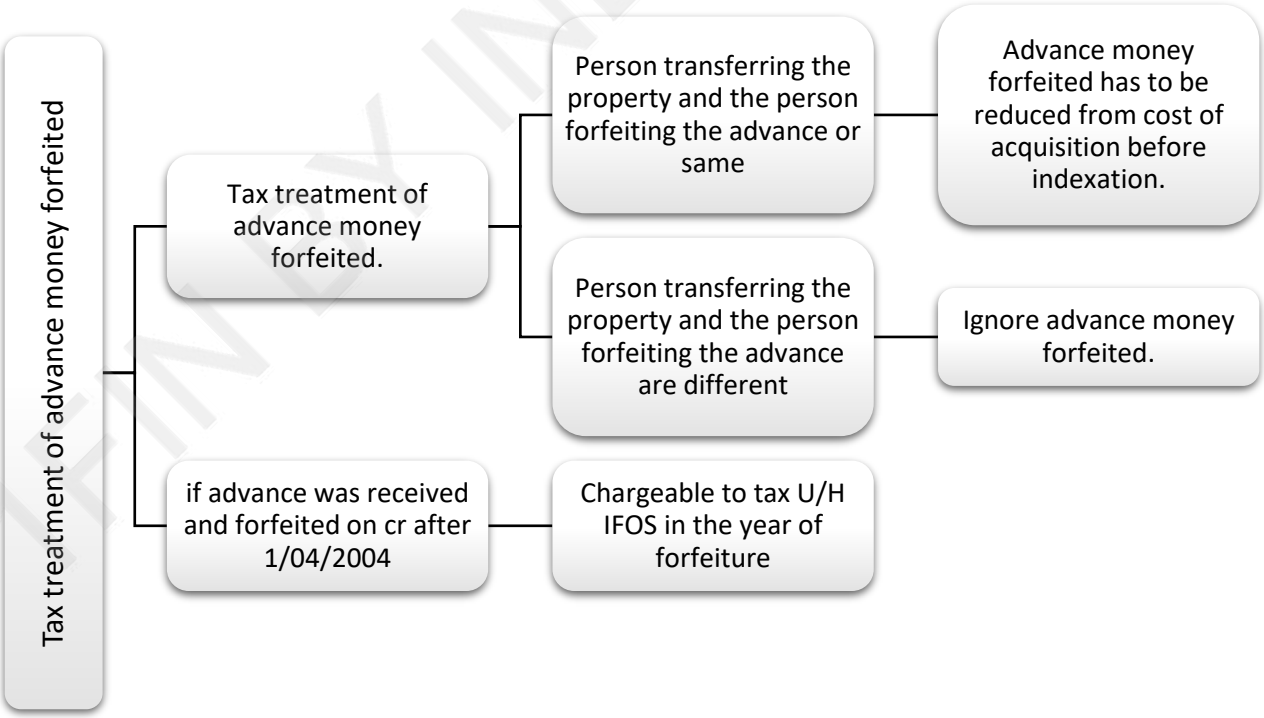
- Where the sale consideration on account of transfer is less than that of STAMP DUTY value (SDV), then SDV shall be considered as deemed sale consideration.
- However, SDV should be 110% more than that of the actual sale consideration.
- If assessee is aggrieved with taking SDV as sale consideration, then assessing officer can refer the case to Valuation officer.
- Where there is a change in SDV from date of agreement to date of registration then SDV as on date of agreement has to be considered only if
  - Consideration is paid either wholly or partly through
    - Account payee cheque.
    - Account payee draft
    - Electronic clearing system

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Sec 51: Advance Money forfeited.

- It is possible for an assessee to receive some advance in regard to the transfer of capital asset. Due to the break-down of the negotiation, the assessee may have retained the advance that is called as advance money forfeited.



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Exemption of capital gain on compulsory acquisition of Agricultural land situated within urban limits: Section 10(37)

Eligible Assessee: Ind and HUF

Capital Asset transferred: Urban agricultural land and should be used by Individual or HUF or his family members for agriculture in preceding 2 years to date of transfer.

Exemption: Capital gains arising on compulsory acquisition are exempted.

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EXEMPTIONS FROM CAPITAL GAINS

Sec	54	54B	54D	54EC	54F
Asset Transferred	Residential house	Agricultural Land	L&B for industrial undertaking	Long term capital Assets being Land & Building or both	Any Asset other than Residential House
Who is Entitled	Individual or HUF	Individual or HUF	Any Assessee	Any Assessee	Individual or HUF
Use or Holding Period	Exceeding 24 Months	Used for agriculture by him or his parents or HUF for 2 years immediately prior to the date of transfer	Used for 2 years	LTCA	Should be LTCA. Should not own more than 1 house on date of transfer
Amount to be Invested	Capital Gains	Capital Gains	Capital Gains	Capital Gains (Investment in the year of transfer or next financial year = max ₹ 50 Lakhs)	Net consideration
New Asset	Two Residential House in India (Note: Investment in 2 RP is eligible for LTCG up to ₹ 2 crores)	Agricultural Land	L&B for industrial undertaking	Specified bonds redeemable after 5 years in NHAI or RECL or any other bond notified by the central Govt.	One Residential House in India
Exemption	Capital gains or asset invest whichever is less	As Above	As Above	As Above	(Amount Invested/ Net consideration) x Capital Gain

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Sec	54	54B	54D	54EC	54F
Prescribe Period for Investment	within 1 year before or 2 years after the date of transfer in case of purchase, or within 3 years after the date of transfer, in case of new construction	within 2 years after transfer	within 3 years after transfer	Within 6 months of transfer of original asset	Within 1 year before or 2 years after transfer in case of purchase or 3 years after transfer in case of construction
Treatment of Unutilised Amount	deposit as CGAS before due date of furnishing return u/s139(1) if it is not utilised within the time limit u/s 139(1)	As Above	As Above		Same as Sec.54
Sale of New Asset	If sold within 3 years from date of purchase/construction, for computing STCA on new asset, cost of new asset shall be reduced by amount of CG exempt	As Above	As Above	If sold within 5 years, exempted CG will be deemed to be LTCG of the assessee in the year of sale of new asset	Same as for Sec.54, 54B,54D except that under Sec.54F it will be taxed as LTCG

Note: In Section 54, Maximum exemption is capital gains or cost of new house (subject to maximum 10 crore) whichever is lower is exempt.

Note: In Section 54F, if the cost of new residential house or the amount invested in new residential house exceeds 10 crore, then the amount exceeding 10 crore would not be taken into account for exemption.

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RATES OF TAXES ON CAPITAL GAINS					
Particulars	**LTCG on listed Securities**		**Any other LTCG**	**STCG**	
	Suffered STT	**Not Suffered STT**		**Listed securities Suffered STT**	**No STT or STCG on any other assets**
Section	**112A**	**112**	**112**	**111A**	**Normal Rate**
Rate of Tax	[LTCG - 1,00,000]x10%	20% with ICA or 10% of LTCG without ICA whichever is lower	20%	15%	Normal Rate
Residents whose total income excluding LTCG is below basic exemption limit	10% (Total Income **less** unveiled Basic exemption limit)	10% or 20% of (Total Income less unveiled Basic exemption limit)	20% of (Total Income less unveiled Basic exemption limit)	15% of (Total Income less unveiled Basic exemption limit)	Normal Rate
Non-Resident Individual or HUF	NIL	LTCG Taxable (Basic exemption not available)	LTCG Taxable	STCG Taxable (Basic exemption not available)	Normal Rate
Chapter VI-A Deduction	Not Applicable				Available
Rebate u/s 87A	Not Applicable	Applicable	Applicable	Applicable	Applicable

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COMPUTATION OF CAPITAL GAINS-Special Cases		
Nature of Transaction	**Year of Taxability**	**Computation of Capital Gains**
General Computation of short term and long-term Capital Gains	Year of Transfer	CG= consideration of transfer **less** CA or ICA
Insurance Claim received on loss of asset [**Sec.45(1A)**]	Year of Receipt	CG= Insurance Claim Received **less** CA or ICA
Conversion of capital Asset into Stock-in-Trade **[Sec.45(2)]** (Note: Indexation based on year of conversion, not on year of sale)	Year of Transfer of Converted Stock	CG= FMV of capital asset on conversion Less CA or ICA BI= sale consideration less FMV considered as above
Sale of Shares held as Depositary **[Sec.45(2A)]** (FIFO methos shall be adopted)	Year of Transfer	CG= consideration of transfer **less** CA or ICA
Compulsory Acquisition of Capital Asset by Government Approved authority **[Sec.45(5)]**		
a) Normal Compensation (Indexation Based on year of compulsory acquisition)	Year of First Receipt	CG=Whole of Normal Compensation Received or Receivable **Less** whole CA or ICA
b) Enhanced Compensation	Year of actual receipt	CG=Enhanced Compensation **Less** expenses incurred on receipt of enhanced compensation
Receipt of Assets/ Cash from Company on Liquidation in the hands of Shareholders **[Sec.46]**	Year of Receipt	CG=FMV of Assets Received **Add** Amount received in cash **Less** deemed Dividend u/s 2(22) **Less** CA/ICA of shares
Repurchase/Buy Back of Shares /Specified Securities	Year of Repurchase	CG= consideration of transfer **less** CA or ICA

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Nature of Transaction	Year of Taxability	Computation of Capital Gains
Transfer of Depreciable assets **[Sec.50]**	Year of Transfer	CG= Consideration for transfer **Less:** Expenses on transfer Opening WDV Additions During the Year
		[**W.e.f 01.04.2021** Where Goodwill of a business or Profession forms part of block of assets for period beginning on 01.04.2020 and depreciation thereon has been obtained by the assessee, WDV of that block and STCG, if any, shall be determined in prescribed manner]
Sale or Undertaking as a Going Concern or Slump Sale **[Sec.50B]**	Year of Transfer	CG= Lump sum Consideration **Less** Net worth (No indexation for LTCG) [**WDV**= In case of Capital Asset being Goodwill of a Business or profession which has not been acquired by the assessee by purchase from a previous Owner=NIL
Transfer of Land or Building or both at less than Stamp Duty Value **[Sec.50C]**	Year of Transfer	CG=Value as per Stamp Duty Authority **Less** CA or ICA.

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Problems

Illustration 1:

Mr. X purchased a land on 10.6.2023 for 8L and such land is sold on 11.12.2024 for 16L
To sell it, he has paid brokerage of 1,00,000. Further, on such land he constructed a shed on 10.10.2023 for 1L

Compute Capital gains

Illustration 2:
CII for 2002-03 is 105
CII for 2003-04 is 109
CII for 2011-12 is 184
CII for 2021-22 is 317
CII for 2022-23 is 331

Mr. X purchased a house property on 10.06.2003 for 5L. On that house, he incurred 3L improvement cost on 10.10.2011.
He sold the property for 30L on 10.10.2022. To get the sale done, he incurred brokerage expenses of 1% of sale value. Determine the amount of capital gains

Illustration 3:
Mr. A purchased a property on 10.06.2002 for 8L. He incurred improvement cost of 3L on 10.10.2011. He sold such property on 10.11.2022 for 40L (Stamp duty value is 45L)
Brokerage paid 1% of sale value
Compute capital Gains

Illustration 4:
CII for 2006-07 is 122
CII for 2017-18 is 272
CII for 2021 -22 is 317

Mr. A has purchased a land on 10.06.2006 for 7L. He has converted such land into stock in trade on 10.10.2017. FMV on the date of conversion is 25L
However, such stock in trade is actually sold on 10.12.2021 for 28L
Compute Capital gains and business income if any

Illustration 5:
Mr. Shiva Teja has 2 cars held for personal use.
10.10.2023, Shiva started started business of buying and selling cars

2 Cars are convereted into stock in trade.
What is the tax impact ??

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Illustration 6:
CII for 2023-24 is 348
CII for 2006-07 is 122
CII for 2001-02 is 100

Mr. X purchased a house property on 1.4.1999 for 8L. Fair market value on 1.4.2001 is 10L.
Stamp duty value on 1.4.2001 is 9L. Mr. X incurred improvement cost of 50K on 6.6.2000.
He has further incurred improvement cost of 1L on 10.10.2006.
Such house property is sold on 15.12.2023 for 1 Crore. Stamp duty value on 15.12.2023 is 1.2 Crore. Brokerage fee paid is 5% of Sale price.

Compute Capital Gains

Illustration 7:
Mr. X purchased shares of Reliance Industries Ltd on 1.10.2007 for 1000 per share.

FMV on 31.1.2018 is 3000 per share. Actual Sale price is 3500 per share on 10.10.2024.

Compute capital gains assuming STT paid is 20000 INR
Number of shares is 1000 shares

What would be your answer if the FMV on 31.1.2018 is 3700 per share ??

Illustration 8:

Opening WDV (4 assets)	10,00,000.00
Add: Asset purchased on 6th May of PY (1)	3,00,000.00
Less: Asset sold on 10th March of PY (2)	8,00,000.00
Closing WDV	5,00,000.00

Depreciation rate is 10% 50,000.00

Opening WDV (4 assets)	10,00,000.00
Add: Asset purchased on 10th Dec of PY (3 assets)	3,00,000.00
Less: Asset sold (2 assets)	8,00,000.00
Closing WDV	5,00,000.00

Depreciation (10%)	
On 3L - Dep is 10% *1/2	15,000.00
On 2L - Full depreciation	20,000.00
Total depreciation	35,000.00

Illustration 9:
Mr. A - Engaged in Power Sector
He can follow SLM

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Cost of asset	10,00,000.00
Depreciation @10% for 4 years	4,00,000.00
Balance value of asset	6,00,000.00

Case 1: Sold for 11L
Case 2: Sold for 9L
Case 3: Sold for 5L
Case 4: Sold for 1L

Illustration 10:

Mr. Raj

	Plant & Machinery 15%	Furniture 10%
Opening WDV	8,00,000	12,00,000
Add: Asset purchased	4,00,000	3,00,000
Less: Asset sold	3,00,000	1,00,000
Closing WDV	9,00,000	14,00,000

In Plant and Machinery block, out of assets purchased for 4L - asset worth 2L is put to us for less than 180 days. And there is atleast one asset in the block
In Furniture block, all the assets are sold for 1L i.e., there is no asset left in the block

Illustration 11:
Power sector unit
Cost of asset 25,00,000.00
Dep @15% for 4 years 15,00,000.00
Balance value of the asset 10,00,000.00
Asset is sold for 16L
What would be your answer if asset is sold for 28L

Illustration 12:
CII for FY 2006-07 is 122
CII for 2017-18 is 272
CII for 23-24 is 348
CII for 2010-11 is 167
CII for 2019-20 is 289

Mr. Ramesh purchased house property on 10.10.2006 for 25L. He has incurred improvement cost of 4L on 8.8.2010. Later, he has given such property as gift to his Son Suresh on 10.12.2017.
Suresh has incurred improvement cost of 6L on 4.4.2019.
Subsequently, such house property is sold for 1.5 Crore. Expenses on transfer is 2% of sale consideration. Property is sold on 5.5.2023.
Determine the amount of capital gains.

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Illustration 13:
Mr. Ravi Teja - Sold Long Term residential House property

Full value of consideration	5,00,00,000.00
Less: Expenses on transfer	10,00,000.00
Net Sale Consideration	4,90,00,000.00
Less: Indexed Cost of acquisition	1,80,00,000.00
Less: Indexed cost of improvement	55,00,000.00
Long Term Capital Gains	2,55,00,000.00
Less: Exemption under Section 54	2,55,00,000.00
Taxable Long Term Capital Gains	-

Mr. Ravi Teja has purchased another residential house in Mumbai for 3 Crore within the specified time limit

Illustration 14:
Mr. X has purchased a residential house property on 10.10.1998 for 10L.

FMV on 1.4.2001 is 30L. Stamp duty value on 1.4.2001 is 25L
No improvement is done

He sold such house property on 10th April 2023 for 2 Crore. He constructed new residential property on 10th June 2023 for 60L and deposited 30L in Capital Gain account scheme for the purpose of construction or before due date of return of income
Determine taxable capital gain

What would be your answer in following cases ?
1. If the residential property is short term
2. If the capital gains is invested in commercial propery
3. If the transferor is X Ltd instead of Mr. X

Illustration 15:
Mr. X purchased a land on 1.4.1999 for 8L
FMV on 1.4.2001 is 20L
SDV on 1.4.2001 is 18L
No improvement cost has been incurred on such land.

Such land is sold on 16.10.2023 for 2 Crore. Expenses on transfer = 1% of sale consideration
He purchased a residential house within 1 month from the date of transfer of such land.

Cost of residential house = 1.5 Crore
Compute Capital gains chargeable to tax for the Assessment Year
Assume that the new property is sold in 1 year for 1.8 Crore

Illustration 16:
Mr. A transferred residential house property (Long Term)
Long term capital gain - 2 Crore

He purchased a new residential house property for 1.2 Crore within the time limit
He also invested 35 lakhs in bonds of NHAI within 3 months from the date of transfer
Compute capital gains.

Illustration 17:
Mr. Raj utilised dollars to purchase shares of Indian Company

Full Value of Consideration	10,00,000.00
Less: Expenses on transfer	1,00,000.00
Net Sale Consideration	9,00,000.00
Less: Cost of acquisition	4,00,000.00
Capital Gain	5,00,000.00

	Buying rate	Selling rate	Average rate
Sale date	80.00	90	85.00
Buy Date	75.00	85	80

Compute capital gain?

1. Rahul converts his plot of land purchased in March, 2007 for ₹ 1,50,000 into stock in trade on 23rd October, 2022. The fair market value as on 23.10.2022 was ₹ 4,00,000. The stock-in-trade was sold for ₹ 5,00,000 in the month of September, 2023. Examine the tax implications of such transaction.

2. Harshit sold his house for a consideration of ₹ 200 lacs on 1st January 2024. However, stamp valuation authorities registered it at ₹ 220 lacs, being the sub registrar approved value. He paid 5% of sale value as commission. The house purchased by Harshit on 1.3.2001 for ₹ 10 lacs. He made some improvements by way of additional construction to the house, incurring expenditure of ₹ 2 lacs in January 2007. The market value of the house on 1.4.2002 was ₹ 12 lacs. He invested ₹ 30 lacs in eligible bonds issued by Rural Electrification Corporation Ltd. (RECL) on 13.03.2024 and ₹ 20 lacs in eligible bonds issued by National Highways Authority of India (NHAI) on 15.07.2024 (Assume that the NHAI capital gains bonds issue were open for subscription during the period from 02.04.2024 to 31.03.2025). Besides, he purchased a small dwelling house on 01.04.2023 for ₹ 20 lacs.

   Compute the capital gain chargeable to tax in the hands of Harshit for the assessment year 2024-25.

3. X ltd. owns two plants- plant A and plant B (depreciation rate 15 per cent). The depreciated value of the block on April 1, 2023 is ₹ 14,30,000. Till June 30, 2023, plant B is installed in a foreign branch of the company. When plant B is in transit to India on a ship in Indian Ocean, the ship drowns on July 7, 2023 due to engine failure

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and plant b is completely destroyed. X ltd. gets ₹ 30,00,000 by way of insurance compensation. Out of insurance compensation, the company purchases plant C (new) for ₹ 5,00,000 on October 10, 2023 and remaining amount of compensation is transferred to profit and loss account. Find out tax consequences.

4. Ms. Chhaya transferred a vacant site to Ms. Dayama for ₹ 4,25,000. The stamp valuation authority fixed the value of vacant site for stamp duty purpose at 6,00,000. The total income of Chhaya and Dayama before considering the transfer of vacant site are ₹ 50,000 and ₹ 2,05,000, respectively. The indexed cost of acquisition for Ms. Chhaya in respect of vacant site is ₹ 4,00,000 (computed).

   Determine the total income of both Ms. Chhaya and Ms. Dayama taking into account the above said transaction.

5. Mr. Chandru transferred a vacant site on 28.10.2023 for ₹ 100 lakhs. The site was acquired for ₹ 9,99,300 on 30.6.2004. He invested ₹ 50 lakhs in eligible bonds issued by Rural Electrification Corporation Ltd. (RECL) on 20.12.2023.

   Again, he invested ₹ 20 lakhs in eligible bonds issued by National Highways Authority of India (NHAI) on 16.4.2023.

   Compute the chargeable capital gain in the hands of Chandru for the A.Y.2024-25.

6. Mr. Amit furnishes the following data for the previous year ending 31.3.2024:
   a. Unlisted Equity Shares of Paras Ltd., 9,500 in number were sold on 31.5.2023, at ₹ 500 for each share.
   b. The above shares of 9,500 were acquired by Mr. Amit in the following manner:
      i. Received as gift from his father on 27.9.1990 (3,500 shares), the fair market value of which on 1.4.2001 was ₹ 40 per share.
      ii. Bonus shares received from Paras Ltd. on 27.8.1993 (3,500 shares).
      iii. Purchased on 2.2.1998 at the price of ₹ 120 per share (2,500 shares).
   c. Purchased one residential house at ₹ 20 lakhs, on 14.4.2024 from the sale proceeds of shares.
   d. Mr. Amit owns a residential house, even before the purchase of above house.

   Compute the capital gain chargeable to tax in the hands of Mr. Amit for A.Y.2024-25.

7. Mr. Mithun purchased 100 shares of M/s Goodmoney Co. Ltd. on 01-04-2008 at rate of ₹ 1,000 per share, in public issue of the company.

   Company allotted bonus shares in the ratio of 1:1 on 01.12.2021. He has also received dividend of ₹ 10 per share on 01.05.2023.

   He has sold all the shares on 01.10.2023 at the rate of ₹ 5,000 per share through a recognized stock exchange and paid brokerage of 1% and securities transaction tax

of 0.02% to celebrate his 75th birthday. Compute his total income and tax liability for Assessment Year 2024-25 assuming that he is having no income other than given above.

8. Mr. Selvan, acquired a residential house in January, 2002 for ₹ 10,00,000 and made some improvements by way of additional construction to the house, incurring expenditure of ₹ 2,00,000 in October, 2007. He sold the house property in October, 2023 for ₹ 75,00,000. The value of property was adopted as ₹ 80,00,000 by the State stamp valuation authority for registration purpose. He acquired a residential house in January, 2023 for ₹ 25,00,000. He deposited ₹ 20,00,000 in capital gains bonds issued by National Highways Authority of India (NHAI) in June, 2024.
   Compute the capital gain chargeable to tax for the assessment year 2024-25.
   What would be the tax consequence and in which assessment year it would be taxable, if the house property acquired in January, 2023 is sold for ₹ 40,00,000 in Dec, 2024?

9. Mukesh (aged 55 years) owned a residential house at Nagpur. It was acquired by Mukesh on 10.10.1987 for ₹ 4,00,000. It was sold for ₹ 55,00,000 on 04.11.2023. The State stamp valuation authority fixed the value of the property at ₹ 60,00,000. The assessee paid 2% of the sale consideration as brokerage for the sale of said property. Mukesh acquired a residential house at Chennai on 10.12.2023 for ₹ 15,00,000 and deposited ₹ 10,00,000 on 10.4.2024 in the capital gain bond of Rural Electrification Corporation Ltd. (RECL). He deposited ₹ 5,00,000 on 6.07.2024 in the Capital Gain Deposit Scheme in a nationalized bank for construction of additional floor on the residential house property acquired at Chennai.
   Compute the capital gain chargeable to tax in the hands of Mr. Mukesh for the assessment year 2024-25. Calculate the income-tax payable on the assumption that he has no other income chargeable to tax.

10. Mr. Raj Kumar sold a house to his friend Mr. Dhruv on 1st November, 2023 for a consideration of ₹ 25,00,000. The Sub-Registrar refused to register the document for the said value, as according to him, stamp duty had to be paid on ₹ 45,00,000, which was the Government guideline value. Mr. Raj Kumar preferred an appeal to the Revenue Divisional Officer, who fixed the value of the house as ₹ 32,00,000 (₹ 22,00,000 for land and the balance for building portion). The differential stamp duty was paid, accepting the said value determined. Assuming that the fair market value is ₹ 32,00,000, what are the tax implications in the hands of Mr. Raj Kumar and Mr. Dhruv for the assessment year 2024-25? Mr. Raj Kumar had purchased the land on 1st June, 2020 for ₹ 5,19,000 and completed the construction of house on 1st October, 2021 for ₹ 14,00,000.

11. Mr. A is an individual carrying on business. His stock and machinery were damaged and destroyed in a fire accident.

    The value of stock lost (total damaged) was ₹ 6,50,000. Certain portion of the machinery could be salvaged.

    The opening WDV of the block as on 1-4-2023 was ₹ 10,80,000.

    During the process of safeguarding machinery and in the firefighting operations, Mr. A lost his gold chain and a diamond ring, which he had purchased in April, 2006 for ₹ 1,20,000. The market value of these two items as on the date of fire accident was ₹ 1,80,000.

    Mr. A received the following amounts from the insurance company:

    i) Towards loss of stock ₹ 4,80,000

    ii) Towards damage of machinery ₹ 6,00,000

    iii) Towards gold chain and diamond ring ₹ 1,80,000

    You are requested to briefly comment on the tax treatment of the above three items under the provisions of the Income-tax Act, 1961.

12. Mr. A who transfers land and building on 20.12.2023, furnishes the following information:

    a. Net consideration received ₹ 12 lakhs.

    b. Value adopted by stamp valuation authority, which was not contested by Mr. ₹ 18 lakhs.

    c. Value ascertained by Valuation Officer on reference by the Assessing Officer ₹ 20 lakhs.

    d. This land was distributed to Mr. A on the partial partition of his HUF on 1.4.2001. Fair market value of the land as on 01.04.2001 was ₹ 1,10,000.

    e. A residential building was constructed on the above land by Mr. A at a cost of ₹ 3,20,000 (construction completed on 1.12.2005) during the financial year 2005-06.

    f. Brought forward unabsorbed short-term capital loss (incurred on sale of shares during the financial year 2017-18) ₹5,05,000.

    Mr. A seeks your advice as to the amount to be invested in NHAI/RECL bonds so as to be exempt from clutches of capital gain tax.

13. Mr. 'X' furnishes the following data for the previous year ending 31.3.2024:

    a. Unlisted Equity Shares of AB Ltd., 10,000 in number were sold on 31.5.2023, at ₹ 350 for each share.

    b. The above shares of 10,000 were acquired by X in the following manner:

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i. Received as gift from his father on 1.6.1998 (5,000 shares) the market price on 1.4.01 ₹ 50 per share.

ii. Bonus shares received from AB Ltd. on 21.7.1999 (2,000 shares).

iii. Purchased on 1.2.1995 at the price of ₹ 125 per share (3,000 shares).

c. Purchased one residential house at ₹ 25 lakhs, on 1.5.2024 from the sale proceeds of shares.

d. 'X' is already owning a residential house, even before the purchase of above house.

You are required to compute the taxable capital gain. He has no other source of income chargeable to tax.

14. Ms. Vasumathi purchased 10,000 equity shares of ABC Co. Pvt. Ltd. on 28.2.2006 for ₹ 1,20,000. The company was wound up on 31.7.2023. The following is the summarized financial position of the company as on 31.7.2023:

Liabilities	₹	Assets	₹
60,000 Equity shares General reserve Provision for taxation	6,00,000 40,00,000 2,50,000	Agricultural lands Cash at bank	42,00,000 6,50,000
	48,50,000		**48,50,000**

The tax liability (towards dividend distribution tax) was ascertained at ₹ 3,00,000, after considering refund due to the company. The remaining assets were distributed to the shareholders in the proportion of their shareholding. The market value of 6 acres of agricultural land (In an urban area) as on 31.7.2023 is ₹ 10,00,000 per acre.

The agricultural land received above was sold by Ms. Vasumathi on 28.2.2024 for ₹ 15,00,000.

Discuss the tax consequences in the hands of the company and Ms. Vasumathi.

15. X (63 years), a resident individual, transfers the following long-term capital assets during the previous year 2023-24—

	Agricultural land in urban area	Silver	Debentures	Gold
Date of transfer	April 12, 2023	Oct 7, 2023	Jan 3, 2024	Feb 26, 2024
Sale consideration (in ₹)	22,75,000	68,86,000	15,76,000	23,10,000

Indexed cost of acquisition (in ₹)	19,32,000	56,10,000	8,11,878	11,78,000
Expenditure on transfer (in ₹)	5,000	6,000	1,000	10,000

Debentures were purchased in 2012-13. Other assets were purchased before April 1, 2012. Indexed cost of acquisition is calculated by applying cost inflation index notified by the government. On April 1, 2023, x owns only one residential house property which is used for his own residence. For acquiring this property, a loan was taken from a friend in 2022 and interest on loan for the year 2023-24 is ₹ 1,46,000.

X makes following investments—

1. A residential house property of ₹ 18,00,000 is acquired on April 14, 2022.
2. NHAI bonds of ₹ 4,10,000 are purchased on October 5, 2023.
3. REC bonds of ₹ 9,00,000 are purchased on June 1, 2024.

Determine the amount capital gain chargeable to tax for the assessment year 2024-25.

16. Mr. A is a proprietor of Akash Enterprises having 2 units. He transferred on 01.04.2023 his Unit 1 by way of slump sale for a total consideration of ₹ 25 lacs. Unit 1 was started in the year 2004-05. The expenses incurred for this transfer were ₹ 28,000. His Balance Sheet as on 31.3.2023 is as under:

Liabilities	Total (₹)	Assets	Unit 1 (₹)	Unit 2(₹)	Total (₹)
Own Capital	15,00,000	Building	12,00,000	2,00,000	14,00,000
Revaluation Reserve (For building of unit1)	3,00,000	Machinery	3,00,000	1,00,000	4,00,000
Bank loan (70% for unit 1)	2,00,000	Debtors	1,00,000	40,000	1,40,000
Trade creditors (25% for unit 1)	1,50,000	Other assets	1,50,000	60,000	2,10,000
Total	**21,50,000**	**Total**	**17,50,000**	**4,00,000**	**21,50,000**

i. Revaluation reserve is created by revising upward the value of the building of Unit 1.
ii. No individual value of any asset is considered in the transfer deed.
iii. Other assets of Unit 1 include patents acquired on 1.7.2021 for ₹ 50,000 on which no depreciation has been charged.

Compute the capital gain for the assessment year 2024-25.

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17. X owned 5 acres of agricultural land within the city limits of madras which he had purchased on October 1, 2004 for ₹ 5,00,000. On October 1, 2023, he sold the agricultural land for ₹ 50,00,000. On January 1, 2023, he purchased a coffee estate for ₹ 10,00,000. The coffee estate was in a remote village and the nearest town was about 20 kilometers away from the state. On February 28, 2025, he sold the coffee estate for ₹ 35,00,000. You are required to compute the income chargeable under the head "capital gains" for the assessment years 2024-25 and 2025-26.
What would be your answer if the coffee estate was situated within the city limits of Ooty?

18. X ltd., a manufacturing company, owns the following assets on April 1, 2023:

Assets	Rate of depreciation	Written down value on April 1, 2023
Plant A	30%	4,00,000
Plant B	15%	8,50,000
Plant C	15%	28,00,000
Plant D	30%	38,000

X ltd. Purchases the following assets on March 10, 2024:

Assets	Rate of depreciation	Cost price (₹)
Plant E	30%	13,80,000
Plant F	15%	8,10,000

X ltd. sells the following plants during the previous year 2023-24:

Assets	Rate of depreciation	Sale consideration ₹	Expenses on transfer ₹
Plant C	15%	48,20,000	32,000
Plant A	30%	16,90,000	415

Determine the amount of depreciation and capital gain for the assessment year 2024-25. The company is not eligible for additional depreciation.

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Chapter 8

Income from Other Sources

Before we Begin,

All the possibilities which were not forming part of the previous heads of income covered in the syllabus are included here in this chapter called Income from Other Sources

You will learn about the following

- Chargeability section of income from other sources
- What includes in the other sources?
- Different treatments of various incomes
-

Empower yourself with tax knowledge for informed decision-making.

Happy learning!

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1. CHARGEABILITY - SEC.56

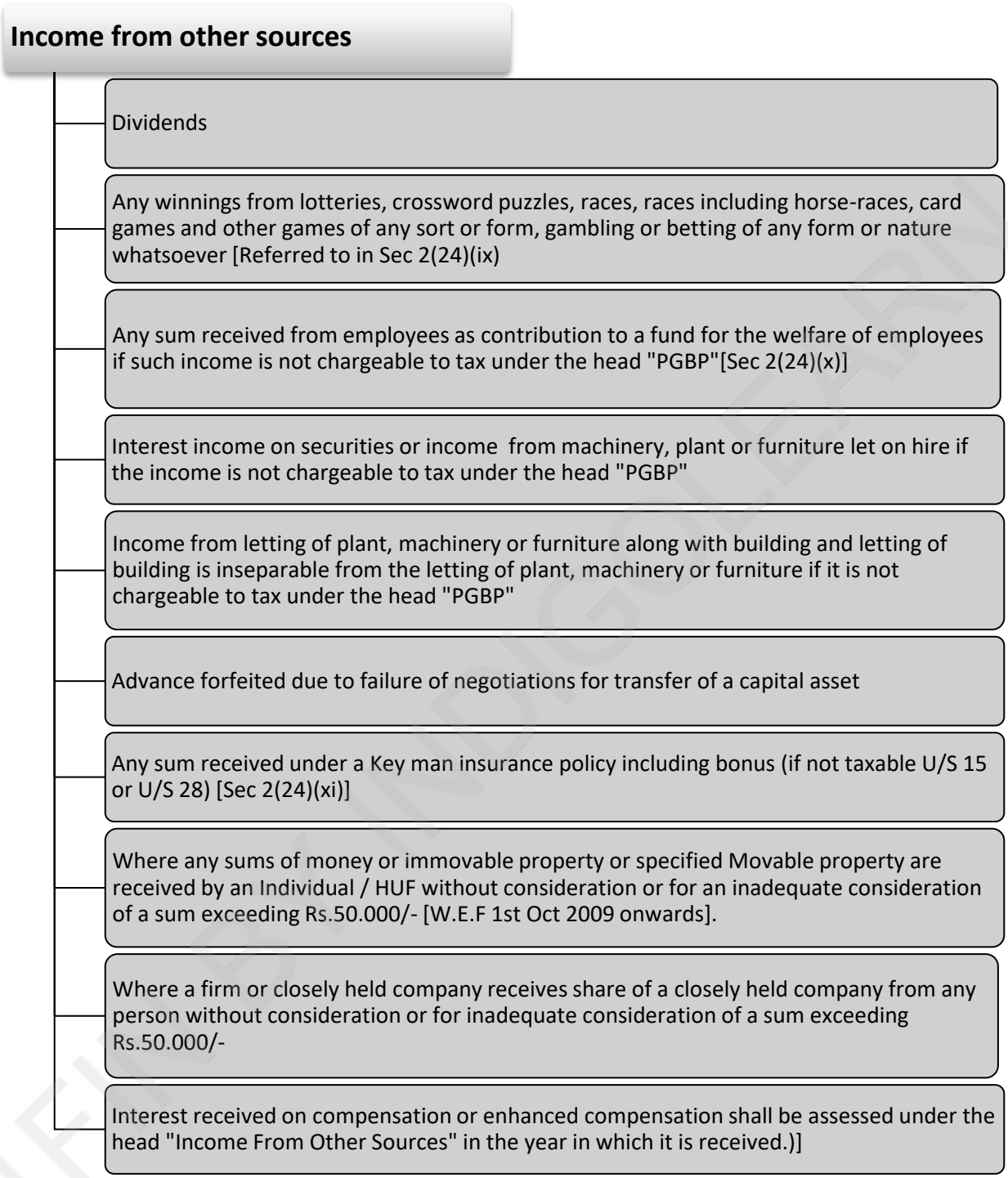
It is a last and residual head of income in the income tax Act 1961. Generally, the incomes which are not covered under other four heads of incomes are covered under this head of income. However, Sec 56(2) specifies incomes which are always taxable under this head of Income from Other Sources.

1.1. The following incomes are generally taxable U/S 56(1) since they are outside the scope of the preceding heads:

- Income from sub letting
- Interest on bank deposits and loans, Interest on foreign government securities, Interest on income tax refunds
- Income from royalty (if not chargeable under PGBP)
- Director's fees, Director's commission for standing as a guarantor to bankers. Director's commission for underwriting shares of a new company
- Ground Rent, rent of plot of land [i.e rent from a vacant piece of plot of land]
- Agricultural income received from outside India
- Insurance commission
- Remuneration received by a person from a person other than his employer, eg: examination remuneration received by a teacher
- Mining rent and royalties
- Casual income
- Annuity payable under a will, contract, trust, deed (does not cover annuity payable by employer which is chargeable under the head "salaries")
- Salaries payable to a Member of Parliament.
  [However, U/S 10(17), the daily allowances, constituency allowances received by MLAs / MPs are exempt and all other allowances are taxable].
- Family pension received by family members of a deceased employee
- In the case of retirement, interest on employee's contribution if provident fund is unrecognized.
- Income from undisclosed sources
- Gratuities paid to director who is not employee of the company
- Compensation received for use of business assets

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1.2. Incomes always chargeable under the head "IOS":



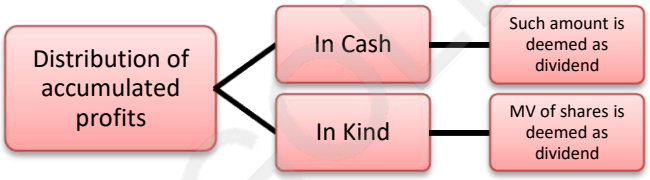
As per Sec 56(2), the following incomes are always chargeable to tax under the head "Income from other sources''.

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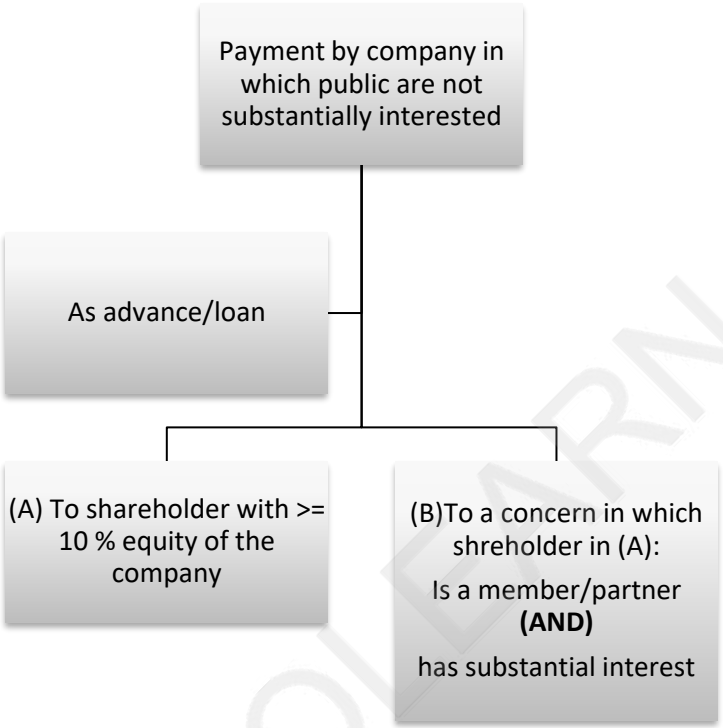
1) Dividend:

- Dividend is to be taxed in the year in which it is distributed, declared or paid whichever is earlier. Normal dividend declared at the annual general meeting is deemed to be the income of the previous year of shareholder in which it is declared
- In the case of interim dividend it will be taxed in the year in which it is unconditionally made available to the investors.

DEEMED DIVIDEND – SEC 22(2):

Clause	Particulars	Points to be Noted
(a)	Distribution of accumulated profits, entailing the release of company's assets	**Deemed as dividend** - whether capitalised or not - should entail the release of all or any part of the company's assets. 
(b)	Distribution of debentures, deposit certificates to shareholders and bonus shares to preference shareholders	- to the extent of accumulated profits (whether capitalized or not) - MV of bonus shares = Deemed Dividend - MV of bonus shares = Deemed Dividend (if no MV – valuation as per accepted principles)
(c)	Distribution on liquidation	- to the extent of accumulated profits before liquidation (whether capitalized or not) - distribution after liquidation in not dividend
(d)	Distribution on reduction of capital	- to the extent of accumulated profits (whether capitalized or not)

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(e)	Advance or loan by a closely held company to -its shareholders -specific concern	 Also, any payments by such a closely held company on behalf of, or for the individual benefit of any such shareholder will also be deemed to be dividend. However, in both cases the ceiling limit of dividend is to the extent of accumulated profits. **Exceptions (Not deemed as dividend):** 1. Loan granted in the ordinary course of business 2. Dividend paid is set off against the deemed dividend

Other Exceptions:

- Distribution in respect of non-participating shares issued for full cash consideration - Any distribution made in accordance with (c) or (d) in respect of any share issued for full cash consideration and the holder of such share is not entitled to participate in the surplus asset in the event of liquidation.
- Payment on buy back of shares
- Distribution of shares to the shareholders on demerger by the resulting company

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Notes:

- Trade advances, which are in the nature of commercial transactions, would not fall within the ambit of the word 'advance' in section 2(22)(e) and therefore, the same would not to be treated as deemed dividend – ***CBDT Circular***

2) Taxability of Winnings from Lottery etc. - Sec. 115BB

- Where the total income of an assessee includes any income by way of winnings from any lottery or crossword puzzle or race including horse race or card game and other game of any sort of from gambling or betting of any form, tax shall be calculated at the rate of 30% on such income plus surcharge and education cess as applicable.

Lottery income shall be grossed up as under:

$$\text{Lottery Income} = \frac{\text{(Net Income) x 100}}{\text{(100\% - TDS rate)}}$$

- The taxability of income in the nature of winnings from any lotteries, crossword puzzles, race etc. is subject to the following:
  - No expenditure or allowance can be allowed against such income;
  - No deduction under Chapter VI-A shall be allowed;
  - No benefit of carry forward and set off of loss / unabsorbed depreciation allowance is available against such income; and
- No basic exemption limit is available.
- This provision does not apply to income derived from owning and maintaining race horses as a business activity in respect of which normal rates of tax shall apply. Loss suffered from this source shall be governed by the provisions of Sec.74A.
- **Obligation to deduct Tax at Source with respect to winnings from lotteries, cross word puzzles or card game or any other game (Sec 194B):** The person responsible for paying to any person any income by way of winnings from lotteries, cross word puzzles or card game or any other game of any sort shall, at the time of payment thereof, deduct income-tax thereon at the rate of 30%.
- **Obligation to deduct tax at source with respect to winnings from Horse race (Sec 194BB):** Any person who is responsible for paying to any person any income by way of winnings from Horse race shall, at the time of payment thereof, deduct income-tax thereon at the rate of 30%.

3) Section 115BBJ: Winnings from Online Games

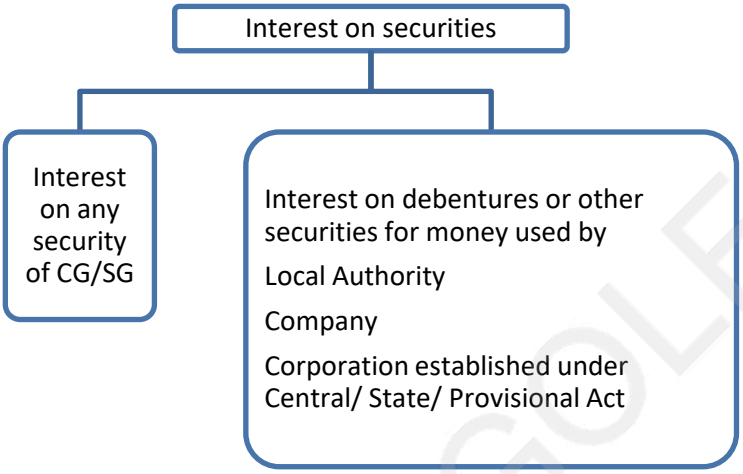
Net winnings from any online games would be taxed at a flat rate of 30 percent. Online games means a game that is offered on the internet

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and is accessible by a user through a computer resource including any telecommunication device.

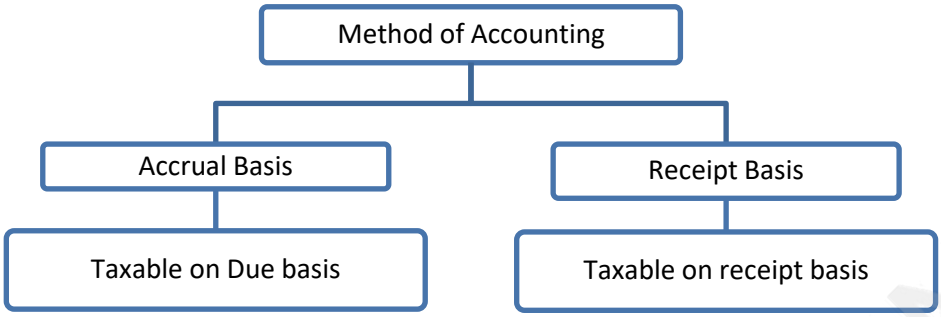
4) Interest on securities:

Income by way of interest on securities is taxable under the head "IOS" if the same is not taxable as business income U/S 28.



- For the purpose of this section the word security does not include shares and stock in a company
- Interest on securities mean: -
  - Interest on any security of the Central government or State government
  - Interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a central, state or provincial Act.
- **Basis of charge:**
  - Interest on securities may be taxed on receipt or due basis, depending upon the method of accounting regularly employed by the assessee.
  - If no system of accounting is followed, it will be taxed on due basis.

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Interest income exempt U/S 10(15):

- Interest from notified bonds
- Post office savings bank account to an extent of ₹3,500 for an individual account and ₹7,000 for a joint account.
- Interest on bonds, issued by –

(a) a local authority; or

(b) a State Pooled Finance Entity

and specified by the Central Government by notification in the Official Gazette.

5) Income from machinery, plant or furniture let on hire:

Income from machinery, plant or furniture belonging to the assessee and let on hire is taxable as income from other sources if the same is not taxable under the head "PGBP".

6) Taxability of immovable property acquired by way of gift- Sec 56

If an individual or HUF receives on or after October 1, 2009 a gift (Sums of money or immovable property or Movable property being shares and securities, jewellery, bullion (w.e.f 1st June 2010), archaeological collections, drawings, paintings, sculpture or any work of art), it is chargeable to tax in the hands of the recipients under the head "Income from Other Sources".

a) Valuation

- **In case of immovable property**

  The value of property shall be stamp duty value of the property.

- **In case of jewellery**

  The FMV of jewellery shall be estimated to be the price which such jewellery would fetch if sold in open market on the valuation date. If jewellery is received by way of purchase on the valuation date, from a registered dealer, the invoice value of jewellery shall be the FMV. In case these items are received by any other mode and the value exceeds Rs. 50000, then the assessee may obtain the report

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of registered valuer in respect of the price it would fetch if sold in open market on the valuation date.

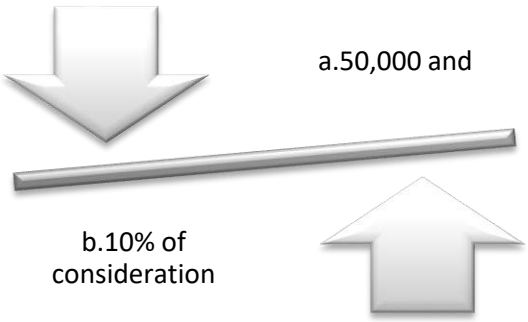
- **In case of quoted shares and securities (received by way of transactions carried out through a recognized stock exchange)**
  The FMV of such shares and securities shall be the transaction value as recorded in such stock exchange.
- **In case of quoted shares and securities (not being received by way of transactions carried out through a recognized stock exchange)**.
  The FMV of such shares and securities shall be the lowest price of such shares and securities quoted on any stock exchange on the valuation date. If, however, on the valuation date such shares and securities are not traded on any recognized stock exchange, the lower price of such shares and securities on a date immediately preceding the valuation date shall be the FMV.
- **In case of unquoted equity shares**
  - The fair market value of unquoted equity shares shall be-

  (a) (Assets-Liabilities) * Paid-up value of equity shares/ paid up equity share capital
- **In case of other unquoted shares and securities**
  The fair market value shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a Category -I merchant banker (registered with SEBI) or a chartered accountant in respect of such valuation.

b) Receipt of property in kind (movable and immovable) is taxable only if it is a capital asset in the hands of the recipient.
Thus, Sec 56(2)(x) has five categories of gifts received:

- Sums of money [Aggregate During the previous year]
- Movable property being shares and securities, jewellery, bullion, archaeological collections, drawings, paintings, sculpture or any work of art [Aggregate During the previous year] [Bullion is inserted w.e.f 1st June 2010] without consideration
- Movable property for inadequate consideration
- Immovable property [Each single transaction] without consideration
- Immovable property received by an individual or HUF for inadequate consideration to attract the taxability provisions under section 56(2)(x), if the difference between the stamp duty value and actual consideration is more than the higher of:

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*However, the above 10% would be considered as 20% in case of a residential unit received from a person holding such property as stock-in trade subject to following conditions: *

(i) The residential unit is transferred during the period between 12.11.2020 and 30.6.2021;

(ii) Such transfer is by way of first-time allotment of the residential unit and

(iii) The consideration paid or payable as a result of such transfer ≤ ₹ 2 crores.

The taxability provisions under section 56(2)(x) are summarised hereunder -

	Nature of asset	Particulars	Taxable value
1	Money	Without consideration	The whole amount if the same exceeds ₹50,000 in aggregate.
2	Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds ₹ 50,000.
3	Movable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹ 50,000
4	Immovable property	Without consideration	The stamp value of the property, if it exceeds ₹ 50,000.
5	Immovable property	Inadequate consideration	The difference between the stamp duty value and the consideration, if such difference exceeds ₹ 50,000 or 10/20% of the consideration.

In case where the date of agreement and date of registration are not same, stamp duty value may be taken as on the date of agreement instead of the date of registration. However, this would apply only in a case where the amount of consideration or part thereof has been paid by any mode other than cash on or before the date of agreement for transfer of such immovable property.

If the stamp duty value of immovable property is disputed by the assessee, the Assessing Officer may refer the valuation of such property to a Valuation Officer.

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c) Exempted categories (Non-applicability of Sec 56(2)(x)):

- Gifts received from a relative; or
- On the occasion of marriage of the individual; or
- Under a Will or by way of inheritance; or
- In contemplation of the death of the payer or donor as the case may be; or
- From a local authority; or
- From a Trust / Institution registered U/S 12AA; or
- From fund / foundation, University or other Educational Institution, hospital or other medical institution, or any trust / other Institution referred to in Sec 10(23C)
- Any transfer which is not regarded as transfer under section 47(i)/(iv)/(v)/(vi)/(vib)/(vid)/(vii).
- From an individual by a trust created or established solely for the benefit of relative of the individual.
- From such class of persons and subject to such conditions, as may be prescribed.
- by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his ***family***, for any illness related to COVID-19 subject to conditions notified by the Central Government ***(Amended by Finance Act, 2022)***
- by a member of the ***family*** of a deceased person -

(A) from the employer of the deceased person (without any limit); or

(B) from any other person or persons to the extent that such sum or aggregate of such sums ≤ ₹ 10 lakhs,

where the cause of death of such person is illness related to COVID-19 and the payment is—

(i) received within 12 months from the date of death of such person; and

(ii) subject to such other conditions notified by the Central Government.

In the above 2 cases family in relation to an individual means

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual

(Amended by Finance Act, 2022)

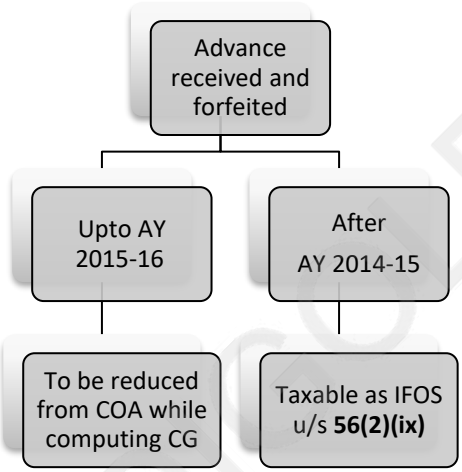
- "Relative" means:
  - Spouse of the individual;
  - Brothers and sisters of the individual;
  - Brothers and sisters of either of the parents of the individual;
  - Any lineal ascendant or descendent of the individual;
  - Any lineal ascendant or descendent of the spouse of the individual;
  - spouse of any of the persons referred above

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- ❖ In case of Hindu Undivided Family, any member.

7) Advance forfeited due to failure of negotiations for transfer of a capital asset to be taxable as "Income from other sources" [Section 56(2)(ix)]

- ➢ This section provides for the taxability under IFOS of any sum of money, received as an advance or otherwise which was forfeited in the course of negotiations for transfer of a capital asset, since the negotiations did not materialize.



8) Proceeds from key man insurance policy [Sec 56(2)(iv):

- ➢ Keyman Insurance policy is a policy taken on the life of one person (keyman) by another person (businessman) in whose organization the first mentioned persons plays a key role.
- ➢ The relationship between the two persons could be that of a principal and agent or a contractor and contractee.
- ➢ The premium paid on such policy qualifies for deduction as business expenditure in the hands of the payer (businessman), if it can be established that the policy has been taken on the life of key person in the interest of the business.

- ➢ **Tax treatment of maturity proceeds:**

Policy matures in the hands of businessman	It is taxable in his hands u/s 28 as "PGBP"
Policy is assigned to the Keyman (being employee of the businessman)	It is taxable in his hands u/s 17(3) as "salaries"
Policy is assigned to the keyman (being agent or contractee of the businessman)	It is taxable in his hands u/s 56 as "IFOS"

2. SHARE PREMIUM IN EXCESS OF FAIR MARKET VALUE {Section 56(2)(viib)}:

If a company in which public are not substantially interested, receives from any resident person any consideration for issue of shares in excess of face value of shares, then the aggregate consideration for which shares exceed the FMV of such shares shall be chargeable to tax in the hands of Recipient Company under "IFOS".

The FMV will be higher of the following:

- As determined as per the prescribed method
- As may be substantiated by the company to the satisfaction of I.T. Department based on the value of its assets.

NOTE: If after issue of shares, the company becomes a public substantially interested company but before 31st March of the financial year, then above provisions will not be applicable since it will become a company in which public is interested as per section 2(18) for the whole financial year.

Example:

Co.	No. of shares	Face value of shares (₹)	FMV of shares (₹)	Issue price of shares (₹)	Applicability of section 56(2)(viib)
Example 1:					
A (P) Ltd.	10,000	100	120	130	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium (i.e., issue price exceeds the face value of shares). The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). ₹ 1,00,000 [10,000 × ₹ 10 (₹ 130 - ₹ 120)] shall be treated as income in the hands of A (P) Ltd.
Example 2:					
B (P) Ltd.	20,000	100	120	110	The provisions of section 56(2)(viib) are attracted since the shares are issued at a premium. However, no sum shall be chargeable to tax in the hands of B (P) Ltd. under the said section as the shares are issued at a price less than the FMV of shares.
Example 3:					
C (P) Ltd.	30,000	100	90	98	Section 56(2)(viib) is not attracted since the shares are issued at a discount, though the issue price is greater than the FMV.
Example 4:					

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D (P) Ltd.	40,000	100	90	110	The provisions of section 56(2)(viib) are attracted in this case since the shares are issued at a premium. The excess of the issue price of the shares over the FMV would be taxable under section 56(2)(viib). Therefore, ₹ 8,00,000 [40,000 × ₹ 20 (₹ 110 - ₹ 90)] shall be treated as income in the hands of D (P) Ltd.

3. INTEREST ON COMPENSATION OR ENHANCED COMPENSATION- SEC 56(2)(VIII)+ SEC 57(IV)

Interest received by an assessee on compensation/ enhanced compensation, as the case may be, shall be deemed to be the **income of the year** in which **it is received**. It is assessable U/H IFOS. 50% of Interest is allowed as deduction U/s 57(iv).

4. DEDUCTIBLE EXPENSES - SEC.57

Type of Income	Deduction Allowed
Dividend or income in respect of units of a mutual funds /unit of a specified company	Interest expenditure to earn such income (maximum of 20% of such income included in the total income, without deduction under this section)
Interest on securities	Any reasonable sum paid by way of commission or remuneration, for the purpose of realizing Interest on Securities.
Recovery from employees as contribution to any provident fund etc. in terms of section 2(24)(x)	Contribution remitted before the due date under the respective Acts
Income from letting on hire of machinery, plant and furniture, with or without building	Repairs, Insurance premium paid, depreciation
Family pension	Lower of- i. 33.33% of the Family pension or ii. ₹ 15,000
In case of income u/s 56(2)(viii)	50% of such income (No deduction u/s 57)

- Any other expenditure incurred by the assessee not being capital expenditure but laid out or expended wholly or exclusively for the purpose of marking or earning any income chargeable under this head of income can be claimed.

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5. INADMISSIBLE EXPENSES - SEC.58

- Personal expenses;
- Interest and salary payable outside India, if tax has not been paid or deducted at source;
- Income tax & Wealth-tax paid;
- Expenses of the nature described in Sec.40A;
- Any expenditure in respect of which a payment is made to a related person and the Assessing Officer considers it to be unreasonable having regard to the FMV.
- No deduction shall be allowed in respect of winnings from lotteries, cross word puzzles, card games, races including horse race, gambling, betting, etc. However, in respect of the activity of owning and maintaining racehorses, expenses incurred shall be allowed even in the absence of any stake money earned. Such loss shall be allowed to be carried forward in accordance with the provisions of sec.74A.
- 30% disallowance of expenditure if TDS has been deducted/ deducted and not paid before due date of return filing as in section 139(1).

6. DEEMED INCOME - SEC.59

Any amount received or benefit derived in respect of expenditure incurred or loss or trading liability allowed as deduction shall be deemed as income in the year in which the amount is received or the benefit is accrued. This provision is similar to that of sec. 41(1) under the head 'Profits and gains of business or profession"'

Section 56(2)(xiii):

As per section 56(2)(xiii), any sum received under a life insurance policy is computed as taxable income however, the same is exempt if the following condition is satisfied:

- If the same is exempt under section 10(10D)
- Where the premium payable should not exceed 10% or 15% (in case of severe disability or suffering from specified diseases) of the actual capital sum assured, for any of the years (during the term of the policy); or
- the sum is received on the death of a person; or
- if the amount of premium payable for LIP for any previous year during the term of policy does not exceed 5 Lakhs (where the policy is issued on or after 1 April 2023)

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Problems

1. State whether the following are chargeable to tax under the head "Income from other sources" and if so, what is the amount liable to tax
   a) Mr. X received a cash gift of ₹ 75,000 from PS charitable trust (Registered under section 12AA) in January 2024 for meeting his medical expenses
   b) Mr. Y & sons (HUF) received ₹ 60,000 in cash from elder son of Y. Y is the Karta of the HUF
   c) Interest on enhanced compensation of ₹ 1,00,000 was received as per court decree in March, 2024 by Mr. Atul. Out of the said amount, a sum of ₹ 70,000 related to preceeding financial year
   d) Anil took a loan of ₹ 18,00,000 from Reliance Power Ltd., in which he is holding 15% of equity shares. On the date of granting the loan, the Company had accumulated profit of ₹ 75,00,000
   e) Interest of ₹ 5,000 on bank FDRs received by minor son of Sneha (Widow). These FDRs were made by the minor son out of his earnings from application of his painting skills.

2. On 10.10.2023, Mr. Govind (a bank employee) received ₹ 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2011-12. Out of this interest, ₹1,50,000 relates to the financial year 2020-21; ₹ 1,65,000 to the financial year 2021-22; and ₹1,85,000 to the financial year 2023-24. He incurred ₹50,000 by way of legal expenses to receive the interest on such enhanced compensation.

   How much of interest on enhanced compensation would be chargeable to tax for the assessment year 2024-25?

3. The following details have been furnished by Mrs. Hemali pertaining to the year ended 31.3.2024:
   a. Cash gift of ₹ 51,000 received from her friend on the occasion of her "Shastiaptha Poorthi", a wedding function celebrated on her husband completing 60 years of age. This was also her 25th wedding anniversary.
   b. On the above occasion, a diamond necklace worth ₹ 2 lacs were presented by her sister living in Dubai.
   c. When she celebrated her daughter's wedding on 21.2.2024, her friend assigned in Mrs. Hemali's favour, a fixed deposit held by the said friend in a scheduled bank; the value of the fixed deposit and the accrued interest on the said date was ₹ 51,000.

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Compute the income, if any, assessable as income from other sources.

4. Rahul holding 28% of equity shares in a company took a loan of ₹5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of ₹4,00,000. The company is engaged in some manufacturing activity.
   a. Is the amount of loan taxable as deemed dividend in the hands of Rahul, if the company is a company in which the public are substantially interested?
   b. What would be your answer, if the lending company is a private limited company (i.e., a company in which the public are not substantially interested)?

5. From the following particulars of Pankaj for the previous year ended 31st March, 2024, compute the income chargeable under the head "Income from other sources":

Particulars	**₹**
Directors fee from a company	10,000
Interest on bank deposits	3,000
Income from undisclosed source	12,000
Winnings from lotteries (Net)	35,000
Royalty on a book written by him	9,000
Lectures in seminars	5,000
Interest on loan given to a relative	7,000
Interest on debentures of a company (listed in a recognised stock exchange) net of taxes	3,600
Interest on Post Office Savings Bank Account	500
Interest on Government Securities	2,200
Interest on Monthly Income Scheme of Post Office	33,000

He paid ₹ 1,000 for typing the manuscript of book written by him.

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6. Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961 -
   i. Shivam HUF gifted a car to daughter of Karta for winning the first prize in all India music competition.
   ii. Mrs. Parth received 200 shares of ABC Ltd. from her friend as a gift on occasion of her 50th marriage anniversary. The fair market value on that date was ₹ 150 per share. She also received jewellery worth ₹ 35,000 (FMV) from her niece on the same day.
   iii. Manish HUF received ₹ 55,000 in cash from nephew of Manish (i.e., son of Manish's sister). Manish is the Karta of Manish HUF.
   iv. Shivang, a member of his father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 12,00,000.

7. X ltd. Is a manufacturing Indian company. For the previous year ending March 31, 2024, net profit as per profit and loss account is ₹ 17,80,000. It is calculated after including compensation and interest of ₹ 4,05,000 as given below—
   a) X ltd. was the marketing agent of A inc. (a foreign company). The agency was terminated by the foreign company during April 2023. A compensation of ₹ 4,00,000 is received during January 2024 and it is credited to the profit and loss account of the year ending March 31, 2024.
   b) From the foreign company, X ltd. has collected an interest of ₹ 78,000. After deducting expenditure for collecting interest of ₹ 73,000, ₹ 5,000 is credited to the profit and loss account ₹ 73,000 is paid to a law firm for collecting this account.

   During the year 2006-07, Government of Punjab has acquired the land of X ltd and for which a compensation of ₹ 55,00,000 was paid in 2021-22. On appeal filed by X ltd., the Punjab high court increased the compensation to ₹ 80,00,000. Punjab government paid ₹ 25,00,000 on June 13, 2023. Along with enhanced compensation of ₹ 25,00,000, X ltd. has received interest of ₹ 3,00,000. It pertains to previous years 2006-07 to 2023-24. Interest and compensation are not credited to profit and loss account.

   Determine the net income and tax liability of x ltd. For the assessment year 2024-25 taking into consideration the following additional information—
   1. For realizing enhanced compensation and interest thereon, legal expenditure of the company is ₹ 1,40,000. It is not debited to current year's profit and loss account.
   2. X ltd. has contributed ₹ 61,500 towards national defense fund on August 15, 2023.
   3. X ltd. maintains books of accounts on mercantile basis.

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8. State whether the following are chargeable to tax and the amount liable to tax:
   - A sum of ₹1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.
   - Interest on enhanced compensation of ₹50,000 was received as per court decree in December 2023 by Mr. Yogesh. Out of the said amount, a sum of ₹35,000 relates to preceding financial years.

9. X (42 years) gives following information for the previous year 2023-24—

	₹
On December 1, 2023, he gets gift of house a from his friend B (stamp duty value is determined at ₹6,00,000)	6,00,000
On December 3, 2023, he gets gift of house B from C (who is father-in-law of his elder brother) (stamp duty value is ₹40,000; however, current market value is ₹65,000)	40,000
On December 7, 2023, X purchases a second-hand car for ₹70,000 from D (market value is, however, ₹3,00,000)	70,000
On December 14, 2023, X purchases a work of art for ₹5,00,000 from E (fair market value is ₹5,30,000)	5,00,000
On December 20, 2023, X purchases jewellery for ₹7,00,000 from F (FMV is ₹7,25,000)	7,00,000
On December 21, 2023, X purchases a painting for ₹4,00,000 from G (who is brother of Mrs. X) (FMV is ₹7,00,000)	4,00,000
On December 24, 2023, X purchases a commercial property for ₹20,00,000 from G (who is brother of Mrs. X) (FMV is ₹90,00,000)	20,00,000
On December 25, 2023, X gets a gift of 100 preference shares in A ltd. from J on December 25, 2023, stock exchanges are closed, and the lowest quotation on the immediately preceding working day in national stock exchange is ₹450	
On December 27, 2023, X gets a gift of government security from K (K is husband of X father's sister) (FMV on the date of gift is ₹4,00,000)	
On January 25, 2024, X gets a gift cheque of ₹1,00,000 from his friend L on his birthday.	1,00,000
On January 28, 2024, minor son of X gets the gift of ₹55000 from his elder brother of X's grandfather).	
Income of X from business	4,00,000
X contributes in public provident fund account of his minor son	30,000
X contributes in public provident fund account of his dependent mother	10,000

Determine the amount of net income of X for the assessment year 2024-25.

10. Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income Act, 1961—

a) Akhil HUF received ₹ 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the karta of the HUF.
b) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is ₹ 9,00,000.
c) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was Rs.100 per share. He also received jewellery worth ₹ 45,000 (FMV) from his nephew on the same day.
d) Kishan HUF gifted a car to son of karta for achieving good marks in XII board examination. The fair market value of the car is ₹ 5,25,000.
e) Ms. Kratika purchased a land from PMC co. a partnership concern for ₹ 7,15,000. The stamp duty value of the same was ₹ 12,00,000.

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Chapter 9

Clubbing of Income

Before we Begin,

Humans are evolved with responsibilities and duties of various things in every stage of life and in this context, it is a responsibility to pay taxes for the society in which you live in which can neither be neglected nor escaped.

There are several loopholes in the Tax laws through which income of the individual can be diverted or averted to reduce the tax liability. This chapter eliminates such loopholes by clubbing such income received in the hands of the other persons in the hands of such persons in whose hands it should actually be taxed.

You will learn about the following

- Various transfers made to escape income tax liability
- Various clubbing provisions
- Clubbing of relatives (Spouse/minor child) income
- Exceptions and Deductions in various cases as such

Happy learning!

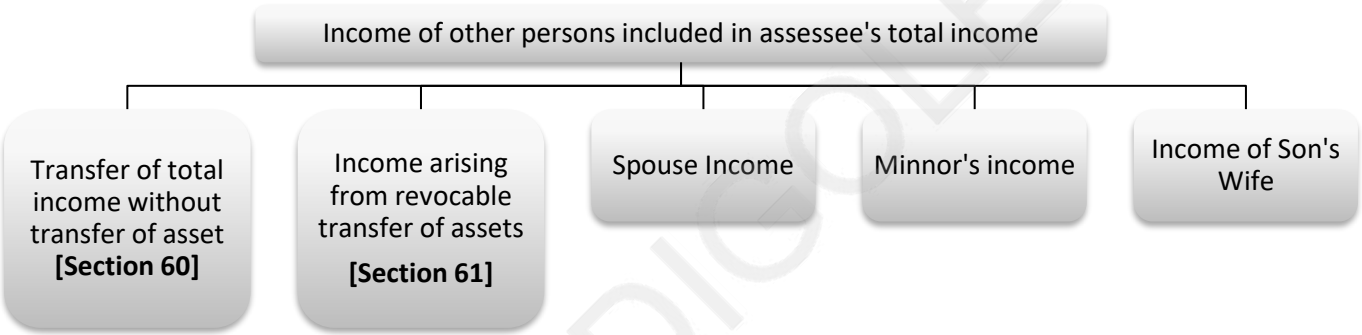


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1. INTRODUCTION

Generally, an assessee is taxed in respect of his own income. However, there are certain cases where an assessee has to pay tax in respect of income of another person under certain sections of the Act. Such provisions are discussed in this chapter.

In case of individuals the income tax on the income is earned is payable based on the rate of tax applicable at different slab rates. Therefore, since there is possibility of tax avoidance by way of diverting the income of an individual to avoid paying tax at a higher rate these provisions are brought into force.



2. Sec 60: TRANSFER OF INCOME WITHOUT TRANSFER OF ASSETS

- If the income is transferred, without transferring asset from which such income was generated, then such income is to be included/ clubbed to the income of transferor.
- **In the following cases, Clubbing is attracted u/s 60, even if: -**
  - Transfer is revocable or irrevocable
  - Transfer is made before or after commencement of Act.
  - Transfer is made to a closely connected person or not
  - Transferor is individual, firm, company or any other person.

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3. Sec 61: REVOCABLE TRANSFER OF ASSETS

Clubbing is attracted u/s 61, if there is a transfer of asset, and such transfer is revocable.

3.1. Meaning of Revocable Transfer [Sec 63(a)]: The following transfers are deemed to be revocable if: -

- It contains any provision for the re-transfer (directly or indirectly) of the whole or part of the income or assets to the transferor, OR
- It gives the transferor a right to re-assume power (directly or indirectly) over the whole or any part of the income of assets.

"This clubbing provision will operate even if only part of income of the transferred asset had been applied for the benefit of the transferor. Once the transfer is revocable, the entire income from the transferred asset is includible in the total income of the transferor."

3.2. Exceptions:

- **Clubbing u/s 61 is not attracted in following situations:**
  - a transfer by way of trust which is not revocable during the lifetime of the beneficiary; and,
  - any other transfer, which is not revocable during the lifetime of the transferee.

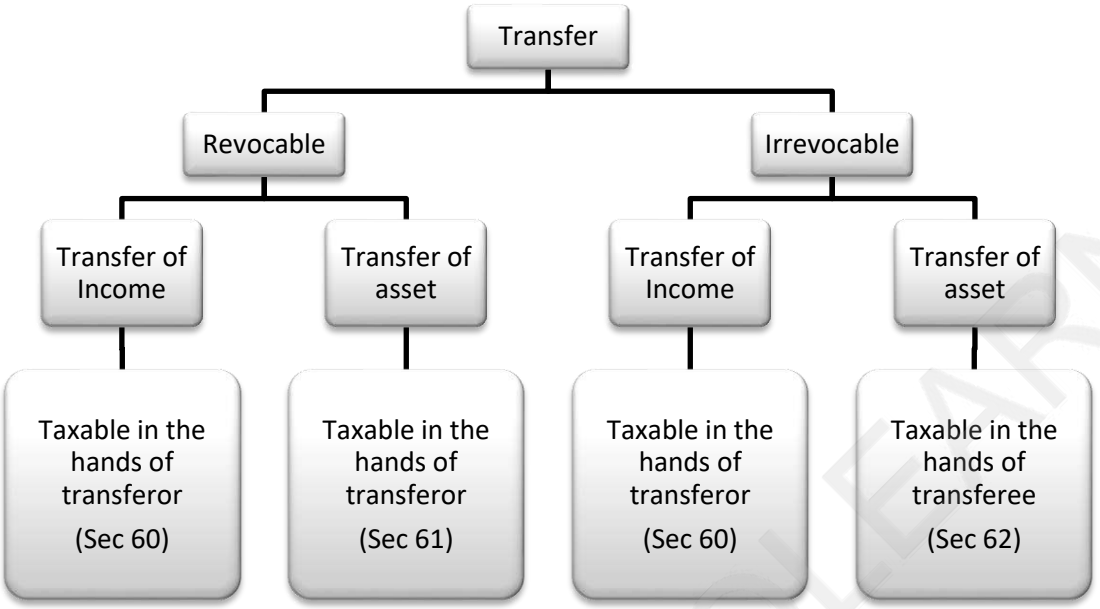
3.3. Points regarding Exceptions: -

- The exceptions stated above are allowed only if the transferor doesn't derive any direct or indirect benefit from income of the transferred asset.
- In these exceptions, the income shall become taxable in the hands of transferor as and when the power to revoke arises.

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4. Sec 63(b): MEANING OF TRANSFER

Transfer includes any settlement, trust, covenant, agreement or arrangement.



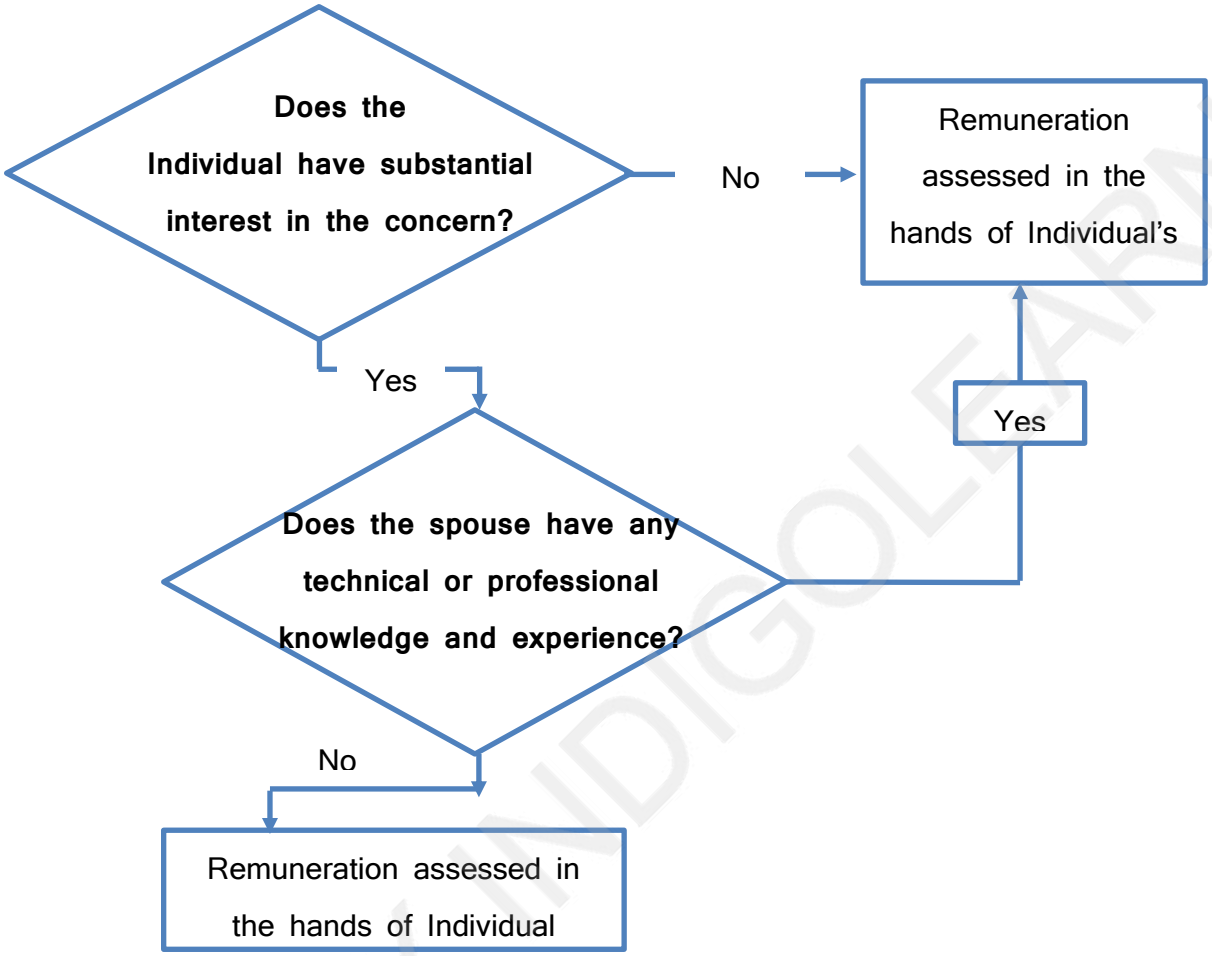
5. Sec 64(1)(ii): REMUNERATION OF SPOUSE FROM A CONCERN IIN WHICH THE OTHER SPOUSE HAS SUBSTANTIAL INTEREST

- Sec.64(1) is applicable if the following conditions are satisfied:
  1. The taxpayer is an individual and he has substantial interest in the concern.
  2. Spouse of the individual is in receipt of income from such concern by way of salary, commission, fees or other form of remuneration.
  3. Such income is not solely attributable to the application of spouse's technical or professional knowledge and experience.
- Salary, commission, fee or any other remuneration received by one spouse from a concern in which other spouse is substantially interested, then remuneration will be clubbed with the total income of that spouse who is substantially interested.

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5.1. Exceptions:

- Where such remuneration is attributable to application of technical or professional knowledge and experience of spouse. Any income other than remuneration- e.g., interest, dividend.



5.2. Both husband and wife have substantial interest in a concern, and both are in receipt of income by way of salary etc. from the said concern, such income will be includible in the hands of that spouse, whose total income, excluding such income is higher.

However, in the succeeding year such income shall not be included in the TI of the other spouse unless the AO is satisfied.

5.3. Meaning of Substantial Interest:

An Individual shall be treated as substantially interested-

1. **In a Company:**

   If such individual or such individual and his relatives are beneficial holders of at least 20% shares (in terms of voting power) of the company at any time during the previous year.

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2. In any other concern:

If such individual or such individual and his relatives are entitled to at least 20% share in profits of the concern at any time during the year.

6. Sec 64(1) (IV): TRANSFER OF ASSET TO SPOUSE

Subject to the provisions of section 27(i), Transfer of an asset, directly or indirectly, by one spouse to other spouse without adequate consideration, then income from such asset is to be clubbed to the income of transferor spouse.

6.1. Exceptions:

Provisions of clubbing are not applicable in following cases: -

- Where the transfer is made for adequate consideration.
- Where the transfer is made under an agreement to live apart.
- Where the transfer is made before marriage (i.e Pre-nuptial transfer).
- Income of the property acquired by spouse out of pin money
- Where the transferred asset is a house-property, rental income is not clubbable under this section, since section 27(i) shall become applicable in such a case.

However, if the transferee sells the house-property and earns capital gain, such capital gain shall be clubbed in the assessment of transferor.

6.2. Points:

Where the transferred asset is invested by the transferee in a business, the income shall be clubbed as follows-

1. If the investment is made in a partnership firm:

Income to be clubbed is:

(Interest from firm/ Total investment in the firm as on 1st day of PY) * (Investment out of transferred asset as on 1st day of PY)

Note: Share in profit of firm, being exempted u/s 10(2A), is not clubbable. Similarly, remuneration received from firm shall be due to person skill and hence not clubbable

2. If the investment is made in a proprietary business:

Income to be clubbed is:

(Business Income/ Total investment in the business as on 1st day of PY) * (Investment out of transferred asset as on 1st day of PY)

Husband and wife relationship should subsist both on the date of transfer of asset and on the date of accrual of income. Then only the provision of Sec 64(1)(iv) can be invoked.

However, it is to be noted that any income from the accretion of the transferred asset is not to be clubbed with the income of the transferor. i.e., income earned by investing such income (arising from transferred asset) cannot be clubbed.

Eg: The assessee gifted units to his spouse. The spouse received bonus units. Subsequently, she received interest on bonus units. Held that such interest cannot be clubbed since the Act makes provision for clubbing of income of transferred asset only and not of income of transferred asset.

7. Sec: 64(1)(vi): TRANSFER OF ASSET TO SON'S WIFE

- **Sec.64(1)(vi) is applicable if the following conditions are satisfied:**
  1. The taxpayer is an individual.
  2. He/she has transferred the asset after May 31, 1973.
  3. The asset is transferred to his/ her son's wife.
  4. The transfer may be direct or indirect.
  5. The asset is transferred otherwise than for adequate consideration.

7.1. Exceptions:

- Clubbing is not applicable in the following cases: -
  - Where the transfer is made for adequate consideration.
  - Where transfer is made before marriage.
- Where the transferred asset is invested by the transferee in a business, the income shall be clubbed in the same manner as discussed above in Section 64(1)(iv).
- The relationship of father-in-law or mother-in-law and daughter-in-law should subsist both at the time of transfer and at the time of accrual of income.

8. Sec: 64(1)(VII): TRANSFER FOR THE BENEFIT OF SPOUSE

If Income of an asset is transferred, directly or indirectly, by an individual to any person or AOP, for the immediate or deferred benefit of spouse, then such income is to be clubbed to the income of transferor.

8.1. Exception:

Clubbing is not applicable, if transfer is made for adequate consideration.

9. Sec: 64(1)(VIII): TRANSFER FOR THE BENEFIT OF SON'S WIFE

- **Sec.64(1)(viii) is applicable if the following conditions are satisfied:**

  1. The taxpayer is an individual.
  2. The asset is transferred to any person or AOP.
  3. The asset is transferred for the immediate or deferred benefit of his/ her son's wife.
  4. The transfer may be direct or indirect.

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5. The asset is transferred otherwise than for adequate consideration.

10. Sec: 64(1A): INCOME OF MINOR CHILD

➢ If Minor child suffers from any disability prescribed in u/s 80U, clubbing is not applicable.

➢ If Minor child does not suffer from any disability prescribed in u/s 80U, then clubbing is as follows: -

- ❖ Income attributable to use of talent, skill or manual work of such child - No clubbing,
- ❖ Other income of child - Clubbing Provisions applicable as follows: -

10.1. If both parents are live:

There can be two situations in this case-

If the marriage relationship of parents subsists:

Income shall be clubbed with income of that parent who has higher total income (before inclusion of child's income).

If the marriage relationship doesn't subsist:

Income shall be clubbed with the income of that parent who maintains such minor child during the previous year.

10.2. If only one parent is alive and no parent is alive:

In such a case, income shall be clubbed in the assessment of that parent. However, if no parent is alive then clubbing provisions shall not apply. *{No clubbing in the assessment of guardian}*

➢ 'Child' includes a stepchild and an adopted child. Further, it means son as well as daughter.

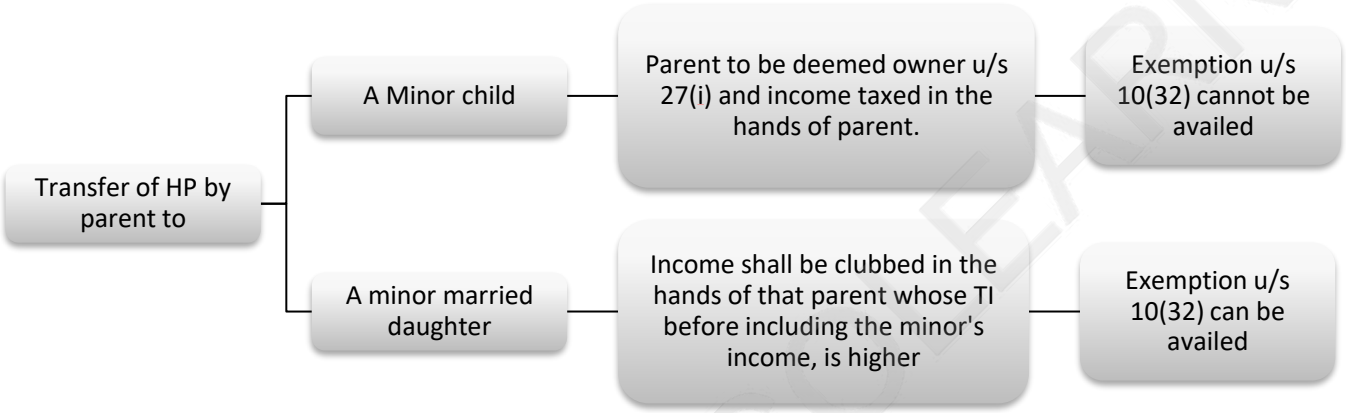
➢ Even if the minor child is married, clubbing of income shall be in the hands of parents.

➢ The assessee shall be entitled to claim exemption u/s 10(32). The amount of exemption is-amount of income required to be clubbed or ₹ 1500/-, whichever is

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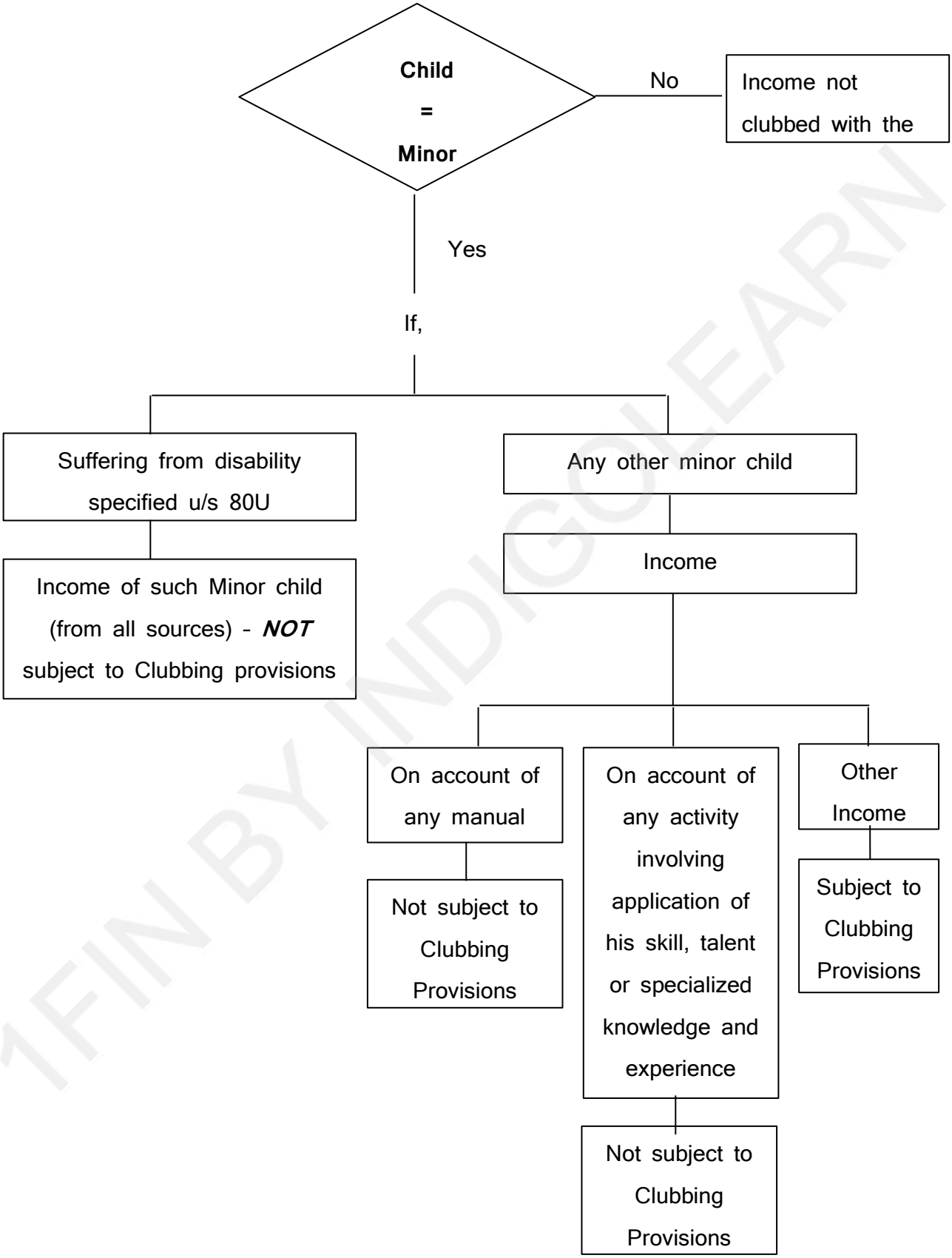
less. This calculation shall be made separately for each child. {Exemption is allowed only if the person is paying tax under optional tax regime}

- Deductions under chapter VI-A in relation to the income of minor child shall be allowed in the assessment of parent. Although income earned because of person skill, physical work etc, shall not be clubbed, yet the income earned by investment made out of such income shall be clubbed.



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Which income of the minor could be clubbed?



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11. Sec: 64(2): INCOME OF ASSETS TRANSFERRED TO HUF

Income of assets transferred, directly or indirectly, by an individual to his HUF (means such HUF in which the transferor is a member) then such income is to be clubbed to the income of transferor.

11.1. Exception:

Clubbing is not applicable, if transfer is made for adequate consideration.

Note:

- **If there has been no partition of HUF:**
  Entire income of the transferred assets is clubbed with the income of transferor.
- **If there has been a partition of HUF:**
  Income of the property allotted to the transferor and his spouse shall be clubbed with the income of transferor. [Note: Income of the property allotted to a minor child, if any, shall be subject to clubbing provision of section 64(1 A)].

12. CROSS TRANSFERS

In the case of cross transfers, the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise.

Eg: A making gift of ₹ 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him

Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to evade tax the implication of clubbing provisions would be attracted.

Accordingly, the income arising to Mrs. B from the house property will be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A.

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13. Sec: 65: RECOVERY OF TAX

Under sections 60 to 64 and section 27 of the Act, income is taxed in the hands of a person other than actual earner. In such a case, normally tax is recovered from the person in whose hands the relevant income is taxed /clubbed. However, section 65 gives an additional power to the Assessing Officer. It empowers him to recover tax from actual earner. For this purpose, the Assessing Officer will have to serve a notice of demand upon the actual earner.

However, the Assessing Officer can recover only that portion of tax as is attributable to the income clubbed where the transferred asset is held by more than one person, all such person shall be jointly and severally liable to pay the tax which is attributable to the income included in the assessee's taxable income.

14. OTHER POINTS:

- The income sought be clubbed retains its own character and head. Hence, the income shall be clubbed under respective heads.
- Clubbing provisions shall also be applicable for Negative Income.
- Income which is exempted under Income-tax act cannot be clubbed.

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Problems

1. Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife.

   Mrs. Kasturi claims that the amount of ₹ 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property.

   State with reasons whether the contention of Mrs. Kasturi is valid in law.

2. Compute the gross total income of Mr. & Mrs. A from the following information:

	Particulars	₹
(a)	Salary income (computed) of Mrs.A	2,30,000
(b)	Income from profession of Mr.A	3,90,000
(c)	Income of minor son B from company deposit	15,000
(d)	Income of minor daughter C from special talent	32,000
(e)	Interest from bank received by C on deposit made out of her special talent	3,000
(f)	Gift received by C on 30.09.2022 from friend of Mrs. A	2,500

   Brief working is sufficient. Detailed computation under various heads of income is NOT required.

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

4. Mr. Sharma has four children consisting of 2 daughters and 2 sons. The annual income of 2 daughters were ₹ 9,000 and ₹ 4,500 and of sons were ₹ 6,200 and ₹ 4,300, respectively. The daughter who has income of ₹ 4,500 was suffering from a disability specified under section 80U.

   Compute the amount of income earned by minor children to be clubbed in hands of Mr. Sharma.

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5. During the previous year 2023-24, the following transactions occurred in respect of Mr. A.
   a) Mr. A had a fixed deposit of ₹ 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 1-4-2023 to 31-3-2024 to the savings bank account of Mr. B, son of his brother, to help him in his education.
   b) Mr. A holds 75% share in a partnership firm. Mrs. A received a commission of ₹ 25,000 from the firm for promoting the sales of the firm. Mrs. A possesses no technical or professional qualification.
   c) Mr. A gifted a flat to Mrs. A on April 1, 2023. During the previous year, the flat generated
      a net income of ₹ 52,000 to Mrs. A.
   d) Mr. A gifted ₹ 2,00,000 to his minor son who invested the same in a business and he
      derived income of ₹ 20,000 from the investment.
   e) Mr. A's minor son derived an income of ₹ 20,000 through a business activity involving
      application of his skill and talent.

   During the year, Mr. A got a monthly pension of ₹ 10,000. He had no other income. Mrs. A
   received salary of ₹ 20,000 per month from a part time job.
   Discuss the tax implications of each transaction and compute the total income of Mr. A, Mrs. A and their minor child.

6. Mr. Vaibhav started a proprietary business on 01.04.2022 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2022-23. To overcome the financial position, his wife Mrs. Vaishali, a software Engineer, gave a gift of ₹ 5,00,000 on 01.04.2023, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2023-24.
   Compute the amount to be clubbed in the hands of Mrs. Vaishali for the Assessment Year 2024-25. If Mrs. Vaishali gave the said amount as loan, what would be the amount to be clubbed?

7. X is a salaried employee. For the year ending March 31, 2024, he submits the following information—
   a) On May 3, 2023, X purchases 2000 shares in A Ltd. at the rate of ₹ 60 per share. On May 5, 2023, these shares are gifted to Mrs. X. A Ltd. allots 1000 bonus shares to Mrs. X on January 30, 2024. On March 1, 2024, Mrs. X transfers 3000 shares

in A Ltd. for ₹ 400 per share to B outside stock exchange. On March 1, 2024, the lowest quotation of shares in A Ltd. at Bombay stock exchange is ₹ 700 per share.

b) On June 1, 2023, X purchases a house property for ₹ 18,00,000 (however, he pays stamp duty at the rate of 10 percent on ₹ 30,00,000). The house property is gifted to Mrs. X on February 1, 2024. Mrs. X transfers this property to C on March 31, 2024, for ₹ 40,00,000. Stamp duty value is ₹ 50,00,000.

Discuss the tax consequences of these transactions and calculate income from these transactions in the hands of X, Mrs. B and C.

8. Mr. Dhaval and his wife Mrs. Hetal furnish the following information:

Sl. No.	Particulars	₹
(i)	Salary income (computed) of Mrs. Hetal	4,60,000
(ii)	Income of minor son 'B' who suffers from disability specified in Section 80U	1,08,000
(iii)	Income of minor daughter 'C' from singing	86,000
(iv)	Income from profession of Mr. Dhaval	7,50,000
(v)	Cash gift received by 'C' on 2.10.2023 from friend of Mrs. Hetal on winning of singing competition	48,000
(vi)	Income of minor married daughter 'A' from company deposit	30,000

Compute the total income of Mr. Dhaval and Mrs. Hetal for the Assessment Year 2024-25.

9. The following are the particulars of income earned by Mr. Chandrapal and his family members:

	Particulars	₹
(i)	Income from Chandrapal' s profession	2,50,000
(ii)	Mrs. Chandrapal' s salary as primary teacher	1,06,000
(iii)	Minor son Arav (interest on fixed deposits with a bank which were gifted to him by his uncle)	12,000
(iv)	Arav also has income by way winnings from lottery (gross)	2,20,000
(v)	Minor daughter Pallavi's earnings from sports	1,05,000
(vi)	Cash gift received by minor married daughter Garima from friend of Mrs. Chandrapal	55,000
(vii)	Income of minor son Arvind, who suffers from disability specified in section 80U.	1,20,000

Discuss the tax implications in the hands of Mr. Chandrapal and Mrs. Chandrapal.

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Chapter 10

Set off and Carry forward of losses

Before we Begin,

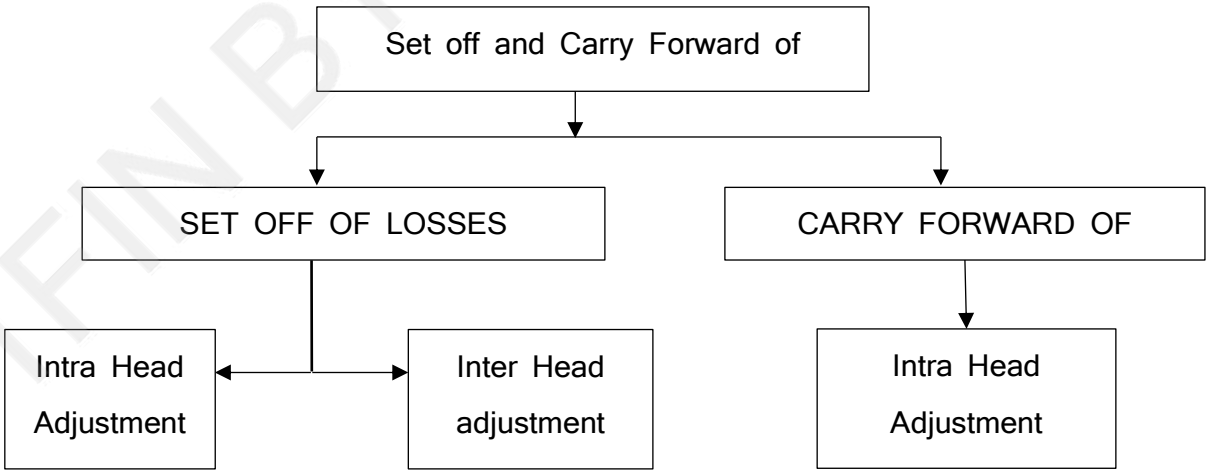
One of the major relaxations in income tax is the concept of setting off and carrying forward of losses against the income of the year which is taxable.

These provisions will be majorly helpful and beneficial to the assesses (all types) to reduce their tax liability by decreasing their taxable income in a prescribed manner.

You will learn about the following

- The concept of set off of losses
- The concept of carrying forward of losses
- Intra-head and Inter-head set off of losses
- Conditions to set off and carry forward losses
- Period of carrying forward of losses

Happy learning!



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1. INTRA HEAD ADJUSTMENT - Sec.70:

Where the net result of computation for any assessment year in respect of any source of income falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head. However, the following are the exceptions to the above rule;

- Loss from speculative business;
- Loss from the activity of owning and maintaining race horses; winnings from lotteries etc.
- Long term capital loss can be set off against L.T.C.G only;
- Loss in a business specified u/s 35AD

NOTE:

Loss from an exempt source cannot be set-off against profits from a taxable source of income.

2. INTER HEAD ADJUSTMENT – Sec 71:

Where the net result of the computation under any head of income in respect of any assessment year is a loss, the assessee shall be entitled to have such amount of loss set off against his income assessable for that assessment year under any other head of income. This rule of inter head adjustment is subject to the following exceptions;

- Loss under Profits & Gains of Business or Profession against salary income
- Loss under capital gains;
- The maximum loss from house property which can be set-off against income from any other head is 2 lakhs. {Provided person is paying tax under optional tax regime}
- Loss from speculative business;
- Loss from activity of owning & maintaining race horses, winnings from lotteries etc.
- Loss in a business specified u/s 35AD

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3. SET OFF OF LOSSES:

Types of Losses	Set off of loss within the same AY.	
	Inter source Adjustment	**Inter head adjustment (excluding winning from lotteries, cross word puzzles, card games etc)**
(1) Loss from House property	Available	Available up to a maximum of Rs. 2 Lakhs {if person is paying tax under optional tax regime}
(2) Business Losses:		
(a) Loss from non-speculation Business	Can be set off against income from speculation or non-speculation business	Available other than with salary income
(b) Loss from speculation Business	Can be set off against profit from speculation business only	Not available
(c) Loss from the business referred to in Sec. 35 AD **(Refer Note 1)**	Can be set off against profit from any other specified business referred to in Sec. 35 AD only	Not available
(3) Loss from sale of capital asset:		
STCL	Available	Not available
LTCL	Can be set off against only LTCG.	Not available
(4) Loss under the head income from other sources:		
(a) Loss from the activity of owning and maintaining racehorses. **(Refer Note 2)**	Can be set off against income from such business only. (Excluding winning from lotteries, cross word puzzles etc.)	Not available
(b) Loss from any other activity	Available	Available

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NOTE:

1. The loss of an assessee claiming deduction under section 35AD in respect of a specified business can be set-off against the profit of another specified business under section 73A, irrespective of whether the latter is eligible for deduction under section 35AD.
2. Meaning of certain terms:

Amount of loss incurred by the assessee in the activity of owning and maintaining racehorses	•(i) **In case assessee has no income by way of stake money** – amount of revenue expenditure incurred by the assessee wholly & exclusively for the purpose of maintaining race horses. •(ii) **In case assessee has income by way of stake money** - Loss = Stake money – revenue expenditure for the purpose of maintaining race horses.
Horse race	•A horse race upon which wagering, or betting maybe lawfully made.
Income by way of stake money	•The gross amount of prize money received in a horse race by the owner.

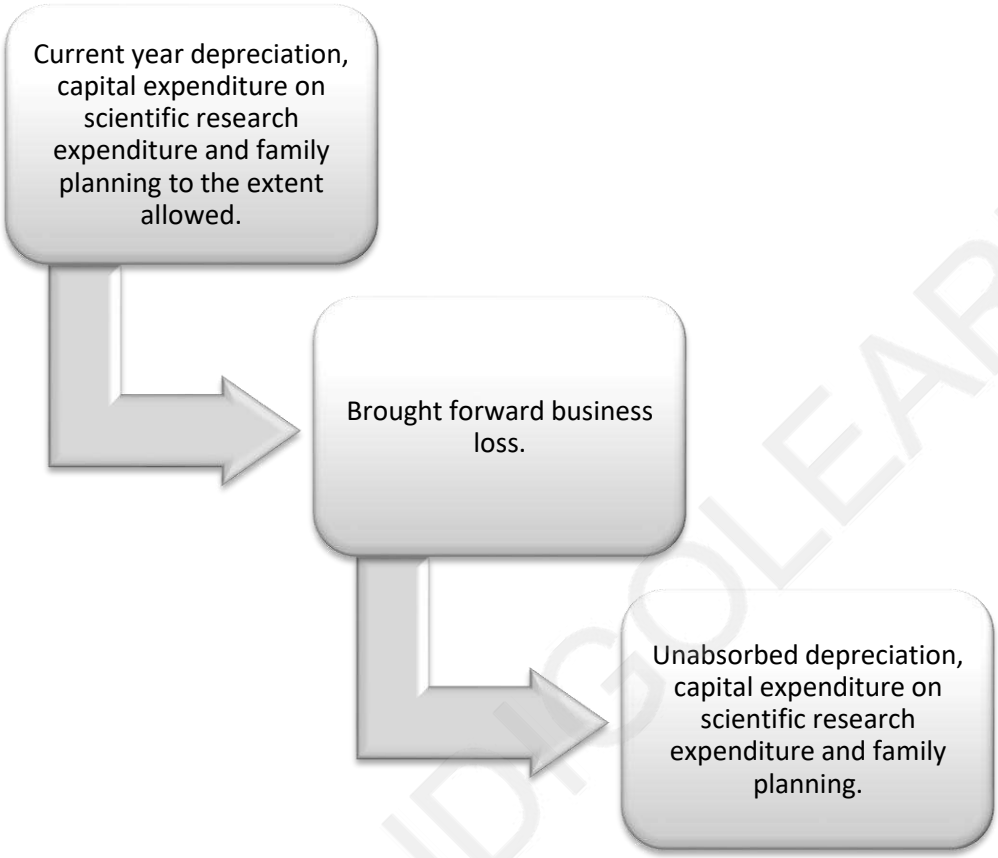
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4. CARRY FORWARD OF LOSSES:

Types of Losses	Carry forward of losses
(1) Loss from House property {Section 71B}	Can be carried forward and set off against income from House property for 8 years only.
Business Loss:	
(a) Loss from non-speculation Business **{Section 72}**	(a) Can be carried forward and setoff against the profits of any Business/profession. (b) The loss cannot be carried forward for more than 8 years (c) A loss cannot be carried forward unless loss return is filed within the time allowed U/S- 139(1) - 139(3) (d) For unabsorbed depreciation, capital expenditure on scientific research and family planning, the same can be carried forward for indefinite period and set off against any head of income other than salary. (e) Continuity of that business or profession is not necessary.
(b) Loss from speculation business **{Section 73}**	(a) Can be carried forward for 4 years (b) Can be set-off against profits from speculation business only. (c) **Shall not be applicable to a company the principal business of which is the business of trading in shares.** (d) Continuity of that speculation business is not necessary (e) Loss return should be submitted in time.
(c) Loss from the business referred to in Sec 35 AD {Section 73A}	(a) Brought forward loss can be set off only against income from the business referred to in Sec. 35AD. (b) Losses can be carried forward for indefinite period. (c) Loss return should be submitted in time.
(2) Loss under the head "Capital Gains" {Section 74}	(a) Can be carried forward for 8 assessment years (b) STCL can be set off against any income under the head "Capital Gains" only. (c) LTCL can be set off against LTCG only. (d) Return of loss should be submitted in time.
Loss under the head "Income from other sources":	
(a) Loss from the activity of owning and maintaining race horses {Section 74A}	(a) Can be carried forward for 4 years only (b) Can be set off against income from such activity only. (c) The activity of owning and maintaining race horses should continue in the year in which the brought forward loss is sought to be set off (d) Return of loss should be submitted in time.
(b) Loss from any other activity	Cannot be carried forward.

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Priority of Set off {Sec 72(2)}



5. SPECULATION BUSINESS LOSS – Sec 73:

- **When is a person deemed to carry on speculation business?**

  If the following conditions are satisfied, then the person is deemed to carry on speculation business:

  1. The assessee is a company.
  2. It is not a company whose gross total income consists mainly of income which is chargeable under the head Interest on securities, Income from house property, capital gains and Income from other sources.
  3. It is not a company the principal business of which is trading in shares, business of Banking or granting of loans and advances.
  4. The business of the company consists of purchase or sale of shares of other companies.

  If the above conditions are satisfied, such company shall be deemed to be carrying on speculation business to the extent to which the business consists of purchase or sale of shares of other companies.

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6. CHANGE IN CONSTITUTION AND SUCCESSION – Sec 78:

Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by way of inheritance, then the other person cannot have the loss of predecessor carried forward and set off against him income {Section 78(2)}

Problems

1. Mr. Sanjay furnishes the following particulars of his income relating to the assessment year 2024-25:

Particulars	₹
Income from salaries	2,40,000
Business loss (non-speculation)	1,00,000
Brought forward business loss relating to A.Y.2021-22	40,000
Loss from specified business (covered by section 35AD)	60,000
Long-term capital gain on sale of land	2,00,000
Short-term capital loss on sale of shares	40,000
Loss from betting	40,000
Winnings from lottery	60,000

Compute the gross total income of Mr. Sanjay for the assessment year 2024-25 and the loss to be carried forward.

2. X submits the following information for the year ending March 31,2024 –
   a) Income of Business A (non-speculative) ₹ (-) 5,00,000.
   b) Income of Business B (speculative): ₹ 6,00,000.
   c) Income from house property: ₹ 5,10,000.
   d) Winnings from lottery: ₹ 4,30,000.

   Determine the net income and tax liability of X for the assessment year 2024-25 taking into consideration the following additional information—
   1) Brought forward loss of Business B (speculative) is ₹ 5,80,000. This loss pertains to the assessment year 2020-21.
   2) Brought forward house property loss of the assessment year 2023-24 is ₹ 75,000.
   3) X wants to set off loss of Business A of the current year against winnings from lotteries and the remaining loss against house property income. This strategy X wants to adopt to avail set off of brought forward speculative loss against speculative income of the current year.

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3. The following data is given by X (64 years)—

Particulars	Amount (₹)
Business loss of the current year (before depreciation)	15,00,000
Depreciation of the current year	6,00,000
House property loss	60,000
Salary income	10,00,000
Short-term capital gain (house property)	50,000
Long-term capital gain (gold)	38,00,000
Long-term capital loss (shares, securities transaction tax is applicable)	14,00,000
X wants to set off the following losses pertaining to earlier years—	
Short-term capital loss of the assessment year 2017-18	60,000
Long-term capital loss of the assessment year 2016-17	28,00,000
Unabsorbed depreciation of the assessment year 2022-23.	2,00,000
Unabsorbed business loss of the assessment year 2022-23.	3,00,000

Taking into consideration the following additional, determine the net income and tax liability of X for the assessment year 2024-25—

1. Long-term capital loss of 2016-17 can be carried forward only up to the assessment year 2024-25. This loss cannot be carried forward in the next year. X wants to set off the entire loss of ₹ 28,00,000 against current year's long-term capital gain. However, the Assessing officer wants to set off entire current year business loss against long-term capital gain.
2. X wants to set off long-term capital loss (shares) against salary income.

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4. X, a resident individual, submits the following information, relevant for the previous year ending March 31, 2024:

Particulars	Amount (in₹)
Income from salary	8,00,000
Income from house property	
House 1	70,000
House 2	(-)52,000
House 3 (self-occupied)	(-)25000
Profits and gains of business or profession	
Business 1	2,00,000
Business 2	(-)75,000
Business 3 (speculative)	(-)1,60,000
Business 4 (speculative)	72,000
Capital gains	
Short-term capital loss	(-)83,000
Long-term capital gains on transfer of preference shares	70,000
Income from other sources	
Income from card games	80,000
Income from betting	70,000
Loss on maintenance of race horses	(-)1,20,000
Income from owning and maintaining race camels	2,00,000

Determine the net income for the assessment year 2024-25.

5. Mr. Batra furnishes the following details for year ended 31.03.2024:

Particulars	₹
Short term capital gain	1,40,000
Loss from speculative business	60,000
Long term capital gain on sale of land	30,000
Long term capital loss on sale of shares (securities transaction tax not paid)	1,00,000
Income from business of textile (after allowing current year depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000
Income from salary	1,00,000
Loss from house property	40,000

Following are the brought forward losses:

(i) Losses from activity of owning and maintaining race horses-pertaining to A.Y. 2021-22 ₹25,000.

(ii) Brought forward loss from business of textile ₹ 60,000 - Loss pertains to A.Y. 2016-17

Compute gross total income of Mr. Batra for the Assessment Year 2024-25. Also state the eligible carry forward losses for the Assessment Year 2025-26.

6. The following are the details relating to Mr. Srivatsan, a resident Indian, aged 57, relating to the year ended 31.3.2024:

Particulars	₹
Income from salaries	2,20,000
Loss from house property	1,90,000
Loss from cloth business	2,40,000
Income from speculation business	30,000
Loss from specified business covered by section 35AD	20,000
Long-term capital gains from sale of urban land	2,50,000
Loss from card games	32,000
Income from betting	45,000
Life Insurance Premium paid	1,20,000

Compute the total income and show the items eligible for carry forward.

7. Mr. P, a resident individual, furnishes the following particulars of his income and other details for the previous year 2023-24:

Sl. No.	Particulars	₹
(i)	Income from salary	18,000
(ii)	Net annual value of house property	70,000
(iii)	Income from business	80,000
(iv)	Income from speculative business	12,000
(v)	Long term capital gain on sale of land	15,800
(vi)	Loss on maintenance of race horse	9,000
(vii)	Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 1961, comes to ₹ 8,000, for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2023-24) are:

Sl. No.	Particulars	₹
(i)	Unabsorbed depreciation	9,000
(ii)	Loss from speculative business	16,000
(iii)	Short term capital loss	7,800

Compute the gross total income of Mr. P for the Assessment year 2024-25, and the

amount of loss that can or cannot be carried forward.

8. Mr. Alok furnishes the following details for year ended 31.03.2024:

Particulars	₹
Short term capital gain	1,65,000
Loss from speculative business	58,000
Long term capital gain on sale of land	27,000
Long term capital loss on sale of shares (securities transaction tax not paid)	1,06,000
Income from business of textile (after allowing current year depreciation)	73,000
Income from activity of owning and maintaining race horses	21,000
Income from salary	1,38,000
Loss from house property	66,000

Following are the brought forward losses:

(i) Losses from activity of owning and maintaining race horses - pertaining to A.Y.2021-22 ₹ 37,000.

(ii) Brought forward loss from business of textile ₹ 82,000 - Loss pertains to A.Y.2016-17.

Compute gross total income of Mr. Alok for the Assessment Year 2024-25. Also state the losses which are eligible for carry forward to the Assessment Year 2025-26.

9. Mr. A (aged 35 years) submits the following particulars pertaining to the A.Y.2024-25:

Particulars	Amount
Income from salary (computed)	4,00,000
Loss from self-occupied property	(-)70,000
Loss from let-out property	(-) 1,50,000
Business loss	(-)1,00,000
Bank interest (FD) received	80,000

Compute the total income of Mr. A for the A.Y.2024-25, assuming that he does not opt for the provisions of section 115BAC.

Solution:

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Computation of total income of Mr. A for the A.Y.2024-25

Particulars	Amount (₹)	Amount (₹)
Income from salary	4,00,000	
Less: Loss from house property of 2,20,000 to be restricted to 2 lakhs by virtue of section 71(3A)	(-) 2,00,000	2,00,000
Balance loss of 20,000 from house property to be carried forward to next assessment year		
Income from other sources (Interest on fixed deposit with bank)	80,000	
Business loss of 1,00,000 set-off to the extent of 80,000	(-) 80,000	-
Business loss of 20,000 to be carried forward for set-off against business income of the next assessment year		
Gross total income [See Note below]		**2,00,000**
Less: Deduction under Chapter VI-A		Nil
Total income		**2,00,000**

Notes:

(i) Gross Total Income includes salary income of 2,00,000 after adjusting loss of 2,00,000 from house property. The balance loss of 20,000 from house property to be carried forward to next assessment year for set-off against income from house property of that year.

(ii) Business loss of 1,00,000 is set off against bank interest of ₹ 80,000 and remaining business loss of 20,000 will be carried forward as it cannot be set off against salary income.

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Chapter 11

Deductions

Before we Begin,

Income Tax Deductions are the government's way to encourage certain savings and payments towards certain savings schemes like life insurance, health insurance etc.

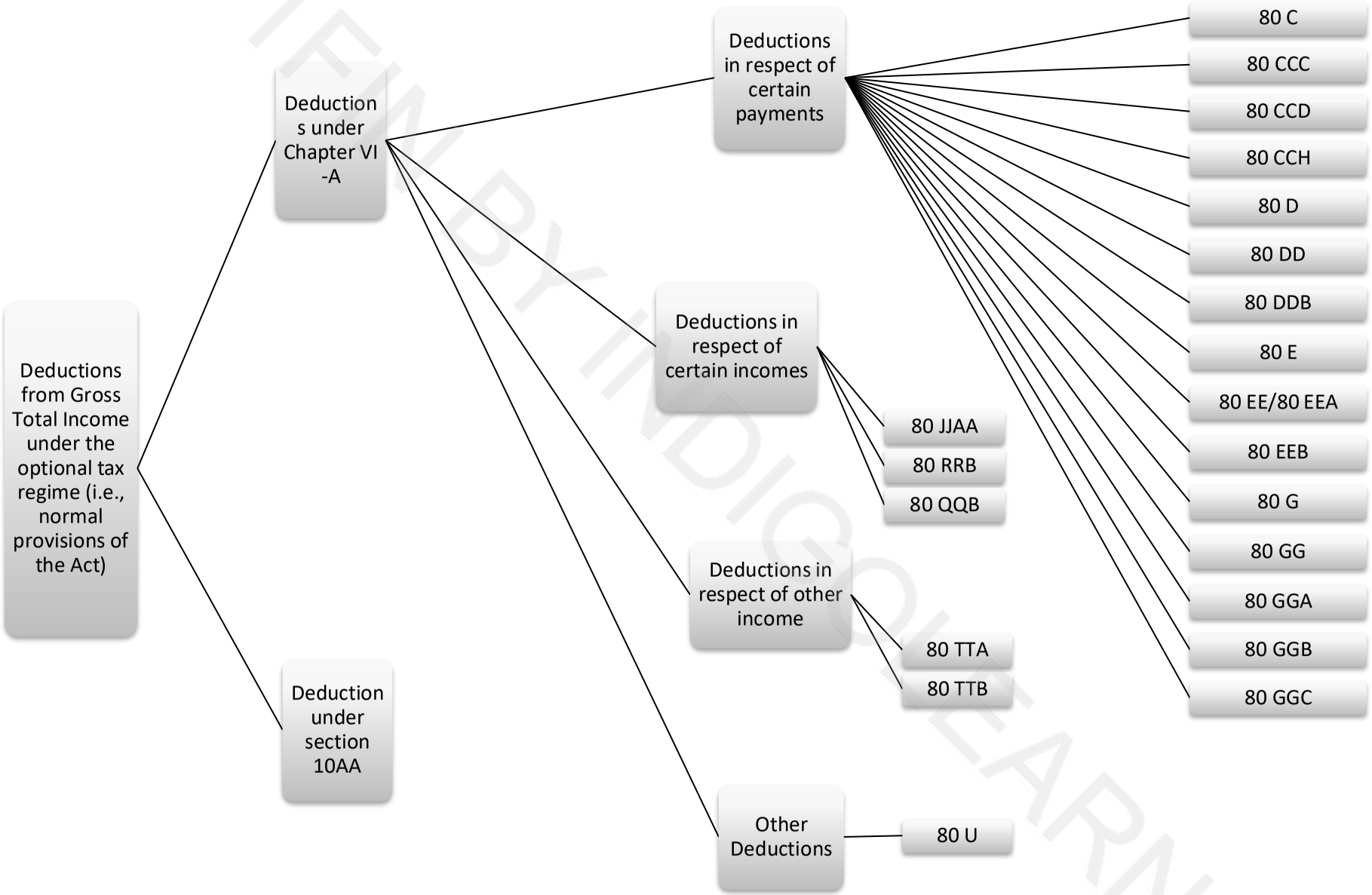
You will learn about the following

- Various Deductions and their calculations
- Deductions w.r.t certain payments
- Deductions w.r.t certain incomes
- Other Deductions

Happy learning!



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1. INTRODUCTION

- Chapter VI A runs from Sec 80C to 80U.
- These sections provide certain deductions from Gross total Income.
- Such sections are classified into two categories:
  A. Deduction on account of certain payments and investments (covered u/s 80C to 80GGC).
  B. Deductions on account of certain income which are already included under gross total income (covered u/s 80 I-A to 80U).
- **No excess deduction [Section: 80A]:** The total amount of deductions under Chapter VI-A shall not exceed the Gross Total Income of an assessee during a particular financial year.
- Profits and gains allowed as deductions u/s 10AA or under Chapter VI-A under the heading "C - Deductions in respect of certain incomes" shall not be allowed as deduction under any other provision of the Act.
- **No chapter VI-A deductions in certain cases:**
  Deductions under Chapter VIA are not available in respect of:
  - LTCG – Sec 112
  - STCG - subject to STT - Sec 111A
  - Non- resident presumptive taxation u/s 115A to 115AD.
  - Income of Non- residents.
- However, there are certain items of income referred to in section 10 which are not exempted if the assessee pays concessional rates of tax under the default tax regime u/s 115BAC, namely,

10(5)	Leave travel concession
10(13A)	House Rent Allowance
10(14)	Special Allowances except - *(a)* Travelling allowance *(b)* Daily allowance *(c)* Conveyance allowance *(d)* Transport allowance to blind/deaf and dumb/orthopedically handicapped employee
10(17)	Daily allowance/Constituency allowance received by any Member of Parliament or of State Legislatures
10(32)	Exemption in respect of income of minor child included in assessee'stotal income

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The tax liability is calculated on the "total income" which is arrived after reducing permissible deductions from gross total income.

Students should note this very important difference between exemption under section 10 and the deduction under Chapter VI-A/10AA.

Difference between Deduction under Chapter VI-A & section 10AA and Exemption under section 10		
Particulars	**Deduction (in relation to Chapter VI-A and section 10AA)**	**Exemption (contained in section 10)**
Meaning	Investments/ contributions in certain instruments (as prescribed under the Income-tax Act). Payments made for certain purposes.	The incomes which are exempt under section 10 will not be included in computing gross total income.
Relevant Sections	Sections 80C to 80U in Chapter VI-A and section 10AA of the Income-tax Act.	Section 10 of the Income-tax Act.
Manner of treatment	First included in the Gross Total Income and then deductions will be allowed from Gross Total Income.	Not included in the Gross Total Income.

The important point to be noted here is that if there is no gross total income, then no deductions will be permissible. This Chapter contains deduction under Chapter VI-A which includes deductions in respect of certain payments, deductions in respect of certain incomes, deductions in respect of other income and other deductions. It also includes deduction under section 10AA.

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Section 80AC: Furnishing return of income on or before due date mandatory for claiming deduction under Chapter VI-A under the heading "C. – Deductions in respect of certain incomes"

(i) Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing benefit of deductions under any provision of Chapter VI-A under the heading "C. – Deductions in respect of certain incomes".

(ii) The effect of this provision is that, in case of failure to file return of income on or before the stipulated due date, the undertakings would lose the benefit of deduction under these sections.

Table showing the deductions contained in Chapter VI-A under the heading "C. – Deductions in respect of certain income"

Section	Deduction
80JJAA	Deduction in respect of employment of new employees
80QQB	Deduction in respect of royalty income, etc., of authors of certainbooks other than text books
80RRB	Deduction in respect of royalty on patents

DEDUCTION IN RESPECT OF CERTAIN PAYMENTS

2. DEDUCTION IN RESPECT OF LIFE INSURANCE PREMIA, DEFERRED ANNUITY, CONTRIBUTION TO PROVIDENT FUND ETC.-SEC.80C

- **Eligible assesses:** Individual and Hindu undivided family
- **Eligible investments/contributions**

A.Life Insurance/Annuities

1) Actual amount paid towards Life Insurance policy premium in the name of individual, his/her spouse or any child of the individual or in the name of any member in case of HUF; However, in respect of premium on life insurance policy referred above, deduction shall be available only to so much of premium or any other sum not exceeding 10% of actual capital sum assured of an insurance policy other than contract for a deferred annuity. In calculating the actual sum assured, the value of any premium agreed to be returned and the benefit by way of bonus shall not be taken into account.
2) Payment in respect of non-commutable deferred annuity* in the name of the individual, his/her spouse or any child of the individual provided that such

contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of payment of the annuity;

***Non-Commutable Deferred Annuity:** It is a non-transferable contract with an insurance company that promises to pay the owner a regular income, or a lump-sum amount at some future date.

3) Amount of deduction from the salary payable by or on behalf of the Government to any individual in accordance with the conditions of his service, for the purpose of securing a deferred annuity or making provision for his spouse or children not exceeding one-fifth of the salary;
4) Contribution to Unit Linked Insurance Plan, 1971;
5) Contribution to notified annuity plan of the LIC of India or any other insurer;
6) Contribution to Unit Linked Insurance Plan of the LIC, Mutual fund notified u/s. 10(23D);

B. Employee Welfare funds

7) Any contributions by an individual to any provident fund to which Provident Funds Act. 1925 applies;
8) Contribution towards statutory provident fund and recognized provident fund;
9) Contribution towards 15 years public provident fund;
10) Contribution by an employee to an approved superannuation fund;

C. Central Government / Post Office savings / other notified schemes

11) Subscription to any notified security of the Central Government;
12) Investments in National Saving Certificates or any other saving certificates under the Government Savings Certificates Act, 1959 notified by the Central Government;
13) Subscription to any notified saving certificate;
14) Term Deposit for a period of not less than 5 years with a scheduled bank in accordance with a scheme framed by the Central Government.
15) Subscription to bonds issued by National Bank for Agriculture and Rural Development (NABARD).
16) 5-year time deposit in an account under Post Office Time Deposit scheme;
17) Deposit in an account under the Senior Citizens Savings Scheme.

D. Housing

18) Repayment of any loan borrowed for the purpose of purchase or construction of residential house from Government approved institution or specified employer* or any Board or a Corporation or any other body established under Central or State Act or a notified institution

Any expenditure incurred towards stamp duty, registration charges for purchase of the house is also eligible;

*Specified employer- An employer who is an authority or a board or a corporation or any other body established or constituted under a Central or State Act; or a public company or public sector company or a university

established by law or a college affiliated to such university or a local authority or a co- operative society.

19) Payment in part / installment under any self-financing or similar scheme of any housing board, development authority engaged in construction and sale of houses;

20) Payment in part / installment towards cost of the house allotted, due to any company or co-operative society of which assessee is a shareholder or member;

However, Deduction under this clause is not eligible in respect of payment made towards:

a) The admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

b) The cost of any addition, alternation, renovation or repair of, the house property which is carried out after the issue of the completion certificate by the authority competent after the house property or any part thereof has been occupied; or

21) Subscription to any approved equity shares or debentures forming part of any eligible issue of capital by a public company or public financial institution which is engaged in infrastructure development;

E. Others

22) Payment made as tuition fees to any university, college or school or other educational institution situated in India for the purpose of full-time education in respect of any **two** children of the assessee.

However, deduction is not eligible in respect of payment towards any development fees or donation or payment of similar nature and payment made for education to any institution situated outside India.

23) Subscription to any deposit scheme or as a contribution to any pension fund setup by the National Housing Bank.

24) Subscription to any such Deposit scheme of a public sector company engaged in providing long term finance for construction or purchase of houses in India for residential purposes or any such deposit scheme of any authority constituted in India for the purpose of dealing with and satisfying the need for housing accommodation for the purpose of planning, development or improvement of cities, towns and villages or for both; provided such scheme shall be notified by the Central Government.

25) Sum paid or deposited during the year in the Sukanya Samriddhi Account Scheme as a subscription in the name of any girl child of the individual or in the name of any girl child for whom such individual is the legal guardian, would be eligible for deduction under section 80C, if the scheme so specifies.

26) Contribution by a Central Government employee to additional account (Tier-II Account) under NPS (specified account) referred to in section 80CCD for a fixed period of not less than 3 years and which is in accordance with the scheme notified by the Central Government for this purpose.

- **Deduction Limit**

  The aggregate of the eligible contributions mentioned above shall be allowed as deduction to the extent of **₹1,50,000/-**

- **Special Points**
  - **Exemption is not available under section 10(10D), in respect of amount received from an insurance policy taken for disabled person under section 80DD.**

    Accordingly, if the dependent disabled, in respect of whom an individual or the member of the HUF has paid or deposited any amount in any scheme of LIC or any other insurer, predeceases the individual or the member of the HUF, the amount so paid or deposited shall be deemed to be the income of the assessee of the previous year in which such amount is received. Such amount would not be exempt under 10(10D).

    Exemption is not available in respect of the sum received under a Keyman insurance policy u/s under section 10(10D).

<table>
<tr><th></th><th colspan="2">Deduction u/s 80C</th></tr>
<tr><td>In respect of policies issued before 31.3.2012</td><td colspan="2">Premium paid to the extent of 20% of "actual capitalsum assured".</td></tr>
<tr><td>In respect of policies issued on or after 1.4.2012 but before 1.4.2013</td><td colspan="2">Premium paid to the extent of 10% of "actual capital sumassured" i.e., minimum amount assured under the policyon happening of the insured event at any time during the term of the policy, not taking into account –
(i) the value of any premium agreed to be returned;or
(ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.</td></tr>
<tr><td rowspan="4">In respect of policies issued on or after 1.4.2013</td><td rowspan="2">(a)</td><td>Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.</td></tr>
<tr><td>Premium paid to the extent of 15% of "actualcapital sum assured" [has the same meaning as described above].</td></tr>
<tr><td rowspan="2">(b)</td><td>Where the insurance is on the life of anyperson, other than mentioned in (a) above</td></tr>
<tr><td>Premium paid to the extent of 10% of "actualcapital sum assured" [has the same meaning as described above].</td></tr>
</table>

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3. CONTRIBUTION TO CERTAIN PENSION FUNDS - SEC.80CCC

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

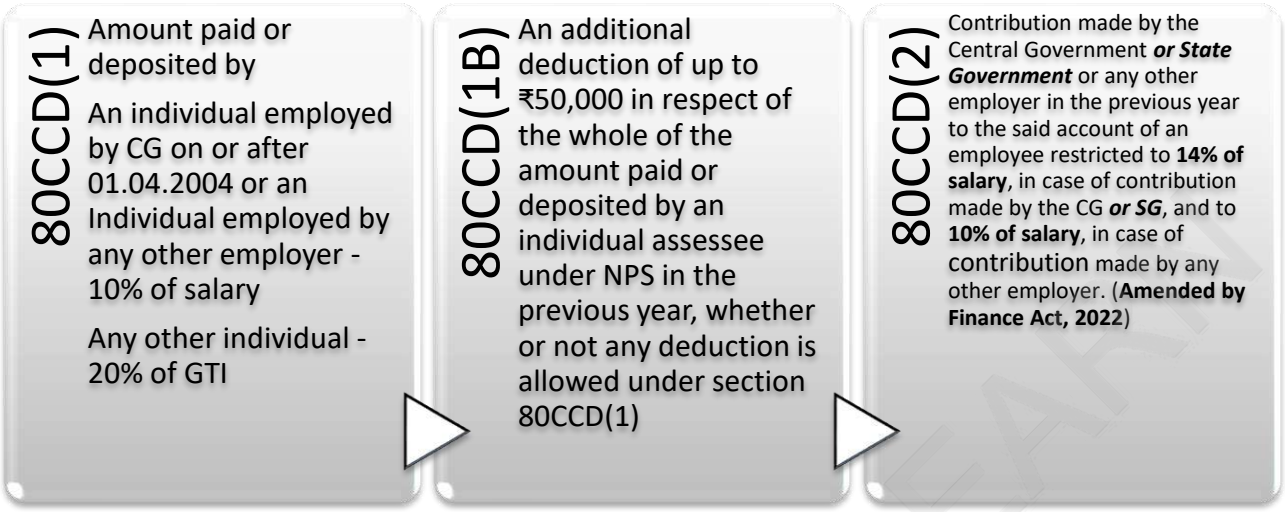
- **Eligible assessee** - All Individuals
- The following contributions qualify only if the payments are made from out of the income chargeable to tax;
  i. Contribution made to annuity plan (excluding bonus or interest credited to the account) issued by -
     a) LIC of India; or
     b) Any other insurer approved by the Insurance Regulatory and Development Authority. For receiving pension from a fund is deductible up to a maximum of ₹ 1,50,000/-
  ii. If the assessee or his nominee surrenders the annuity before its maturity, the surrender value including bonus / interest shall be taxable in the year-of receipt in the hands of the assessee or his nominee.
  iii. The pension amount received by the assessee or his nominee from this fund is taxable in the hands of the assessee of his nominee, in the year of receipt.
  iv. Amount qualifying for deduction under this section will not be eligible for deduction u/s.80c.
- **Quantum of Deduction:** Amount deposited or ₹ 1,50,000 whichever is less.

4. DEDUCTION IN RESPECT OF CONTRIBUTION TO PENSION SCHEME OF CENTRAL GOVERNMENT - SEC.80CCD

- **Eligible Assessee -** Any employee
- **Conditions -**
  i) Deduction is available in respect of contribution to pension scheme notified by the Central Government.
  ii) He should have been employed by CG or any other employer on or after 01.01.2004.
  Condition of the date of joining the service on or after 1.1.2004 is not applicable to private sector employees for the purposes of deduction under the said section.
  iii) Where an individual employed by the Central Government or any other employee has paid or deposited any amount in his account under a pension scheme notified by the Central Government, he shall be allowed a deduction in the computation of his total income the amount so paid or deposited subject to a limit of 10% of his salary for the relevant previous year. Any contribution made by the Employer to such an account shall also be allowed as deduction

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subject to the limit of 10% of salary. Individual is deriving other than salary-income - 10% of gross total income **or ₹ 1,50,000 whichever is less.**



*Salary for this purpose: Salary = Basic salary + D.A (if terms of employment so provide). (It excludes allowances and perquisites.)

- Deemed Income: The amount standing to the credit of the assessee in the pension account (for which deduction has already been claimed by him under this section) and accretions to such account, shall be taxed as income in the year in which such amounts are received by the assessee or his nominee on –

  (a) closure of the account or
  (b) his opting out of the said scheme or
  (c) receipt of pension from the annuity plan purchased or taken on such closure or opting out.

However, the amount received by the nominee on the death of the assessee under the circumstances referred to in (a) and (b) above, shall not be deemed to be the income of the nominee. Further, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

- Exemptions-

  i. Section 10(12A) provides that any payment from National Pension System Trust to an assessee on account of closure or his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.

  ii. Section 10(12B) provides that any payment from National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawn made out of his account in accordance with the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013

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and the regulations made there under, shall be exempt from tax to the extent it does not exceed 25% of amount of contributions made by him.

Limit on deductions under sections 80C, 80CCC & 80CCD(1) [Section 80CCE]

This section restricts the aggregate amount of deduction under section 80C, 80CCC and 80CCD(1) to Rs. 1,50,000. It may be noted that the deduction of upto Rs. 50,000 under section 80CCD(1B) and employer's contribution to pension scheme, allowable as deduction under section 80CCD(2) in the hands of the employee, would be outside the overall limit of Rs. 1,50,000 stipulated under section 80CCE.

The following table summarizes the ceiling limit under these sections –

Section	Particulars	Ceiling limit (Rs.)
80C	Investment in LIP, Deposit in PPF/SPF/RPF etc.	1,50,000
80CCC	Contribution to certain pension funds	1,50,000
80CCD (1)	Contribution to NPS of Government	10% of salary or20% of GTI, as the case may be.
80CCE	Aggregate deduction under sections 80C,80CCC & 80CCD(1)	1,50,000
80CCD(1B)	Contribution to NPS notified by the Central Government (outside the limit of Rs. 1,50,000 under section 80CCE)	50,000
80CCD (2)	Contribution by the Central Government or State Government to NPS A/c of its employees (outside the limit of Rs. 1,50,000 under section 80CCE)	14% of salary
	Contribution by any other employer to NPSA/c of its employees (outside the limit of Rs. 1,50,000 under section 80CCE)	10% of salary

5. Deduction in respect of contribution to Agnipath Scheme [Section 80CCH]

i. **Meaning of Agnipath scheme:** Agnipath scheme is a Central Government scheme launched in 2022 for enrolment of Indian youth in the Indian Armed Forces.

ii. **Meaning of Agniveer Corpus Fund:** The Agniveer Corpus Fund means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

iii. **Features of the Agnipath Scheme:** Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further, the Government will also contribute a matching amount to the 'Agniveer Corpus Fund'. The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account.

iv. **Deduction:** Section 80CCH provides deduction in respect of contribution made in the Agniveer Corpus Fund by the individual enrolled in the Agnipath Scheme and the Central Government.

v. **Quantum of deduction:**

a. Section 80CCH(1) provides a deduction for the amount paid or deposited by an assessee, being an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after 1.11.2022, in his account in the Agniveer Corpus Fund.

b. Under section 80CCH(2), the whole amount of contribution made by the Central Government to the said account of an assessee in the Agniveer Corpus Fund, is allowed as a deduction in computation of the total income of the assessee.

c. The entire Central Government's contribution to the Agniveer Corpus Fund would be included in the salary of the assessee. However, deduction under section 80CCH(2) would be available for the same.

6. MEDICAL INSURANCE PREMIUM - SEC.80D

- **Eligible assessee -** Individual and HUF
- Premium paid by any mode other than cash under:

  a) Medical Insurance Scheme of the General Insurance Corporation approved by the Central Government;

  or

  b) Any other insurer approved by the Insurance Regulatory and Development Authority

  is deductible up to **₹25,000/-**. Where the insurance is on the health of a senior citizen, **₹50,000/-** shall be the limit for deduction.
- **The Age for qualifying as a senior citizen is 60 years being a resident.**
- **Individual:** Insurance can be made on the health of the assessee, spouse, and Dependent children and parents (Parents need not be dependant);
- **HUF**: Insurance on the health of any family member.

- **From AY 13-14:** Deduction can be claimed for preventive health checkup also maximum of ₹ 5000/-within existing overall limits. It can be paid in cash also.

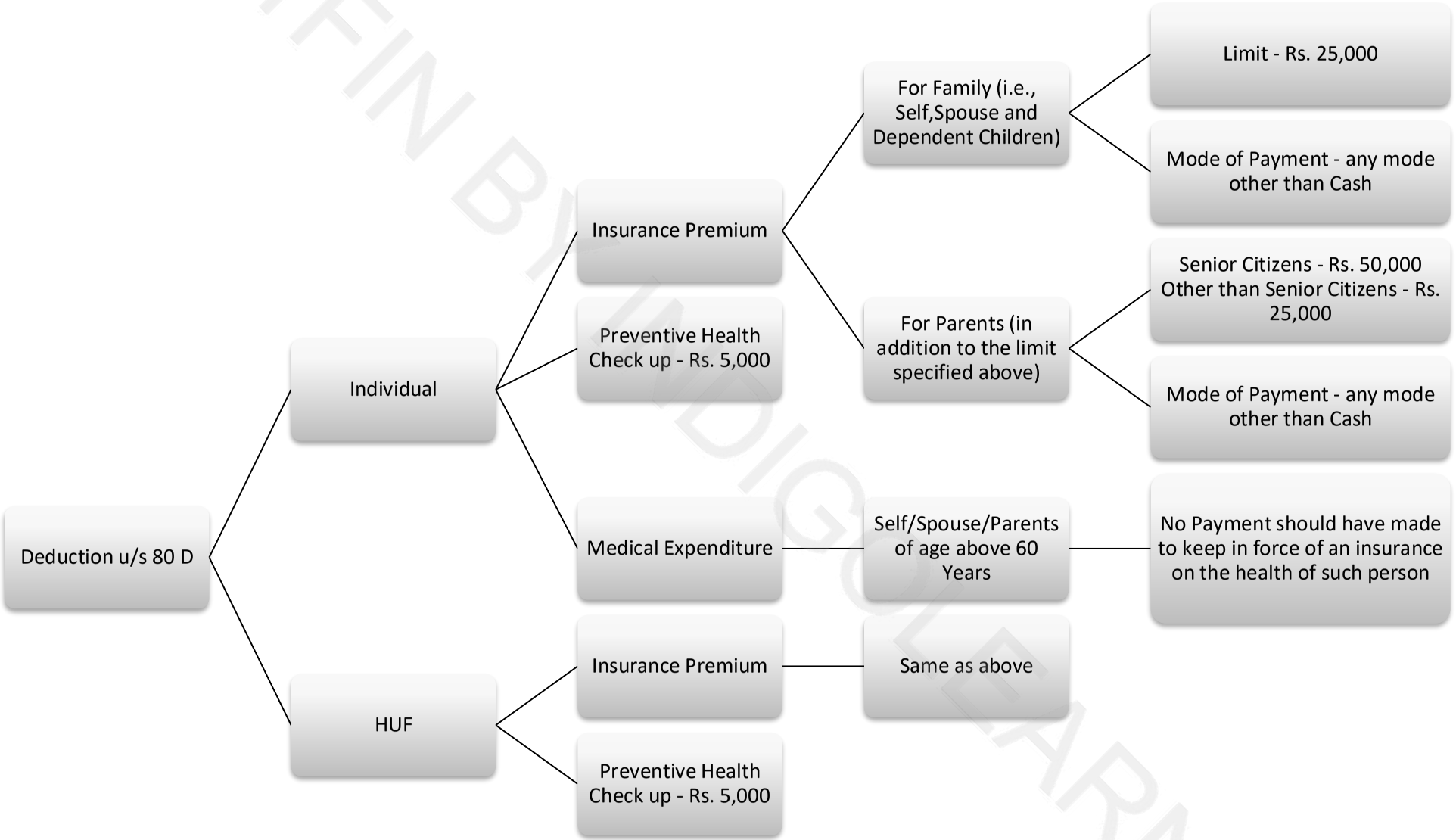
  Note: Hence forth, amount paid through credit cards are also accepted.

- In case of individual, in addition to the above deduction, a separate limit of ₹25000/- is allowable as deduction in respect of Mediclaim premium paid on the health of parents.
- For senior citizen who do not qualify for health insurance, ₹ 50,000 in medical expense will qualify for deduction.
- **Deduction where premium for health insurance is paid in lump sum [Section 80D(4A)]**

  In a case where mediclaim premium is paid in lumpsum for more than one year then, the deduction allowable under this section for each of the relevant previous year would be equal to the appropriate fraction of such lump sum payment.

  Appropriate fraction - 1 ÷ Total number of relevant previous years

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7. MAINTENANCE INCLUDING MEDICAL TREATMENT OF A DEPENDENT WITH DISABILITY – SEC.80DD

- **Eligible assessee -** Individual or HUF, resident in India.
- Deduction is allowable in respect of-

An amount paid or deposited by the assessee under any scheme of LIC of any other insurer or the administrator if the specified company and approved by the Board for the maintenance of dependent with disability.

Any expenditure incurred for the medical treatment, training and rehabilitation of a dependent with disability; or

- **Amount of Deduction:** Deduction of a flat amount of **₹ 75,000/-** shall be allowed irrespective of the quantum of expenditure incurred or deposit made. Besides, where the dependent is a person with severe disability (i.e., person with 80% or more disability), the deduction shall be **₹ 1,25,000/-**
- The benefit of deduction under this section is also available to assessees incurring expenditure on maintenance including medical treatment of persons suffering from autism, cerebral palsy and multiple disabilities.
- The deduction is subject to the following conditions:
  a) The scheme of LIC or any other insurer or the administrator or the specified company provides for payment of annuity or lumpsum amount for the benefit of a dependent with disability,
     i. in the event of death of the individual or the member of the HUF in whose name subscription to the scheme has been made; or
     ii. on attaining the age of 60 years or more by such individual or the member of the HUF, and the payment or deposit to such scheme has been discontinued **(Amended by Finance Act, 2022)**
  b) The assessee nominates either dependent with disability or a trust or any other person to receive the payment on his behalf, for the benefit of the Dependent with disability.
  c) The assessee claiming a deduction shall furnish a copy of the certificate issued by the medical authority along with the return of income u/s.139 (1)
  d) Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned in the original certificate in order to continue to claim the deduction.

- **Deemed income:** If the dependent, being a person with disability, predeceases the individual or the member of HUF, in whose name subscription was made, then, the amount paid or deposited under the said scheme would be chargeable to tax in the hands of the assessee (individual or member of HUF) in the previous year in which such amount is received by him.
  However, such deeming provisions would not apply, to the amount received by the dependent, being a person with disability, before his death, by way of annuity or lump sum under the scheme mentioned in II of (b) above i.e., when

the individual or member of HUF attains the age of 60 years or more, and the payment or deposit to such scheme has been discontinued (Amended by Finance Act, 2022).

- For the purpose of this section -
  a) "Dependent" means -
     i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;
     ii) in the case of a Hindu Undivided Family, a member of the Hindu Undivided Family, Dependent wholly or mainly on such individual or HUF for his support and maintenance and who has not claimed any deduction u/s.80U in computing his total income.
  b) "Disability'" means blindness; low vision leprosy-cured; hearing impairment; locomotor disability; mental retardation; mental illness, autism, cerebral palsy and multiple disability.

8. MEDICAL TREATMENT FOR CERTAIN SPECIFIED DISEASE OR AILMENT - SEC.80DDB

- Eligible assesses - Individual and HUF, resident in India.
- Deduction under this section can be claimed by the assessee towards medical treatments of specified diseases and ailments -
  i) for himself or a Dependent - in case of individual assesses:
  ii) for any member of HUF - in case of HUF assesses.
- Deduction shall be the amount actually paid or **₹40,000**, whichever is less, in respect of that previous year in which such amount was actually paid. In the case of senior citizen, the deduction shall be the amount actually paid or **₹1,00,000**, whichever is less.
- Deduction shall be allowed only if the medical certificate is furnished along with the return of income from a neurologist, oncologist, a urologist, a hematologist, an immunologist, or such other specialist as may be prescribed and working in a Government hospital.

9. DEDUCTION FOR INTEREST ON LOAN TAKEN FOR HIGHER EDUCATION - SEC.80E:

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

- **Eligible assessee** – Individual
- Any amount paid towards interest on loan borrowed from any financial institution or any approved charitable institution for the purpose of pursuing higher education is deductible.
- The Higher Education shall be pursued by the assessee himself or by any of the relative of the assessee. The term "**Relative**" in relation to an individual means the spouse and children of the individual or the student for whom the individual is the legal guardian.
- The amount shall be actually paid out of the income of the assessee chargeable to tax during the previous year.

- This deduction is allowed for the initial year (year of commencement of repayment of interest) and immediately succeeding 7 assessment years or until the interest is repaid by the assessee in full, whichever is earlier.
- **'Higher Education'** means
  i) after passing the Senior Secondary Examinations of its equivalent from any school;
  ii) board or university recognized by the central government or state government or local authority or by any other authority authorized by the central government or state government or local authority.

10. <u>DEDUCTION FOR INTEREST ON LOAN BORROWED FOR ACQUISITION OF HOUSE PROPERTY BY AN INDIVIDUAL [SECTION 80EE]</u>

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

- Deduction is available only if the loan is taken from any financial institution
- Loan is sanctioned during the PY 2016-17
- Loan amount does not exceed 35 lakhs
- Property value does not exceed 50 Lakhs
- Assessee should not own any residential house on the date of sanction of loan.
- Maximum deduction allowed is INR 50,000.

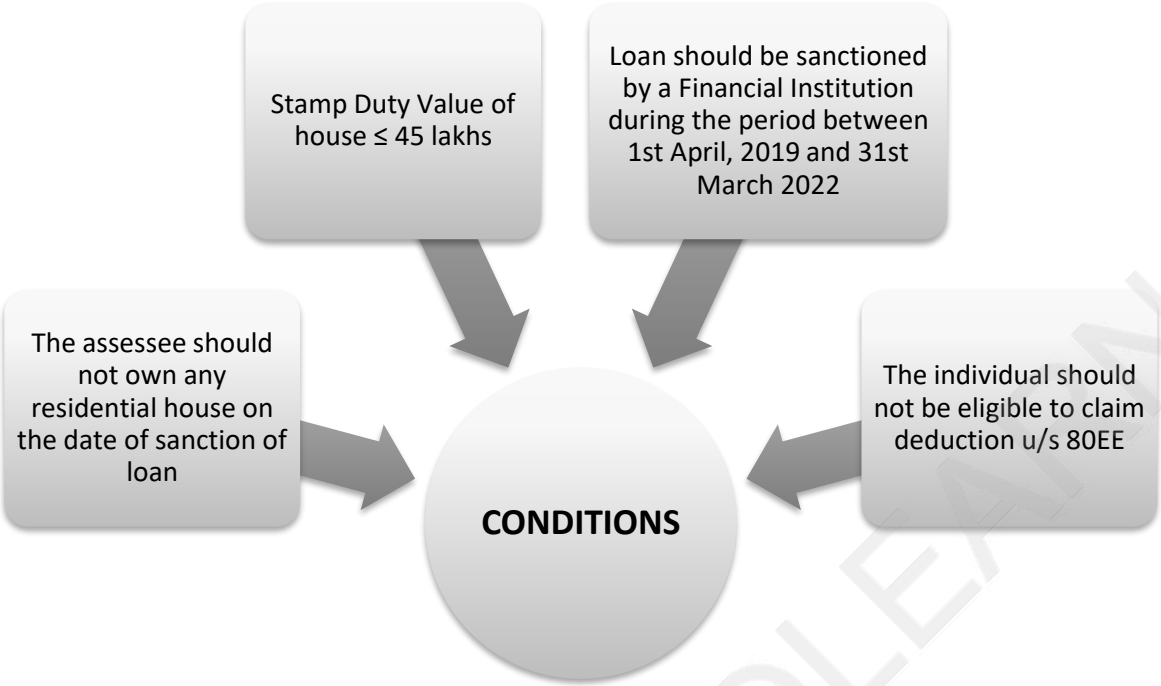
11. <u>DEDUCTION FOR INTEREST ON LOAN BORROWED FOR ACQUISITION OF HOUSE PROPERTY BY AN INDIVIDUAL [SECTION 80EEA]</u>

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

- **Eligible assessee** – Individual
- Any amount paid towards interest on loan borrowed from any financial institution or any approved charitable institution for the purpose of acquisition of residential house property is deductible.
- **Amount of Deduction-** The maximum deduction allowable is ₹ 1,50,000. The deduction of upto ₹ 1,50,000 under section 80EEA is over and above the deduction available under section 24(b) in respect of interest payable on loan borrowed for acquisition of a residential house property.

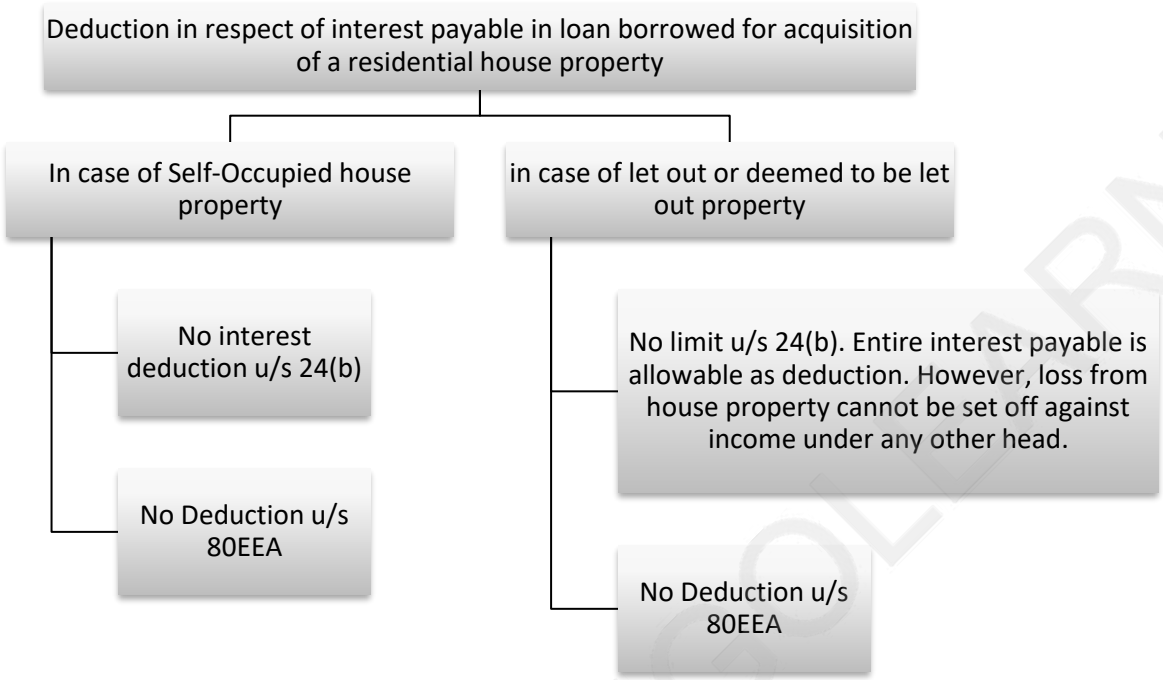
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- **Conditions-**

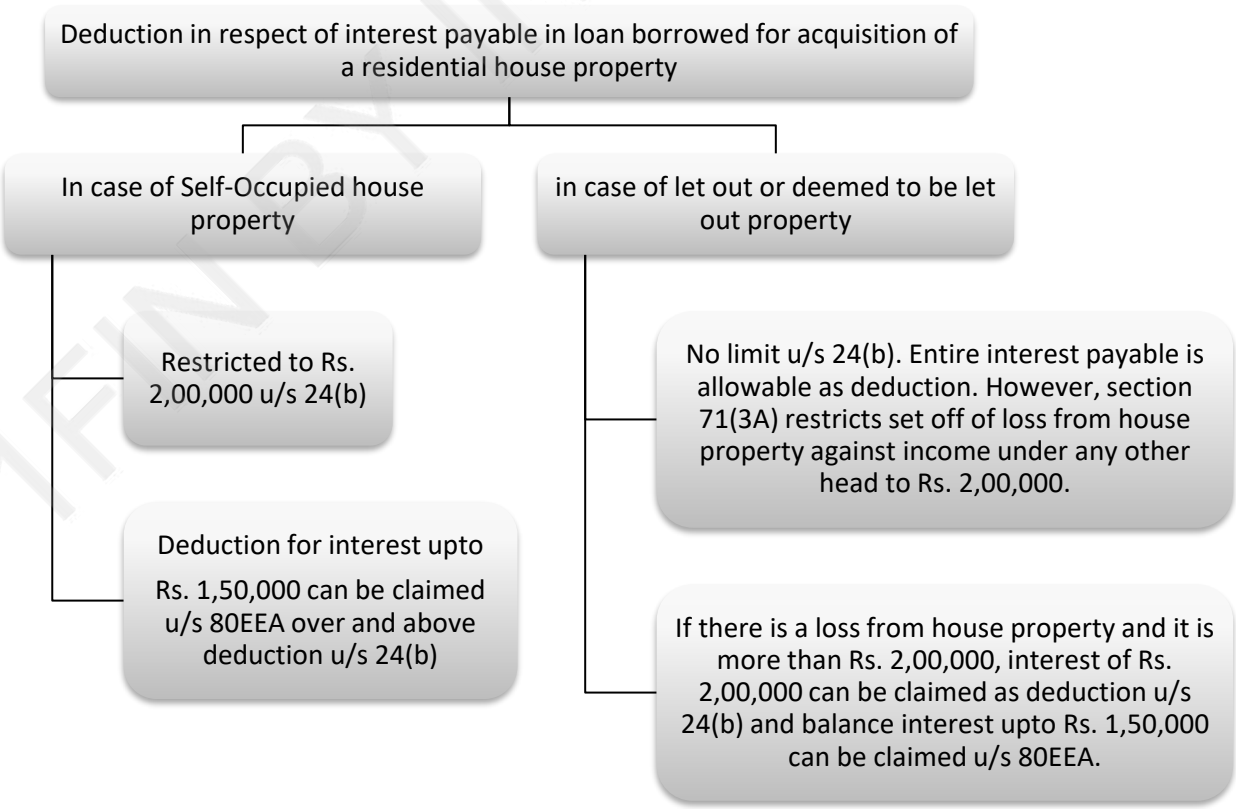


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In case the assessee pays tax under default tax regime under section 115BAC



In case the assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)

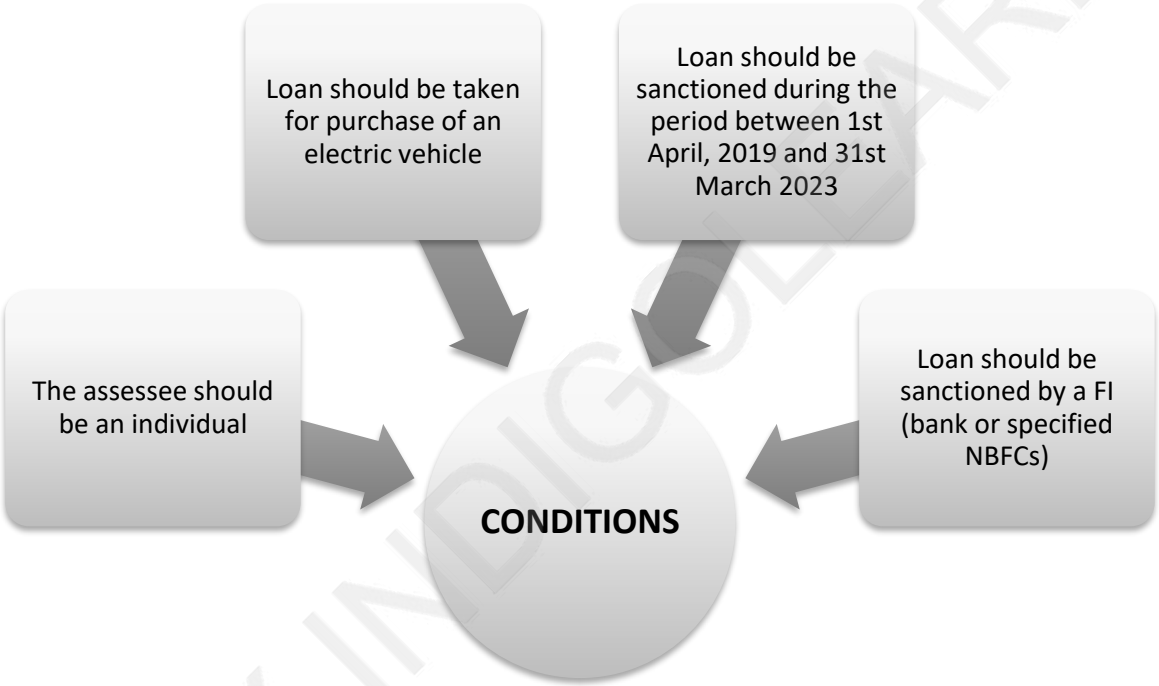


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DEDUCTION IN RESPECT OF INTEREST PAYABLE ON LOAN TAKEN FOR PURCHASE OF ELECTRIC VEHICLE [SECTION 80EEB]

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

- **Eligible assessee** – Individual
- Any amount paid towards interest on loan borrowed from any financial institution or any approved charitable institution for purchase of an electric vehicle is deductible.
- **Amount of Deduction-** The maximum deduction allowable is ₹ 1,50,000.
- **Conditions-**



- The benefit of deduction under this section would be available from A.Y. 2020-21 and subsequent assessment years till the repayment of loan continues.

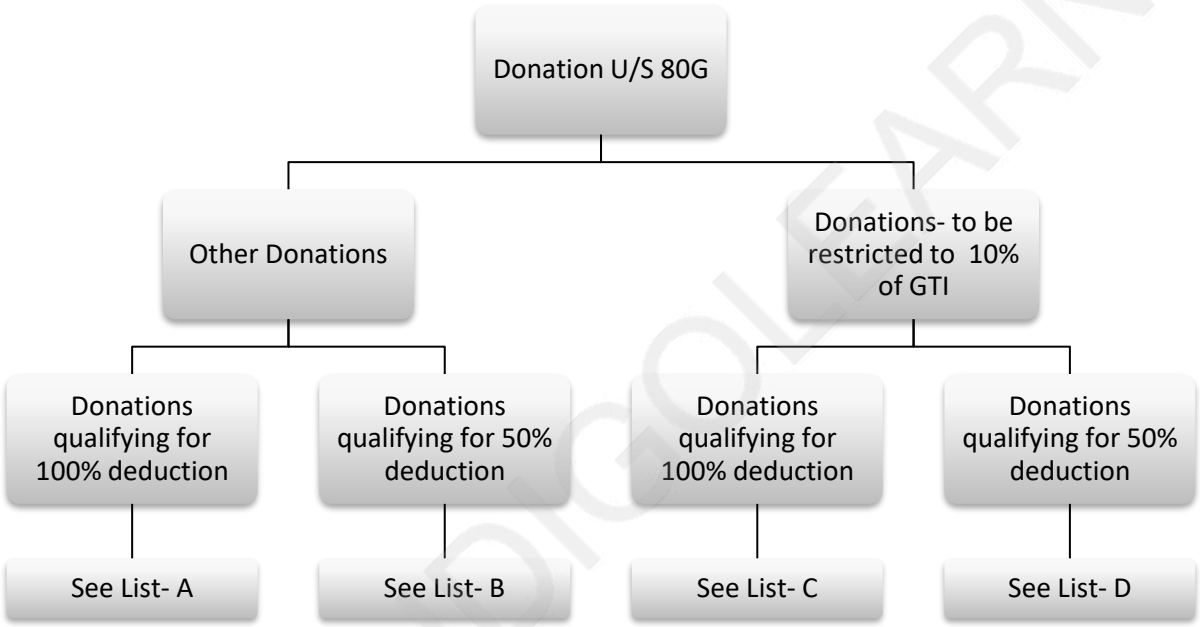
12. SEC 80G: DEDUCTION IN RESPECT OF DONATIONS TO CERTAIN FUNDS; CHARITABLE INSTITUTIONS ETC.

- Conditions for claiming deduction under this section:
  i) Deduction under this section is allowed to all assessees, whether company or non-company, whether having income under the head 'profit and gains of business or profession' or not.
  ii) The donation should be of a sum of money.
  iii) Donations in kind do not quality for deduction.
  iv) The donation should be made only to specified funds/institutions.
  v) For availing deduction under this section, it is obligatory on the part of the assessee to produce proper proof of payment. Where the payment is not proved by production of proper receipt, etc., the deduction under section 80G is not available.

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Donee Institute	Status of the Donor	With effect from Assessment Year
Swachh Bharat Kosh	Resident/ Non-Resident	2015-16
Clean Ganga Fund	Resident	2015-16
National Fund for Control of Drug Abuse	Resident/ Non-Resident	2016-17

- In some cases, deduction is available after applying a qualifying limit while in other, it is allowed without applying any qualifying limit.



- Again, in some cases, deduction is allowed to the extent of 100% of the donation and in some cases, it is allowed to the extent of 50% of the donation. The quantum of deduction is respect of various kinds of donations is given as under:

A. Donations made to following are eligible for 100% deduction without any qualifying limit:

i) National Defense Fund set up by the Central Government.
ii) Prime Minister's National Relief Fund;
iii) Prime Minister's Armenia Earthquake Relief Fund;
iv) Africa (Public Contributions India) Fund;
v) National Foundation for Communal Harmony;
vi) University/Educational Institution of National Eminence approved by the prescribed authority;
vii) Maharashtra Chief Minister's Earthquake Relief Fund;
viii) Any fund set up by the State Government of Gujarat, exclusively for providing relief to the victims of earthquake in Gujarat;
ix) Zilla Saksharta Samiti constituted in any district;
x) The National Blood Transfusion Council or any State Blood Transfusion Council;
xi) Any fund set up by a State Government to provide medical relief to the poor;

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xii) The Army Central Welfare Fund or the Indian Naval Benevolent fund or the Air Force Central Welfare Fund;
xiii) The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996;
xiv) National Illness Assistance Fund;
xv) The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any state or union Territory, as the case may be;
xvi) National Sports Fund set up by the Central Government;
xvii) National Cultural Fund set up by the Central Government;
xviii) Fund for Technology Development and Application, set up by the Central Government;
xix) National Trust for Welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities;
xx) National Children's Fund;
xxi) The Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of CSR u/s 135(5) of the Companies Act, 2013;
xxii) Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM Cares Fund);
xxiii) The Clean Ganga Fund, set up by the Central Government, where such assessee is a resident, other than the sum spent in pursuance of CSR u/s 135(5) of the Companies Act, 2013;
xxiv) The National Fund for Control of Drug Abuse

*Note- As per Circular No.2/2005 dated 12.1.2005, in cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund through their respective employers, it is not possible for such funds to issue separate certificate to every such employee in respect of donations made to such funds as contributions made to these funds are in the form of a consolidated cheque. An employee who makes donations towards these funds is eligible to claim deduction under section 80G. It is, hereby, clarified that the claim in respect of such donations as indicated above will be admissible under section 80G on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf.

B. Donations made to the following are eligible for 50% deduction without any qualifying limit:

i) Prime Minister's Drought Relief Fund;

C. Donations to the following are eligible for 100% deduction subject to qualifying limit:

i) Donation to Government or any approved local authority, institution or association to be utilised for promoting family planning.
ii) Any sums paid by the assessee, being a company, in the previous year as donations to Indian Olympic Association or to any other association or institution established in India and notified by the central Government for—
   a) the development of infrastructure for sports and games; or
   b) the sponsorship of sports and games in India.

D. Donations to the following are eligible for 50% deduction subject to qualifying limit:

i) Donation to Government or any approved local authority, institution or association to be utilised for any charitable purpose other than promoting family planning.
ii) Any other fund or institution which satisfies the conditions of section 80G(5)
iii) To any authority constituted in India by or under any law for satisfying the need for housing accommodation or for the purpose of planning development or improvement of cities, towns and villages or for both.
iv) To any corporation established by the Central or any State Government specified under section 10(26BB) for promoting interests of the members of a minority community.
v) Any notified temple, mosque, gurdwara, church or other place notified by the Central Government to be of historic, archaeological or artistic importance, for renovation or repair of such place.

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- **Computation of Qualifying Limit:** For applying qualifying limit, all donations made to funds/institutions covered under (C) and (D) above shall be aggregated and the aggregate amount shall be limited to 10% of Adjusted Gross Total Income.

Step-1	•Compute adjusted gross total income*
Step 2	•Calculate 10% of adjusted gross total income
Step 3	•Calculate the actual donation, which is subject to qualifying limit (Total of Category III and IV donations listed above)
Step 4	•Lower of Step 2 or Step 3 is the maximum permissible deduction.
Step 5	•The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category III donations). Thereafter, 50% of balance qualifies for deduction under section 80G.

*Adjusted Gross Total Income-

Adjusted Gross Total Income for this purpose means the "Gross total Income" as reduced by -

i) long-term capital gains, if any, which have been included in the "Gross Total Income" taxable under Section 112/ 112A.

ii) short-term capital gains of the nature referred to in section 111A (i.e. short-term capital gain on transfer of shares through a recognized stock exchange which are taxable at the rate of 15%);

iii) all deductions permissible u/s 80C to 80U except deduction under this section i.e. section 80G;

- **Quantum of deduction:** The quantum of deduction shall be the aggregate of the deductions permissible under clauses (A), (B), (C) and (D).
- Any payment in excess of ₹2,000/- will be allowed as deduction only if it is paid by any mode except cash.
- Proof of Payment:
  - In order to avail deduction under this section, the assessee must produce proper proof of payment. Payment in kind is not allowed as deduction.

13. RENT PAID - SEC.80GG:

- **Eligible Assessee** - Individual
- **Conditions:**

a) The assessee should not be in receipt of house rent allowance.

b) The assessee, his spouse, or minor child or the HUF in which he is a member should not own any residential accommodation at that place.
c) No claim for self-occupied property should be made in respect of any accommodation.
d) The assessee should fulfill such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations.
e) Assessee must file declaration in Form No. 10BA wherein he confirms the details of rent paid and fulfillment of the other conditions. (Rule 11B)

- **Deduction:**

  Rent paid is allowable as deduction to the extent of the **least** of the following:
  i) Excess of rent paid over 10% of total income
  ii) 25% of total income*
  iii) ₹5,000 p.m.

  *Total income for this purpose means, gross total income as reduced by deductions under chapter VI-A except 80GG.

14. DONATIONS FOR SCIENTIFIC RESEARCH, RURAL DEVELOPMENT ETC. - SEC. 80GGA

- **Eligible assessee: -** All assesses not having any income chargeable under the head "Profits and gains of business or profession".
- Any sum paid by the assessee in the previous year to
  - A Research association which has, as its object, the undertaking of scientific research or to a University, college or other institution to be used for scientific research
  - A Research Association which has as its object the undertaking of research in social science or statistical research, University, College or other institution to be used for research in social science or statistical research.
  - An association or institution which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved by the prescribed authority for purposes of section35CCA or to an institution or association which has as its object the training of persons for implementing programmes of rural development.
  - A Public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme.
  - A Rural development fund set up and notified under section 35CCA.
  - National Urban Poverty Eradication Fund (NUPEF).
- Where a deduction is claimed and allowed under this section in respect of any payment, no deduction shall be allowed under any other provision.
- Any payment in excess of **₹ 2,000/-** will be allowed as deduction only if it is paid by any mode except cash.

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15. CONTRIBUTIONS BY PERSON TO POLITICAL PARTIES- SEC.80GGB:

- Deduction shall be allowed in respect of any contribution, as referred to in Sec. 182 of the Companies Act, 2013, made by **an Indian company** to any political party or an electoral trust while computing its total income in a way other than cash.

16. CONTRIBUTIONS BY PERSON TO POLITICAL PARTIES- SEC.80GGC:

- Deduction shall be allowed in respect of contribution made by **any person** to a political party or an electoral trust while computing the total income in a way other than cash. However, no such deduction shall be allowed to a local Authority and every artificial juridical person wholly or partly funded by the Government.
- **No deduction shall be allowed under section 80 GGB and 80GGC in respect of any sum contributed by way of cash**.

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DEDUCTION IN RESPECT OF CERTAIN INCOMES

17. DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW EMPLOYEES – SEC. 80JJAA

- **Eligible Assessee:** Assessee to whom section 44AB applies
- A Deduction of an amount equal **to 30% of additional employee cost incurred** in the course of such business in the previous year, would be allowed for three assessment years including the assessment year relevant to the previous year in which such employment is provided.
- **Conditions:**

1. The business should not be formed by splitting up, or the reconstruction, of an existing business
2. The business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation
3. The report of the accountant, giving the prescribed particulars, has to be furnished before 30th September of the A.Y., being the specified date referred to in Section 44AB i.e., the date one month prior to due date for filing ROI u/s 139(1)

- **Meaning of certain terms-**

<table>
<tr><th></th><th>Term</th><th colspan="2">Meaning</th></tr>
<tr><td rowspan="2">(a)</td><td rowspan="2">Additional employee cost</td><td colspan="2">Total emoluments paid or payable to additional employees employed during the previous year.</td></tr>
<tr><td>In the case of an existing business</td><td>The additional employee cost shall be Nil, if—
(a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;
(b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through any other prescribed electronic mode [credit card, debit card, net banking, IMPS (Immediate Payment Services), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Fund Transfer), BHIM (Bharat Interface for Money), Aadhaar Pay].</td></tr>
</table>

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		In the first year of a new business	The emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost. Note: Such amount paid shall not include emoluments paid otherwise than by way of account payee cheque/bank draft/ECS through a bank account and prescribed electronic mode
(b)	Additional employee	An employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year. Exclusions from the definition: (a) an employee whose total emoluments are more than ₹ 25,000 per month; or (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; or (c) an employee who does not participate in the recognised provident fund. (d) an employee employed for a period of less than 240 days during the previous year. In case of an assessee engaged in the business of manufacturing of apparel or footwear or leather products, an employee employed for a period of less than 150 days during the previous year; or Note – If an employee is employed during the previous year for less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year. Accordingly, the employer would be entitled to deduction of 30% of additional employee cost of such employees for three years from the succeeding year.	
(c)	Emoluments	Any sum paid or payable to an employee in lieu of his employment by whatever name called. Exclusions from the definition: a) Any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and b) Any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.	

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18. ROYALTY INCOME OF AUTHORS OF CERTAIN BOOKS- SEC. 80QQB

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

- **Eligible Assessee:** Resident individual
- Deduction shall be allowed under this section for any income derived as author or joint author
- This deduction shall not be available in respect of royalty income from textbook for schools, guides, commentaries, brochures, diaries, magazines, newspapers, journals, pamphlets, tracts, and other publications of similar nature.
- **Determination of eligible income**

  Eligible income for the purpose of this section shall be computed as follows:

Nature of Royalty	Quantum eligible	Amount
In case of Lump sum royalty	Amount received or receivable	XXX
In case of royalty otherwise than by way of lump sum (i.e., as a percentage of sales)	Maximum 15% shall be allowed	XXX
Eligible Income		**XXX**

- **Deduction allowed:** Amount of eligible income computed as above or ₹3,00,000, whichever is lower.

Note:

i. The assessee shall have to furnish a certificate in the prescribed manner which shall be duly verified by the person making the payment.

ii. Also, if the assessee earns any income from any source outside India, he should bring such income into India in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority (RBI or any other authority authorized by law) may allow for the purpose of claiming deduction under this section.

19. DEDUCTION FOR ROYALTY ON PATENTS - SEC. 80 RRB

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

- **Eligible assesses:** Resident individuals
- Deduction shall be allowed in respect of any income by way of royalty in respect of a registered patent to the extent of
  - the whole of such income or
  - ₹3 lakhs,

  whichever is less.
- If any such income is earned from any sources outside India, the amount of income to be considered for deduction under this provision shall be restricted to the amount of such income brought into India by convertible foreign exchange by the assessee within a period of 6 months from the end of the previous year in which such income is earned of within such further period allowed by the RBI.
- A certificate in the prescribed from duly signed by the Prescribed Authority should be furnished along with the return of income for availing the deduction.

20. DEDUCTION IN CASE INTEREST-ON DEPOSIT IN SAVINGS A/C - SEC. 80TTA

[Available only if the individual/HUF exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

Sec	Nature	Assessee	Amount	Conditions / Remarks
80TTA	Interest on deposit in savings a/c	Individual & HUF	• Interest is received on savings account (Not time deposits) • Interest is received from bank, post office, co-op society	Interest received or ₹10,000/- (whichever is lower)

Note - Deduction under this section would, however, not be available to a senior citizen eligible for deduction under section 80TTB.

21. DEDUCTION IN RESPECT OF INTEREST ON DEPOSITS IN CASE OF SENIOR CITIZENS - SECTION 80TTB

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

Sec	Nature	Assessee	Conditions / Remarks	Amount
80TTB	Interest on deposit in case of senior citizens	Individual & HUF	• Interest received on savings account Including time deposits. • Interest received from bank, post office, co-op society.	Interest received or ₹50,000/- (whichever is lower)

22. DEDUCTION IN CASE OF A PERSON WITH DISABILITY- SEC-. 80U

[Available only if the individual exercises the option of shifting out of the default tax regime provided under section 115BAC(1A)]

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 shall be entitled to deduction of **₹75,000**. If it is a case of severe disability, deduction shall be **₹1,25,000**. A copy of the certificate issued by the Medical Authority is required to be furnished in respect of the assessment year for which the deduction is claimed along with the return of income.

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Problems

1. The gross total income of Mr. Nepal for the Assessment Year 2024-25 was ₹ 12,00,000. He has made the following investment/payments during the year 2023-24-

	Particulars	₹
1.	L.I.C. premium paid (Policy value ₹ 1,00,000) (taken on 1.04.2008)	25,000
2.	P.P.F. amount paid	25,000
3.	Repayment of housing loan to Indian Bank	50,000
4.	Payment made to L.I.C. pension fund	20,000
5.	Medical insurance premium for self, wife and dependent children.	18,000
6.	Mediclaim premium for parents (aged over 80 years)	30,000

Compute eligible deduction under Chapter VI-A for the Assessment Year 2024-25

2. Mr. Chaturvedi having gross total income of ₹ 6,35,000 for the financial year 2023-24 furnishes you the following information:
   (i) Deposited ₹ 50,000 in tax saver deposit in the name of major son in a nationalized bank.
   (ii) Paid ₹ 25,000 towards premium on life insurance policy of his married daughter.
   (iii) Contributed ₹ 10,000 to Prime Minister's National Relief Fund.
   (iv) Donated ₹ 20,000 to a government recognized institution for scientific research by a cheque.

   Discuss allowability of deductions and compute net income.

3. State with proper reasons whether the following statements are True/False with regard to the provisions of the Income-tax Act, 1961:
   (a) During the financial year 2023-24, Mr. Amit paid interest on loan availed by him for his son's higher education. His son is already employed in a firm. Mr. Amit will get the deduction under section 80E.
   (b) Subscription to notified bonds of NABARD would qualify for deduction under section 80C.
   (c) In order to be eligible to claim deduction under section 80C, investment/contribution/ subscription etc. in eligible or approved modes, should be made from out of income chargeable to tax.
   (d) Where an individual repays a sum of ₹ 30,000 towards principal and ₹14,000 as

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interest in respect of loan taken from a bank for pursuing eligible higher studies, the deduction allowable under section 80E is ₹ 44,000.

4. Mr. Gurpreet, aged 61 years, earned professional income (computed) of ₹ 7,75,000 during the year ended 31.03.2024 He has earned interest of ₹ 16,000 on the savings bank account with State Bank of India during the year.

   Compute the total income of Mr. Gurpreet for the assessment year 2024-25 from the following particulars:

   i. Life insurance premium paid to Insurance Company in cash amounting to ₹ 55,000 for life insurance of his dependent parents. The insurance policy was taken on 30.08.2022 and the sum assured on life of his dependent parents is ₹ 1,75,000.
   ii. Life insurance premium of ₹ 40,000 paid for the insurance of life of his major son who is not dependent on him. The sum assured on life of his son is ₹ 2,50,000 and the life insurance policy was taken on 28.01.2023.
   iii. Life insurance premium paid by cheque of ₹ 35,000 for insurance of his life. The insurance policy was taken on 22.11.2023 and the sum assured is ₹ 3,00,000.
   iv. Investment in PPF ₹ 50,000.
   v. Premium of ₹ 17,500 paid by cheque for health insurance of self and his wife.
   vi. ₹ 1,850 paid in cash for his health check-up and ₹ 6,500 paid in cheque for health check-up for his parents.
   vii. Paid interest of ₹ 7,500 on loan taken from bank for MBA course pursued by his son.
   viii. A sum of ₹ 20,000 donated in cash to an institution approved under section 80G for promoting family planning.

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Chapter 12

Advance Payment of Tax

Before we Begin,

Advance tax is when you pay some of your income tax before the year is over. Usually, you pay taxes after you've earned your money. But with advance tax, you try to guess how much money you'll make for the whole year. Then, you pay a part of your tax in smaller amounts throughout the year based on your guess. This helps you figure out how much tax you really need to pay ahead of time. It's like making sure you save enough money to cover your taxes.

You will learn about the following

- Various Provisions that govern the mandate of Advance Tax
- Computation of Advance Tax liability
- Manner of Payment of Advance Tax
- Payment Schedule of Advance Tax Liability

Happy learning!

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1. LIABILITY FOR PAYMENT OF ADVANCE TAX (Sec 207):

- Tax shall be payable in advance during any financial year, in respect of an assessee's current income i.e., the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.
- Advance tax can be paid on SUOMOTO basis or upon the Order of the AO.
- **Under section 208**, obligation to pay advance tax arises in every case where the advance tax payable is **₹10,000** or more.

  Exception: Resident Senior citizen is exempted from payment of advance tax if not having income under "Business & profession" head.
- Scheme of advance payment of tax is also known as "PAY AS YOU EARN SCHEME"

2. Computation of advance tax payable:

A. On assessee's own motion

1. Make an estimate of current year's income (excluding income covered u/s 44AD or 44ADA), considering brought-forward losses, after deducting all allowable deductions under chapter VIA.

   (The estimate is not required to be filed with the tax authorities.)
2. Compute the tax liability on above estimated income at the rates in force during the financial year and reduce rebate, If any.
3. Add surcharge (if applicable). And Health and Education cess.
4. Deduct tax deducted or collected at source.

   (Only if tax has actually been deducted at source, the same can be reduced for computing advance tax liability of the payee. Tax deductible but not so deducted cannot be reduced for computing advance tax liability of the payee)
5. The amount so derived is the advance tax payable.
6. For subsequent instalment, check if estimate of income made earlier requires revision.
7. If so, revise the estimation and recompute tax liability.
8. From the advance tax payable for that instalment deduct the amount already paid.
9. Pay the remaining amount.

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B. On receipt of order from the Assessing Officer

- **Conditions to be satisfied for issuing such order**

1. The assessee has already been assessed by way of a regular assessment in any previous year.
2. The Assessing Officer is of opinion that such person is liable to pay advance tax.
3. Such order can be passed at any time during the financial year but not after last day of February.
4. Such order must be made in writing.
5. Such order also specifies the amount of advance tax and the instalments thereof to be paid by the assessee.

Note: Such order can be issued even if assessee has paid any instalment of advance tax during the year, which is, in the opinion of the Assessing Officer, not as per provision of sec. 211. The above order can be served by the Assessing Officer at any time during the financial year but not later than the last date of February.

- **Determination of advance tax by the Assessing Officer**

The amount determined by the Assessing Officer shall be the higher of the following –

1. Tax on latest assessed income as per regular assessment; or
2. Tax on income declared by the assessee in the return relating to the previous year subsequent to the previous year for which regular assessment has been made.

- **Procedure to be followed by assessee on receipt of such order**

Case	Advance tax to be paid by the assessee	Whether intimation to AO is required
Where income estimated by the Assessing Officer is correct	On the basis of the order of the Assessing Officer	No
Where assessee estimates his current income to be higher than that estimated by the Assessing Officer	On the basis of his own estimate	No
Where assessee estimates his current income to be lower than that estimated by the Assessing Officer	On the basis of his own estimate	Yes, Assessee shall submit his own estimate to the Assessing Officer (in Form 28A)

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- **Due dates of Advance tax for all assessee**

Due dates	Amount of Advance Tax
On or before 15th June of P.Y.	Up to 15% of Advance tax liability
On or before 15th September of P.Y.	Up to 45% of Advance tax liability
On or before 15th December of P.Y.	Up to 75% of Advance tax liability
On or before 15th March of P.Y.	Up to 100% of Advance tax liability

Note - Any amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during each financial year ending on 31st March.

- If assesses computing profits on presumptive basis under section 44AD (1) or section 44ADA(1) then the due date of Advance tax is 15th March of P.Y.(Only one installment).

OTHER POINTS

- Any amount paid by way of advance tax on or before 31st March of the relevant previous year shall also be treated as advance tax paid during the financial year ending on that day.
- If the due date of payment of advance tax is a banking holiday, the Assessee can make the payment on the next immediately following working day. In such cases, no interest shall be leviable u/s 234B or 234C.
- **Payment by cheque:** Date of payment of amount by cheque would be the date of presentation of cheque if it were not dishonoured.
- Where advance tax is payable by virtue of the notice of demand issued by the Assessing officer, the whole or the appropriate part of the advance tax specified in such notice shall be payable on or before each of such due dates as fall after the date of service of notice of demand.
- Where the assessee does not pay any installment by the due date, he shall be deemed to be an assessee in default in respect of such installment.

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3. PAYMENT OF ADVANCE TAX IN CASE OF CAPITAL GAINS/ CASUAL INCOME:

- Advance tax is payable by an assessee on his/its total income, which includes capital gains and casual income like income from lotteries, crossword puzzles etc.
- Since it is not possible for the assessee to estimate his capital gains, income from lotteries, etc., it has been provided that if any such income arises after the due date for any installment, then, the entire amount of tax payable (after considering tax deducted at source) on such capital gains or casual income should be paid in the remaining installments of advance tax which are due.
- Where no such installment is due, the entire tax should be paid by 31st March of the relevant financial year.
- No interest liability would arise if the entire tax liability is so paid.
- NOTE:
  - If the Due date for payment of installment of advance tax is a bank holiday, then the assessee can make the payment on the next immediately following working day.

4. CREDIT OF ADVANCE TAX (Sec 219):

Any sum, other than interest or penalty, paid by or recovered from an assessee as advance tax, is treated as a payment of tax in respect of the income of the previous year and credit thereof shall be given in the regular assessment.

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Chapter 13
TDS and TCS

Before we Begin,

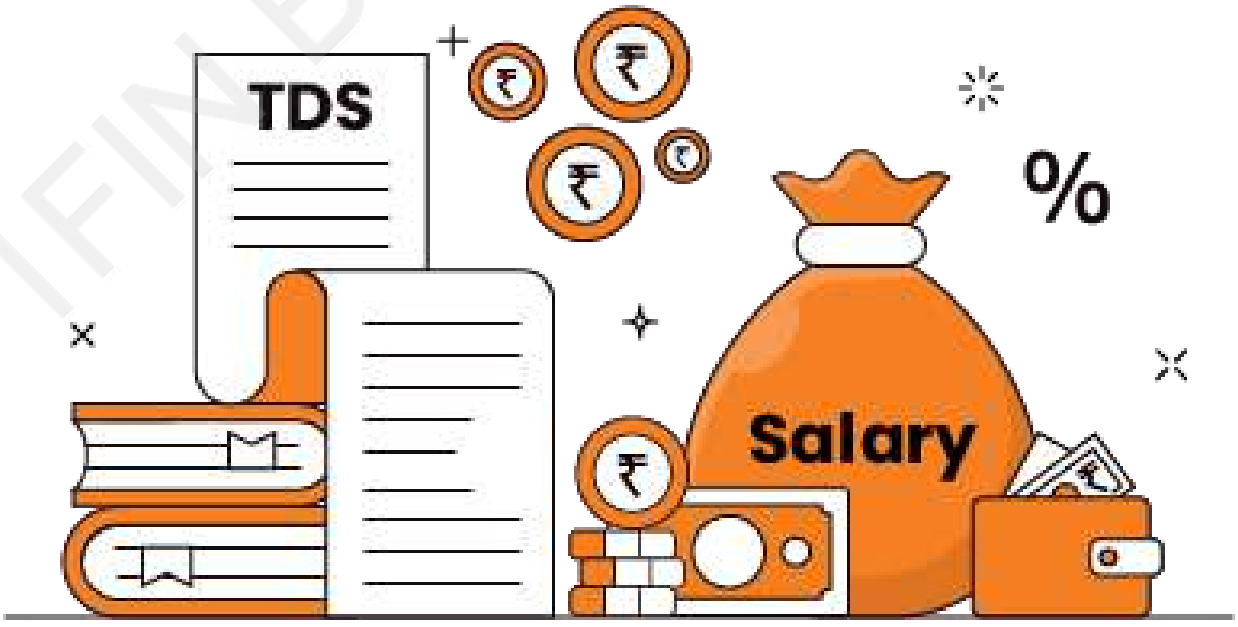
To make sure the collection of taxes is not once in a year thing, government has made sure that certain transactions which arise income to certain persons from certain persons at certain limits as specified could be taxed at the point of its source, in other words it's the method of government that ensures the prevention of tax evasion by taxing every transaction by increasing compliance.

You will learn about the following

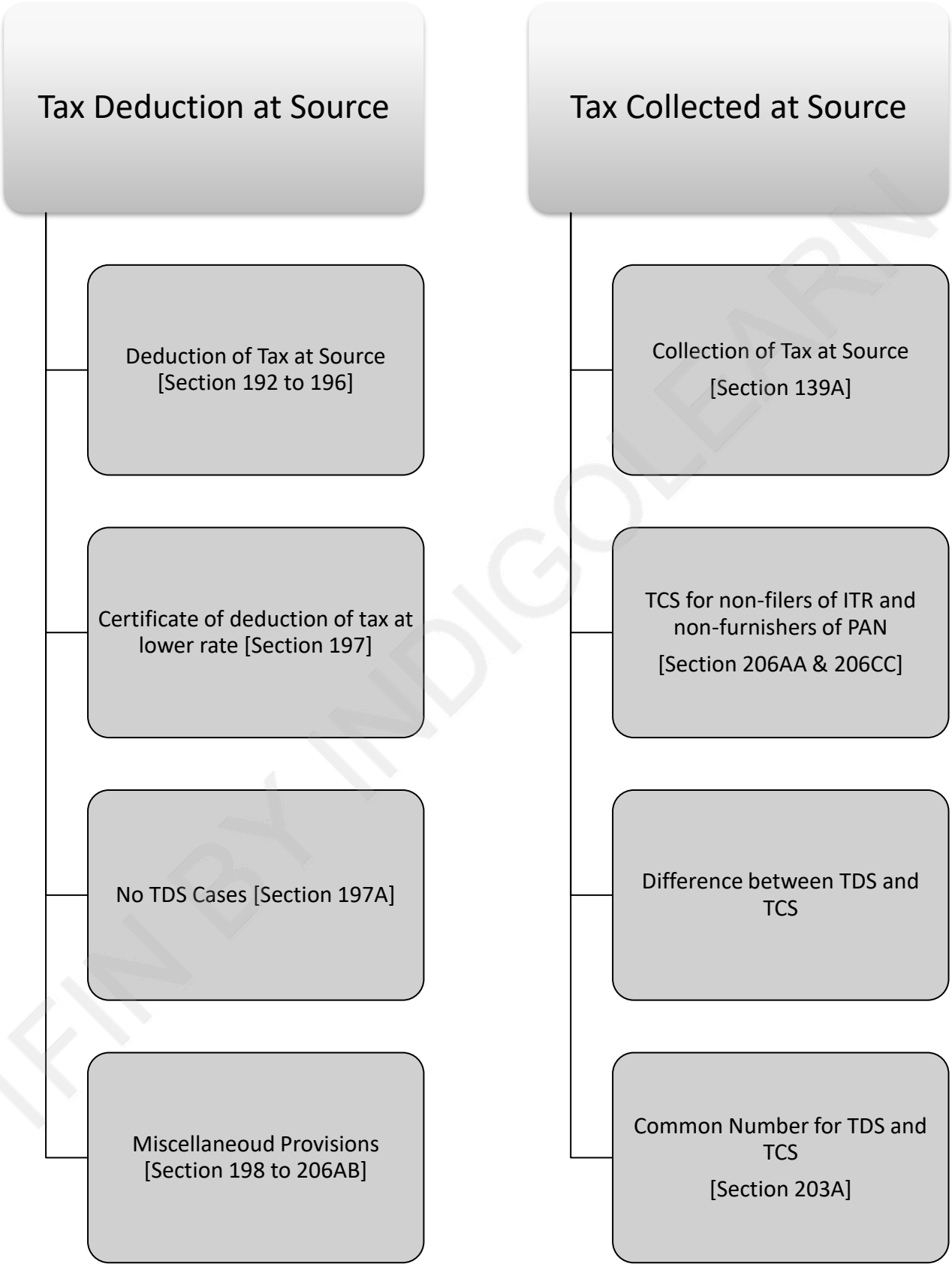
- Various Tax Deducted at Source Sections
- Thresholds of various TDS transactions
- Provisions that enable Tax Collection at Source

TDS and TCS is a regular compliance in the monthly calendar of a Chartered Accountant in the fields of Tax compliances or Audit services. A strong hold in these provisions would make a Chartered Accountant be watchful and informed about each transaction's Tax Compliance.

Happy learning!



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1. INTRODUCTION:

The total income of an assessee for the previous year is taxable in the relevant assessment year. For example, the total income for the P.Y. 2022-23 is taxable in the A.Y. 2023-24. However, income-tax is recovered from the assessee in the previous year itself through –

(1) Tax deduction at source (TDS)

(2) Tax collection at source (TCS)

(3) Payment of advance tax

2. SEC 190: Deduction of tax at source and advance payment

- **Applicability -**
  - All assessee

- **Explanation -**
  - Income tax is recovered through TDS, TCS, and Advance tax and for non-monetary perquisites as per section 192(1A).
  - Amount of tax to be paid after adjusting TDS, TCS, tax relief as per Section 89, tax credit to claimed as per section 115JD, any tax or interest payable according to the provisions of Section 191(2) and advance tax.

3. SEC 191: Direct payment of tax

- **Section 191(1):** In the following cases, tax is payable by the assessee directly –

  (i) in the case of income in respect of which tax is not required to be deducted at source; and
  (ii) income in respect of which tax is liable to be deducted but is not actually deducted.
  (iii) The proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

- If any person, including the principal officer of the company –
  (i) who is required to deduct tax at source; or
  (ii) an employer paying tax on non-monetary perquisites under section 192(1A), does not deduct the whole or part of the tax, or after deducting fails to pay such tax deducted, then, such person shall be deemed to be an assessee-in-default.
- However, if the assessee himself has paid the tax, this provision will not apply.
- **Section 191(2):** If Income of assessee, includes value of specified security or sweat equity shares allotted or transferred free of cost/ concessional rate by his employer being eligible start-up then income-tax on such has to be paid by assessee within **14 days** from the earliest of
  - After expiry of 48 months from the end of relevant A.Y; or
  - From the date of the sale of such by the assessee; or
  - From the date of assessee ceasing to be employee of such employer

4. SEC 192: SALARY:

Section	Nature of Payment	Payer	Payee	Rate
192	Salary	Any Person	Employee (R/NR)	Slab Rate

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Additional Points:

- This section casts an obligation on every person responsible for paying any income chargeable to tax under the head "Salaries" to deduct income-tax on the amount payable.
- Such income-tax has to be calculated at the average rate of income-tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee. Therefore, the liability to deduct tax at source in the case of salaries arises only at the time of payment.

  For computation of total income in case employee intents to opt for concessional rate of tax u/s 115BAC and intimates his deductor (employer) => Deduct tax as per provisions of Section 115BAC

  <u>Do not</u> intimate his deductor (employer) => Deduct tax <u>without</u> considering provisions of Section 115BAC
- In cases where an assessee is simultaneously employed under more than one employer or the assessee takes up a job with another employer during the financial year, he may furnish the details of the income under the head "Salaries" due or received by him from the other employer, the tax deducted therefrom and such other particulars to his current employer.

  Thereupon, the subsequent employer should take such information into consideration and then deduct the tax remaining payable in respect of the employee's remuneration from both the employers put together for the relevant financial year.
- Deduction of tax at source should be made after allowing relief under section 89(1), where eligible.
- A taxpayer can declare the following additions information for allowing to the employer to compute TDS:
  - particulars of such other income;
  - particulars of any tax deducted under any other provision;
  - loss, if any, under the head 'Income from house property'. (Only loss from house property is considered and not losses under other head)
- The employer shall furnish to the employee (whose salary exceeds ₹ 150,000), a statement in Form No. 12BA giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof.
- It is the responsibility of the employer to obtain from the assessee, the following evidence or proof or particulars of prescribed claims.

House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
Leave Travel Concession or Assistance	Evidence of expenditure
Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
Deduction under Chapter VI-A	Evidence of investment or expenditure.

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5. Section 192A: Premature withdrawal from employee's provident fund

Section	Nature of Payment	Payer	Payee	Rate
192A	Accumulated balance of PF	Any Person	Employee(R/NR)	10%

Additional Points:

1. Income Tax shall be deducted at source (TDS) at the following rates, if at the time of payment of the accumulated PF balance is more than or equal to Rs. 50000/-
   a) TDS will be deducted @ 10%, provided PAN is submitted

2. No need to deduct TDS if aggregate amount of such payment to the payee is less than Rs.50000/-
3. However premature withdrawal, before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) is subject to tax.
4. If PAN of the recipient is not available, Tax will be Deducted @ 20%
   [Amended as per Finance Act, 2023]

6. SEC 193: INTEREST ON SECURITIES: -

Section	Nature of Payment	Payer	Payee	Rate
193	Interest on Securities	Any Person	Resident Person	10%

Additional Points:

1. Any person paying to a resident interest on securities is liable to deduct tax at source at the time of payment or credit whichever is earlier. However, in case where the following cumulative conditions are fulfilled, tax deduction at source is not warranted:
   - ❖ Interest on any debentures (whether listed or not listed on a recognized stock exchange) issued by a company in which public are substantially interested to a resident Individual or HUF
   - ❖ The payment is made by an account payee cheque or draft; and
   - ❖ The amount of interest does not exceed Rs. 5000/-

   It needs mention that in order to fall outside the purview of tax deduction under this section, payer should fulfill all the 3 conditions cumulatively.

2. No tax deduction is to be made from any interest payable:

- ❖ on National Development Bonds
- ❖ on 7-year National Savings Certificates (IV Issue)
- ❖ on 4¼% National Defence Bonds 1972, held by resident.

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- ❖ on 4¼% National Defence Loan, 1968 or 4¾% National Defence Loan, 1972.
- ❖ on debentures issued by any institution or authority or any public sector company or any co-operative society as notified by the Central Govt.

  Notified - 54EC Capital Gains Bond issued by Power Finance Corporation Limited and Indian Railway Finance Corporation Limited
- ❖ on securities to LIC, GIC, subsidiaries of GIC or any other insurer in which they have full beneficial interest.
- ❖ On any security of central government and state government.
  - Exception- 8% Savings (taxable) Bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 issued to a resident -interest payable thereon does not exceeds Rs. 10,000/- during the financial year.

3. **Rate of TDS**: 10% for all the assesses,

7. SEC 194: DIVIDENDS

Section	Nature of Payment	Payer	Payee	Rate
194	Dividend	Domestic Company	Resident Person	10%

Additional Points:

1. Payer is a domestic company, and the recipient is Resident person.
2. Tax to be deducted at the time of payment.
3. **Rate of TDS:** 10%
4. **Non-Applicability:**

- The dividend is paid by any mode other than cash; and
- The amount of such dividend or aggregate of dividend distributed or paid or likely to be distributed or paid during the financial year by the company to such shareholder does not exceed Rs. 5,000.
- Dividend credited or paid to LIC, GIC, subsidiaries of GIS or any insurer provided, the shares are owned by them/them have full beneficial interest in such shares, business trust or any other person as may be notified by the CG in the Official Gazette.

8. SEC 194A: INTEREST OTHER THAN INTEREST ON SECURITIES

Section	Nature of Payment	Payer	Payee	Rate

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194A	Interest other than interest on securities	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from Business or profession do not exceed the limits Rs. 1 crore and Rs. 50 lakhs respectively during the immediately preceding F.Y.)	Resident Person	10%

Additional Points:

1. No TDS in following cases:
   - ❖ If the aggregate amount of interest paid or credited during the financial year does not exceed Rs.5,000/-

     This limit is Rs.40,000/- where the payer is a –

     (i) banking company;

     (ii) a co-operative society engaged in banking business; and

     (iii) post office and interest is credited or paid in respect of any deposit under notified schemes.

     (Rs.50,000/- in case of a Senior citizen.)
   - ❖ Interest paid or credited by a firm to any of its partners.
   - ❖ Income paid or credited by a co-operative society (other than a co- operative bank) to a member thereof or to any other co-operative society.
   - ❖ Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf.
   - ❖ Interest income credited or paid in respect of deposits (other than time deposits made after 1.7.1995) with a bank for which the Banking Regulation Act, 1949 applies.
   - ❖ Interest credited or paid in respect of deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co- operative land development bank.
   - ❖ Interest income credited or paid by the Central Government under any provisions of the Income-tax Act, 1961, the Wealth- tax Act, 1957, the Gift-tax Act or the Interest Tax Act.
   - ❖ Interest paid or credited to the following entities:
     - •banking companies, or co-operative societies engaged in the business of banking, including co-operative land mortgage' banks
     - •Financial corporations established under any Central, State or Provincial Act.
     - •Life Insurance Corporation of India.
     - •Companies and co-operative societies carrying on the business of insurance.
     - •the Unit Trust of India; and

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- notified institution, association, body or class of institutions, associations or bodies (National Skill Development Fund has been notified by the Central Government for this purpose)

❖ Income paid or payable by an infrastructure capital company or infrastructure capital fund or infrastructure debt fund or public sector company or scheduled bank in relation to a zero-coupon bond issued on or after 1.6.2005.

❖ Income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed Rs.50,000/-

2. A Co-operative society under this section is liable to deduct tax if: -
   - Total sales, Gross receipts or Turnover exceed Rs. 50 Crores during the F.Y immediately preceding the F.Y in which interest is credited and
   - The amount of interest is credited or paid or likely to be credited or paid, during the F.Y is more than Rs. 50,000 (being senior citizen) or Rs. 40,000 (other cases)
3. Interest credited or paid of Co-operative society:
   - To its members or any other co-operative societies
   - In respect of deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank.
   - In respect of deposits with a co-operative bank other than co-operative society or bank engaged in carrying on business of banking.
4. The expression "time deposits' means the deposits, including recurring deposits, repayable on the expiry of fixed periods
5. Central Government is entitled to issue notification for non-deduction of tax at source or at lower rate from such payment to such class of persons specified in such notification.
6. Interest income accrued to minor child, where both the parents have deceased:

   TDS is required to be deducted and reported against PAN of the minor child unless a declaration is filed under Rule 37BA(2) that credit for tax deducted has to be given to another person.
7. Interest on deposits made under Capital Gains Accounts Scheme, 1988 where depositor has deceased: **[N/N.08/201**

   (i) TDS on the interest income accrued for and upto the period of death of the depositor is required to be deducted and reported against PAN of the depositor, and

   (ii) TDS on the interest income accrued for the period after death of the depositor is required to be deducted and reported against PAN of the legal heir, unless a declaration is filed that credit for tax deducted has to be given to another person.

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9. SECTIONS 194B AND 194BB: WINNINGS FROM LOTTERIES, CROSSWORD PUZZLES AND HORSERACES

Section	Nature of Payment	Payer	Payee	Rate
194B	Winnings from lottery or crossword puzzles etc.,	Any Person	Any Person	30%
194BB	Winnings from horse races	Any Person	Any Person	30%

1. According to the provisions of section 194B, every person responsible for paying to any person, whether resident or non-resident, any income by way of winnings from lottery or crossword puzzle or card came and other game of any sort, is required to deduct income-tax there from at the rate of 30%, if the amount of payment exceeds Rs. 10,000.

2. Further, in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying, shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.

3. The obligation to deduct tax at source under section 194BB arises when the above-mentioned persons make payment of any income by way of winnings from any horse race in excess of ₹10,000. The rate applicable for deduction of tax at source is 30% **[Amended as per Finance Act, 2023]**

4. In the context of the provisions of section 194BB, winnings by way of jack pot would also fall within the scope of section 194BB.

Note: In case of winnings from online games, Section 194BA would apply and TDS would be computed on the net winnings at 30%. TDS is done at the end of the FY or at the time of withdrawal from the user account.

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10. SEC.194C: PAYMENTS TO CONTRACTORS

Section	Nature of Payment	Payer	Payee	Rate
194C	Payments to contractors and Sub- contractors [carrying out any work (including supply of labour) in pursuance of a contract]	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from Business or profession do not exceed the limits Rs. 1 crore and Rs. 50 lakhs respectively during the immediately preceding F.Y.)	Resident Person	**1%** of sum paid or credited, if the payee is an **Individual or HUF** **2%** of sum paid or credited, if the payee is **any other** person.

1. Any person responsible for paying any sum to a resident contractor for carrying out any work, in connection with a contract, including sub- contract shall deduct tax at source under this section. It may be noted that the contract under this section includes a contract for supply of labour for carrying out work.
2. The tax deduction at source under this section shall be made either on payment or credit whichever is earlier.
3. **Meaning of "Work" u/s 194C:**
   - ❖ According to Section 194C, any payment for carrying out any work shall be subject to tax deduction at source. For the purpose of this section, work shall include:
     - Advertising
     - Broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
     - Carriage of goods and passengers by any mode of transport other than by railways;
     - Catering;
     - Manufacturing or supplying of product according to the requirement or specification of the customer by using material purchased from such customer.
     - If goods are purchased from some other supplier, then it would become sale
4. Deduction will be required in the following situations:
   - ❖ The amount of any single sum credited or paid to the contractor exceeds ₹30,000;
   - ❖ The aggregate amount of such sums credited or paid to the contractor during the financial year exceeds ₹1,00, 000.
5. Non-Applicability of TDS
   - ❖ No TDS if contract is for personal purpose of Individual/HUF

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- ❖ No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor

  a) Owns ten or less than ten goods carriages at any time during the previous year;

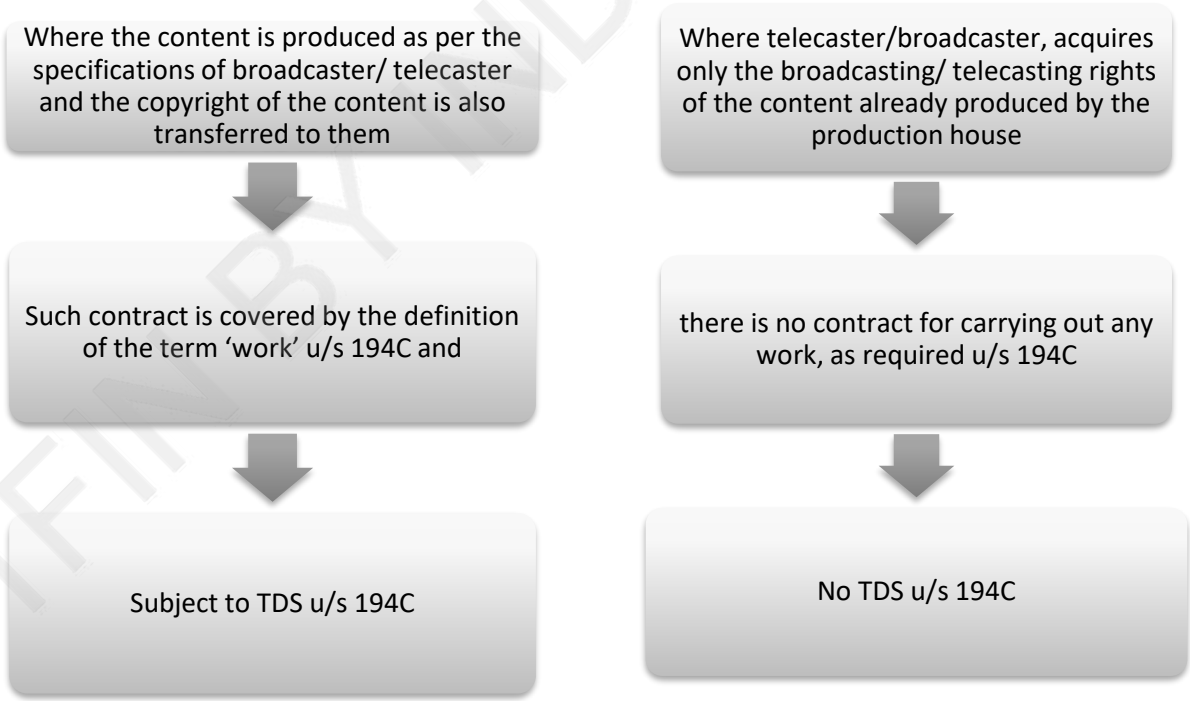
  b) Furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

6. payment of gas transportation charges by the purchaser of natural gas to the seller of gas [Circular 9/2012] :

   If Seller sells as well as transports the gas to the purchaser till the point of delivery, nature of such contract which remains essentially a 'contract for sale' and not a 'works contract' irrespective of fact whether the transportation charges are included in the cost of gas or shown separately.

   However, if transportation charges paid to a third party transporter, then TDS shall be made u/s 194C

7. Payments by broadcasters or Television Channels to production houses for production of content for telecasting



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11. SEC 194D: INSURANCE COMMISSION

Section	Nature of Payment	Payer	Payee	Rate
194D	Insurance Commission	Any Person	Any Resident Person	5%

Additional Points:

1. The deduction is to be made at the time of the credit of the income to the account of the payee or at the time of making the payment [by whatever mode] to the payee, whichever is earlier.

2. No TDS if commission is up to Rs.15000/- in FY.

12. SEC 194DA: PAYMENT IN RESPECT OF LIFE INSURANCE POLICY

Section	Nature of Payment	Payer	Payee	Rate
194DA	Maturity of Life Insurance Policy	Any Person	Any Resident Person	5%

Additional Points:

1. Tax is deductible at the time of payment.

2. TDS is not required if the amount payable during the financial year is **less than 1,00,000**.

3. No TDS if maturity amount exempted u/s 10(10D).

4. In this section TDS applicable on income component i.e. maturity amount (-) premium paid.

13. SEC 194G: COMMISSION ON THE SALE OF LOTTERY TICKETS

Section	Nature of Payment	Payer	Payee	Rate
194G	Commission on the sale of lottery tickets	Any Person	Any Person	5%

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Additional points:

1. No TDS where amount does not exceed Rs.15000/- during a FY.

2. Time of deduction: At the time of credit or payment, whichever is earlier.

14. SEC 194H: COMMISSION OR BROKERAGE: -

Section	Nature of Payment	Payer	Payee	Rate
194H	Commission or Brokerage	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from Business or profession do not exceed the limits Rs.1 crore and Rs.50 lakhs respectively during the immediately preceding F.Y.)	Resident Person	5%

Additional Points:

1. The deduction shall be made at the time such income is credited to the account of the payee or at the time of payment in cash or by issue of cheque or draft or by any other mode, whichever is earlier.
2. Even where income is credited to some other account, whether called 'Suspense account' or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit to the account of the payee for the purposes of this section.
3. No deduction is required if the amount of such income or the aggregate of such amount does not exceed ₹15,000 during the financial year.
4. No TDS on payments by BSNL or MTNL to their public call office (PCO) franchisees.
5. No TDS if commission or brokerage related to security like commission to underwriter, brokerage on public issue etc..

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15. SEC 194-I: RENT

Section	Nature of Payment	Payer	Payee	Rate
194I	Rent of P&M, Equipment's, Land, Building, Furniture	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from Business or profession do not exceed the limits Rs.1 crore and Rs.50 lakhs respectively during the immediately preceding F.Y.)	Resident Person	P&M, Equipment - 2% Land, Building, Furniture - 10%

Additional Points:

1. "Rent" means any payment, by whatever name called, under any lease, sub- lease, tenancy or any other agreement or arrangement for the use of (either separately or together) of P&M / L&B / F&F whether or not they are owned by the payee.

2. No deduction need be made where the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of the payee does not exceed Rs.2,40,000/-

3. This deduction is to be made at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.
4. Passenger Service Fees (PSF) paid by an Airline to an Airport Operator is NOT treated as rent so TDS not applicable u/s 194I [Circular No.21/2017]

5. Lumpsum lease premium or one-time upfront lease charges which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights - are not payments in the nature of rent within the meaning of section 194-I. Therefore, NO TDS. [Circular No.35/2016]

6. No TDS on Cooling charges paid by the customers of the cold storage. However, 194C would apply to such case.

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7. 194-I would be required to be made on the amount of rent paid/payable without including the GST component.

16. SEC 194-IA: PAYMENT ON TRANSFER OF CERTAIN IMMOVABLE PROPERTY OTHER THAN AGRICULTURAL LAND

Section	Nature of Payment	Payer	Payee	Rate
194-IA	Transfer of immovable property other than agricultural land	Any Person (Buyer)	Resident Person (Seller)	1% of Consideration or stamp duty value, whichever is higher

Additional Points:

1. The deduction is to be made at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

2. However, tax is not required to be deducted at source where the total amount of consideration for the transfer of immovable property and the stamp duty value of such property, are both, less than ₹50 lakh. [**Finance Bill, 2022**]

3. Further, since tax deduction at source for compulsory acquisition of immovable property is covered under section 194LA, the provisions of section 194-IA do not get attracted in the hands of the transferee in such cases.
4. The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194-IA.

17. SEC 194-IB: PAYMENT OF RENT BY CERTAIN INDIVIDUALS OR HINDU UNDIVIDED FAMILY

Section	Nature of Payment	Payer	Payee	Rate
194-IB	Rent of Immovable Property	Individual/ HUF (Not covered u/s 194-I)	Resident Person	5%

Additional Points:

1. tax has to be deducted at source only if the amount of such rent exceeds Rs.50,000 per month or part of a month during the PY.

2. This deduction is to be made at the time of credit of such rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier.

3. However, in any case, such deduction shall not exceed the amount of rent payable for the last month of the previous year.

18. SEC 194J: FEES FOR PROFESSIONAL OR TECHNICAL SERVICES:-

Section	Nature of Payment	Payer	Payee	Rate
194J	-Fees for professional services -Fees for technical services -Remuneration to director of a company -Royalty -Non-compete fees	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from Business or profession do not exceed the limits Rs.1 crore and Rs.50 lakhs respectively during the immediately preceding F.Y.)	Resident Person	10%

Additional Points:

1. Every person other than an individual or a HUF shall deduct tax at source at the rate of:
   - 2% in case of fees for technical services (not being professional services) or royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films;
   - 2% in case of a payee, engaged only in the business of operation of call centre.
2. 10% in other cases.
3. The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.
4. No tax deduction is required if the amount of fees or the aggregate of the amounts of fees credited or paid or likely to be credited or paid during a financial year does not exceed ₹ 30,000 in the case of fees for professional services, ₹30,000 in the case of fees for technical services, ₹30,000 in the case of royalty and ₹30,000 in the case of non-compete fees.

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However, there is no such exemption limit for deduction of tax on any remuneration or fees or commission payable to director of a company.

5. However, an individual or Hindu Undivided family, shall not be liable deduct income-tax on the sum payable by way of fees for professional services, in case such sum is credited or paid exclusively for personal purposes.
6. The following persons have been included as professionals in this section by notification 88/2008: Sports person, Umpires &referees, coaches & Trainers, Team physicians &Physiotherapists, event managers, commentators, Anchors and sports Columnists.
7. **Individual or HUF**, whose total sales, gross receipts or turnover from business or profession carried by him exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession in the financial year immediately preceding the financial year in which the **fees for professional services or fees for technical services** is credited or paid is required to **deduct tax** on such fees.
8. Third Party Administrators who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes including cashless schemes are liable to deduct tax at source under section 194J. [Circular No.8/2009]
9. The consideration for use or right to use of computer software is royalty. Hence, 194J would be attracted in respect of consideration for use or right to use computer software. However, no TDS would be attracted if:
   - the software is acquired in a subsequent transfer without any modification by the transferor
   - tax has been deducted under section 194J on payment for any previous transfer of such software and
   - the transferee obtains a declaration from the transferor that tax has been so deducted along with the PAN of the transferor.

19. SEC 194K: INCOME IN RESPECT OF UNITS

Section	Nature of Payment	Payer	Payee	Rate
194K	Income in respect of units	Any Person(MF/UTI)	Resident Person	10%

Additional Points:

1. The deduction is to be made at the time of credit of such sum to the account of the payee or at the time of payment by any mode, whichever is earlier.

2. No tax is required to be deducted if –
   i. the amount of such income or the aggregate of the amounts of such income credited or paid or likely to be credited or paid during a financial year does not exceed Rs.5000/-

ii. the income is of the nature of capital gains.

20. SEC 194LA: PAYMENT OF COMPENSATION ON ACQUISITION OF CERTAIN IMMOVABLE PROPERTY

Section	Nature of Payment	Payer	Payee	Rate
194LA	Compensation on acquisition of certain immovable property	Any Person	Resident Person	10%

Additional Points:

1. Section 194LA provides for deduction of tax at source by a person responsible for paying to a resident any sum in the nature of –

   i.compensation or the enhanced compensation or

   ii.the consideration or the enhanced consideration

   on account of compulsory acquisition of any immovable property (other than agricultural land).

   "Agricultural land" for the purpose of this section means any land situated in India including urban agricultural land.

2. The tax should be deducted at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

3. No tax is required to be deducted where the aggregate amount of such payments to a resident during the FY does not exceed Rs.2,50,000/-

21. SEC 194M: PAYMENT MADE BY AN INDIVIDUAL OR A HUF FOR CONTRACT WORK OR BY WAY OF COMMISSION OR BROKERAGE OR FEES FOR PROFESSIONAL SERVICES

Section	Nature of Payment	Payer	Payee	Rate
194M	Contract work or by way of commission or brokerage or fees for professional services	Individuals and HUFs (other than those who are required to deduct TDS u/s 194C,194H,194J)	Resident Person	5%

Additional Work:

1. The tax should be deducted at the time of credit of such sum or at the time of payment of such sum, whichever is earlier.

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2. No tax is required to be deducted where aggregate amount of such sums credited or paid to a resident during the financial year does not exceed Rs.50,00,000/-

3. An individual or a Hindu undivided family is not liable to deduct tax at source u/s 194M if –
    a. They are required to deduct tax at source u/s 194C and 194H in case an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.
    b. They are required to deduct tax at source u/s 194J on fees for professional services i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds ₹ 1 crore in case of business and ₹ 50 lakhs in case of profession during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF

4. **Section 194-IA, 194-IB and 194M:** In these sections payer not required to opt TAV numbers and TDS required to deposit online to Govt. along with TDS return in Form 26Q,26QC,26Q within 30 days from the end of the month in which TDS was deducted.

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SEC 194N: TDS ON CASH WITHDRAWAL

Section	Nature of Payment	Payer	Payee	Rate
194N	Cash withdrawal from Bank, co-operative society, post office	Bank, co-operative society, post office	Any Person	2%

Additional Points:

1. This deduction is to be made at the time of payment of such sum.
2. If the recipient has not furnished the returns of income for all the 3 AY relevant to the 3 PY, for which the time limit of file return of income under section 139(1) has expired, immediately preceding the PY then TDS shall be deducted at the rate of:
   - 2% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > 20 Lakhs but <= 1 crore
   - 5% of the sum, where the amount or aggregate of amounts, as the case may be, being paid in cash > 1crore
3. **Non-applicability:**

   Liability to deduct tax at source under section 194N shall not be applicable to any payment made to –

i) the Government
ii) any banking company or co-operative society
iii) any business correspondent of a banking company or co-operative society
iv) any white label ATM operator of a banking company or co-operative society
v) Cash Replenishment Agencies (CRA's) and franchise agents of White Label Automated Teller Machine Operators (WLATMO's) maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the ATM's
vi) Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any Law relating to Agriculture Produce Market of the concerned State, who has intimated to the banking company or co-operative society or post office his account number through which he wishes to withdraw cash in excess of ₹ 1 crore in the previous year along with his Permanent Account Number (PAN) and the details of the previous year and has certified to the banking company or co-operative society or post office that the withdrawal of cash from the account in excess of ₹ 1 crore during the previous year is for the purpose of making payments to the farmers on account of purchase of agriculture produce and the banking company or co-operative society or post office has ensured that the PAN quoted is correct and the commission agent or trader is registered with the APMC, and for this purpose necessary evidences have been collected and placed on record.
vii) Authorised dealer, Full-Fledged Money Changer (FFMC) their franchise agent and sub-agent in respect of withdrawal is made for purchase of foreign currency from foreign tourists or non- residents visiting India or from resident Indians on their return to India or

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disbursement of inward remittances to the recipient beneficiaries in India in cash under Money Transfer Service Scheme (MTSS) of the RBI.

viii) **Proviso inserted as per Finance Act, 2023**

When recipient accountholder is a person other than co-operative society	When recipient accountholder is a co-operative society	TDS
Case 1 - If recipient is a non-filer of income-tax return -	**Case 1** - If recipient is a non-filer of income-tax return -	
(a) Cash Payment exceeding Rs. 20 Lakh but not exceeding Rs. 1 Crore	(a) Cash Payment exceeding Rs. 20 Lakh but not exceeding Rs. 3 Crore	2 %
(b) Cash Payment exceeding Rs. 1 Crore	(b) Cash Payment exceeding Rs. 1 Crore	5 %
Case 2 – If the recipient is not covered by Case 1 (Cash Payment Exceeding Rs. 1 Crore)	**Case 2** – If the recipient is not covered by Case 1 (Cash Payment Exceeding Rs. 3 Crore)	2 %

22. SEC 194P: DEDUCTION OF TAX BY A SPECIFIED BANK IN CASE OF SPECIFIED SENIOR CITIZEN

Section	Nature of Payment	Payer	Payee	Rate
194P	Tax by a specified bank in case of specified senior citizen	Specified Bank	Individual, being a resident who is of the age of 75 years or more	Slab Rate

Additional Points:

1. The specified senior citizen is exempted from filing his return of income for the assessment year relevant to the previous year in which the tax has been deducted under this section.

2. Specified senior citizen:

   An individual, being a resident in India, who

   - is of the age of 75 years or more at any time during the previous year
   - is having pension income and no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income and
   - has furnished a declaration to the specified bank containing such particulars, in the prescribed form and verified in the prescribed manner.

3. The CBDT has, vide Notification No. 99/2021 dated 2.9.2021, provided that on furnishing of such declaration in the prescribed form by the specified senior citizen, the specified bank has to compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force, after

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giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A. The effect to the deduction allowable under Chapter VI-A has to be given based on the evidence furnished by the specified senior citizen during the previous year.

23. SEC 194Q: DEDUCTION OF TAX AT SOURCE ON PURCHASE OF GOODS

Section	Nature of Payment	Payer	Payee	Rate
194Q	Purchase of goods exceeding 50 lakhs in a previous year	Any Person (Buyer)	Resident Person (Seller)	0.1% of such sum exceeding 50 lakhs

Additional Points:

1. The deduction is to be made at the time of credit of such sum to the account of the resident-seller or at the time of payment thereof by any mode, whichever is earlier.
2. Tax is **not** required to be deducted under this section in respect of a transaction on which-
   a. tax is deductible under any of the provisions of this Act; and
   b. tax is collectible under the provisions of section 206C, other than section 206C(1H)
3. Buyer means a person whose **total sales, gross receipts or turnover** from the business carried on by him exceed 10 crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

Guidelines:

1. **Adjustment for GST:**

   TDS u/s 194Q, when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted u/s 194Q on the amount credited without including such GST. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future.

   Further, with respect to purchase return relating to GST products or non GST products, tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens, the tax must have already been deducted u/s 194Q on that purchase. If that is the case and against this purchase return, the money is refunded by the seller, then, this tax deducted may be adjusted against the next purchase against the same seller. No adjustment is required if the purchase return is replaced by the goods by the seller as in that case the purchase on which tax was deducted under section 194Q has been completed with goods replaced.

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2. **Can non-resident be a buyer?**

   The provisions of section 194Q shall **not** apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non-resident in India.

3. **Should tax be deducted when the seller is a person whose income is exempt?**

   The provisions of section 194Q would not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act.

   Similarly, with respect to section 206C(1H), it is clarified that the provisions thereof would not apply to sale of goods to a person, being a buyer, who as a person is exempt from income-tax under the Act.

4. **Would provisions of section 194Q apply to buyer in the year of incorporation?**

   Under section 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall **not** apply in the year of incorporation.

5. **Would provisions of section 194Q apply to buyer if the turnover from business is 10 crore or less?**

   Section 194Q would apply to a buyer who has turnover or gross receipts exceeding ₹ 10 crore but total sales or gross receipts or turnover from business is ₹ 10 crore or less, it is clarified that, for the purposes of section 194Q, a buyer is required to have total sales or gross receipts or turnover **from the business carried on by him** exceeding ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Hence the sales or gross receipts or turnover from business carried on by him must exceed 10 crore. Non-business activity is not to be counted for this purpose.

6. **Applicability of section 194Q in cases where exemption has been provided under section 206C(1A)**

   Section 194Q does not apply in respect to those transactions where tax is collectible under section 206C [except sub-section (1H) thereof]. Since by virtue of section 206C(1A), the tax is not required to be collected for goods covered under section 206C(1), in such cases, the provisions of section 194Q will apply and the buyer shall be liable to deduct tax under the said section if the conditions specified therein are fulfilled.

7. **Should tax be deducted on advance payment?**

   Since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q shall apply to advance payment made by the buyer to the seller.

8. In case of a transaction to which both section 206C(1H) and 194Q applies, TDS to be deducted u/s 194Q.

9. The provisions of section 194Q & 206C(1H) shall not apply in relation to transactions in securities, and commodities which are traded through recog. stock exchanges or cleared and

settled by the recog. clearing corp., including RSE or transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges.

24. SEC 194R: DEDUCTION OF TAX AT SOURCE ON BENEFIT OR PERQUISITE IN RESPECT OF BUSINESS OR PROFESSION [*w.e.f. 1.7.2022] [Added in Finance Act,2022]*

Section	Nature of Payment	Payer	Payee	Rate
194R	Benefit or perquisite in respect of business or profession	Any Person (Providing such benefit or perquisite)	Resident Person	10% of the value or aggregate of value of such benefit

Additional Points:

1. where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.
2. No tax is required to be deducted under section 194R in the following cases-
   - In case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed ₹ 20,000; or
   - In case of an individual or HUF, whose total sales, gross receipts or turnover from business or profession does not exceed ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

25. SEC 195A: INCOME PAYABLE NET OF TAX

- Where, under an agreement or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon, be equal to the net amount payable under such agreement or arrangement.
- However, no grossing up is required in the case of tax paid under section 192(1A) by an employer on the non-monetary perquisites provided to the employee.

26. SEC 196: INTEREST OR DIVIDEND OR OTHER SUMS PAYABLE TO GOVERNMENT, RESERVE BANK OR CERTAIN CORPORATIONS

- No deduction of tax shall be made by any person from any sums payable to
  i. the Government
  ii. the Reserve Bank of India

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iii. a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income

iv. a Mutual Fund

- This provision for non-deduction is applicable when such sum is payable to the above entities by way of –
  i. interest or dividend in respect of securities or shares –
     a. owned by the above entities; or
     b. in which they have full beneficial interest
  ii. any income accruing or arising to them.

27. SEC 197; CERTIFICATE FOR DEDUCTION OF TAX AT A LOWER RATE

1. This section applies where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or payment, as the case may be at the rates in force as per the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA and 194M.
2. In such cases, the assessee can make an application to the Assessing Officer for deduction of tax at a lower rate or for non-deduction of tax.

28. SEC 197A: NO DEDUCTION TO BE MADE IN CERTAIN CASES

- No deduction of tax shall be made u/s 194 (Dividend) and 194EE (NSS), u/s 192A(payment of accumulated balance of provident fund) or 193 (interest on securities) or 194A (other interest) or 194D (insurance commission) or 194DA (payment in respect of life insurance policy) or 194-I (rent) or 194-K(Units), if
  1. The payee is a resident individual.
  2. The aggregate amount of income paid or credited does not exceed basic exemption limit.
  3. Such individual furnishes to the payer, a declaration in writing in duplicate in the Form 15G (Form 15H in case of senior citizen).
  4. Such declaration states that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.
  5. On receipt of the declaration, the person responsible for making payment should deliver one copy to Chief Commissioner or Commissioner on or before 7th of the month following the month in which the declaration is furnished.
- No tax will be deducted from interest payments by an offshore banking unit to a non-resident or not ordinarily resident in India.
- No deduction shall be made from such specified payment to notified institution, association or body as notified by Central government.
- No deduction shall be made under any section from any payment made to New Pension System Trust referred to in sec. 10(44).
- The person responsible for making the payment will be required to deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, one copy of the declaration **on or before the 7th of the month following the month in which the declaration is furnished** to him.

29. SEC 198: TAX DEDUCTED IS INCOME RECEIVED

- All sums deducted under this chapter shall be deemed as income for the purpose of computing the assessee's total income.
- However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income –
  - the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees
  - tax deducted under section 194N

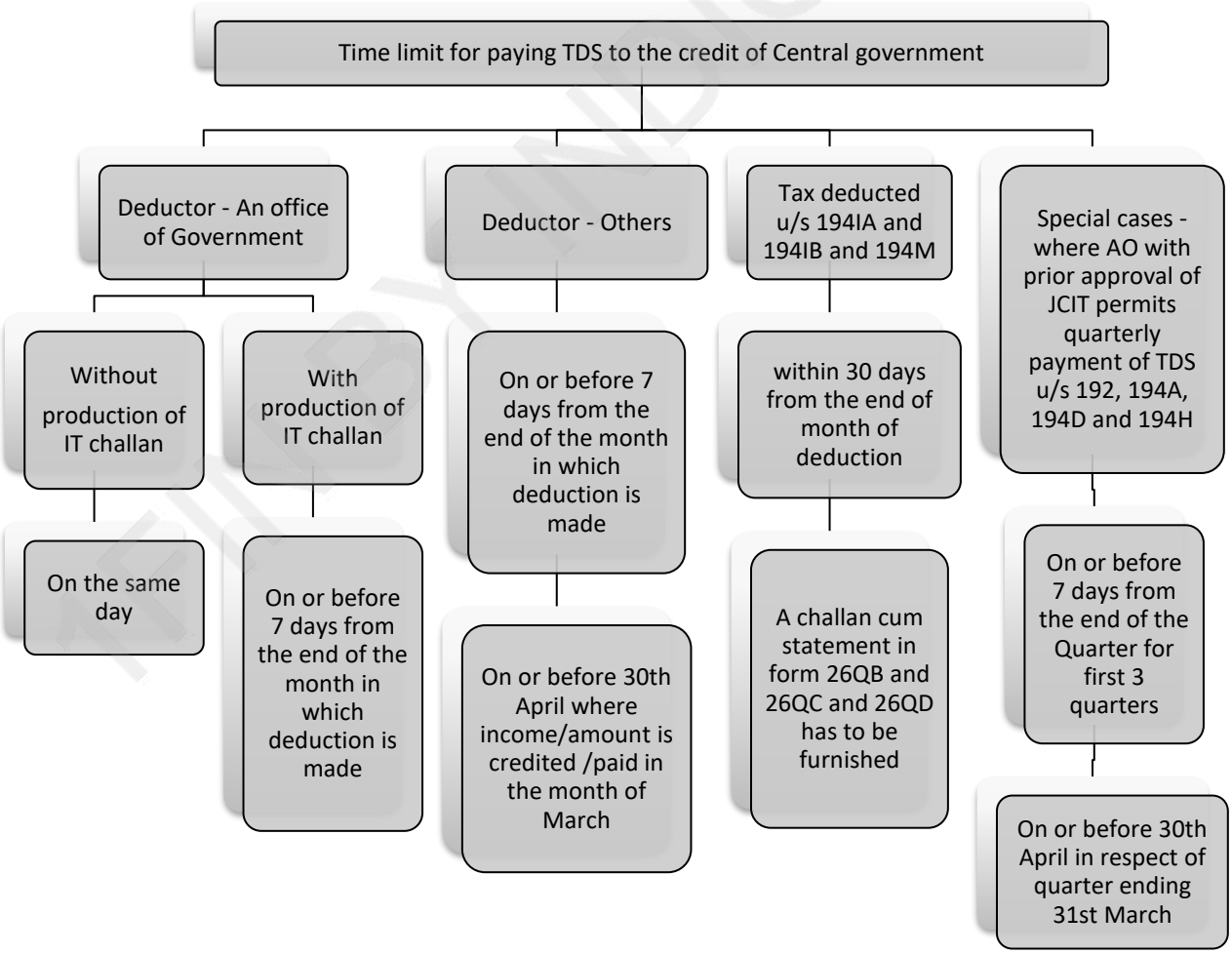
30. SEC 199: CREDIT FOR TAX DEDUCTED AT SOURCE

TDS credit available to a person from whose income deduction is made except :

- In case of clubbing credit available to a person in whose hands the income is ultimately taxable.
- In case of tax paid by employer from own pocket on Non-monetary perquisite employee can take credit.

31. SEC 200: DUTY OF PERSON DEDUCTING TAX

1. The persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of the Central Government.



- TDS returns have to be furnished by the due dates specified below

For the quarter ending 30th June	31st July
For the quarter ending 30th September	31st October
For the quarter ending 31st December	31st January
For the quarter ending 31st June	31st May of the AY

- TDS return forms

For TDS on salaries	Form 24Q
For TDS on all payments other than salaries	Form 26Q
For TDS on interest, dividends to non-residents	Form 27Q
For TCS	Form 27EQ

Notes:

- Fees of ₹200 per day of default u/s 234E applicable if TDS/TCS return after due dates.
- If TDS/TCS return filed after 1 year of prescribed date the penalty u/s 271H ranging from a min. of ₹10,000 to a max. of ₹1,00,000 shall also applicable

32. SEC 200A: CORRECTION OF ARITHMETIC MISTAKES AND ADJUSTMENT OF INCORRECT CLAIM DURING COMPUTERIZED PROCESSING OF TDS STATEMENTS

- All statements and returns in respect of TDS and TCS is made in electronic mode.
- During computerised processing, a correction of any arithmetic error or adjustment to an incorrect claim can be made.
- The sum payable by, or the amount of refund due to, the deductor has to be determined after adjustment of interest and fee against the amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.
- An intimation will be prepared and generated and sent to the deductor, specifying his tax liability or the refund due, within one year from the end of the financial year in which the statement is filed. The refund due shall be granted to the deductor.

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33. SEC 201: CONSEQUENCES OF FAILURE TO DEDUCT OR PAY

1. According to Sec.201(1), any person or the principal officer in the case of a company, who is responsible to deduct tax at source shall be deemed to be an assessee in default in the following situations:

Responsibility

- To deduct tax in respect of all payments covered under TDS provisions
- Employer to pay tax on the non-monetary perquisites provided to the employee.

Violation

- Fails to deduct or after deducting fails to pay the whole or any part of the tax as per law.
- Employer fails to pay, whole or any part of tax on such non-monetary benefit.

Where an assessee is deemed to be in default, the assessing officer may levy penalty to the extent of tax and interest in arrears. However, in a case where the Assessing Officer is satisfied that there exists good and sufficient reason for the assessee to breach the provisions of this section, penalty shall not be levied.

2. However, such person shall not be deemed to be an assessee-in-default in respect of such tax if such payee –
   - has furnished his return of income under section 139;
   - has taken into account such sum for computing income in such return of income; and
   - has paid the tax due on the income declared by him in such return of income,
   - and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed
3. Once an assessee is deemed to be in default u/s. 201, interest shall be leviable u/s.201(lA) at the rate of:
   a) 1% per month or part thereof for delay in deduction of tax; and
   b) 1.5% per month or part thereof for delay in remittance of tax so deducted.

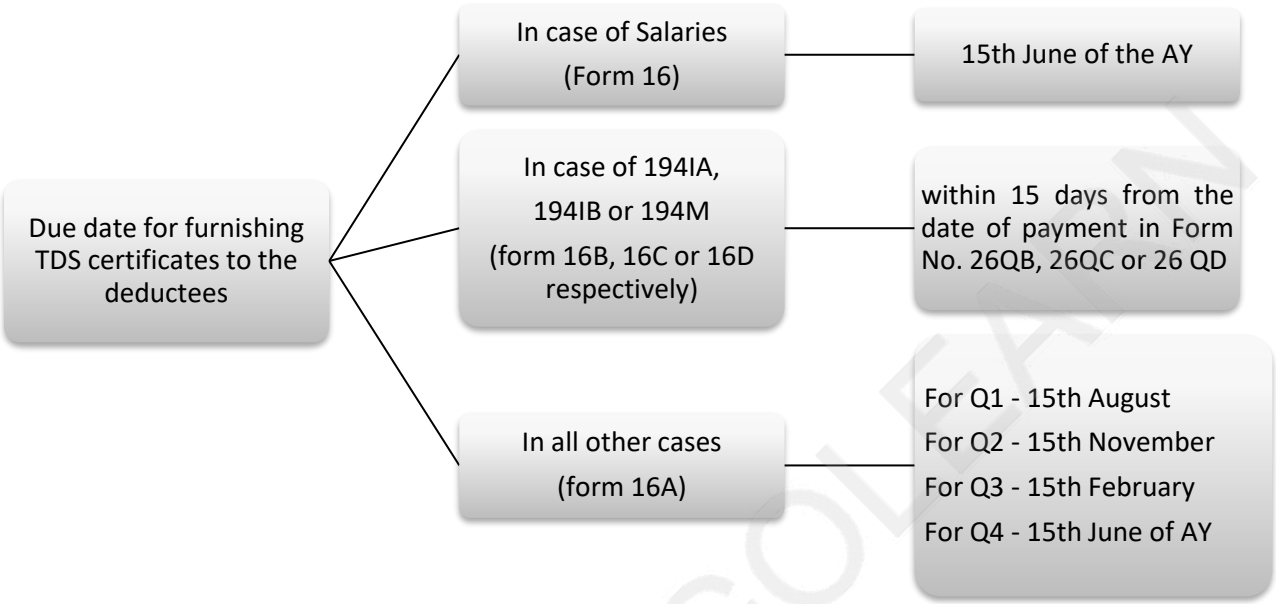
   For example, where tax of Rs.10,000/- was deductible in the month of April 11 was actually deducted only in the month of January'12, interest @1% pm shall be levied for 9 months from May 11 to January'12 on Rs. 10,000/-; if such tax is deposited in the month of April'12, then interest @ 1.5% pm shall be levied for 3 months from February'12 to April'12.

   Such interest shall be paid before furnishing the statement u/s. 200(3).

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34. SEC 203: CERTIFICATE FOR TAX DEDUCTED

- Every person deducting tax at source shall issue a certificate to the effect that tax has been deducted and specify the amount so deducted, the rate at which tax has been deducted and such other particulars as may be prescribed.



35. SEC 206A: FURNISHING OF STATEMENTS IN RESPECT OF PAYMENT OF ANY INCOME TO RESIDENTS WITHOUT DEDUCTION OF TAX

- on every banking company or co-operative society or public company referred to in the proviso to section 194A(3)(i) to prepare such statement, for such period as may be prescribed –
  - if they are responsible for paying to a resident,
  - the payment should be of any income not exceeding Rs. 40,000, where the payer is a banking company or a co-operative society, and Rs. 5,000 in any other case.
  - such income should be by way of interest (other than interest on securities)
- CBDT may cast responsibility on any person other than a person mentioned above, who is responsible for paying to a resident any income liable for deduction of tax at source.
- A statement has to be delivered or caused to be delivered to the prescribed income-tax authority correction statement –
  a. for rectification of any mistake; or
  b. to add, delete or update the information furnished in the statement delivered.

36. SEC 206AA: REQUIREMENT TO FURNISH PERMANENT ACCOUNT NUMBER

- Any person whose receipts are subject to TDS shall mandatorily furnish his PAN to the deductor.
- If deductee fails to furnish PAN, deductor shall deduct TDS at higher of the following

rates

- The rate prescribed under the Act
- The rate in force
- At 20% [5% in case tax is required to be deducted at source u/s 194-O and 194Q]

- Tax is deductible at higher rates even when taxpayer files declaration in Form 15G or 15H u/s 197A but does not provide PAN
- Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor
- The deductor and deductee have to compulsorily quote the PAN of the deductee in all correspondence, bills, vouchers and other documents exchanged between them.

37. SEC 206AB: HIGHER RATE OF TDS FOR NON-FILERS OF INCOME-TAX RETURN

- Section 206AB requires tax to be deducted at source under the provisions of this Chapter on any sum or income or amount paid, or payable or credited, by a person (deductee) to a specified person, at higher of the following rates.
  i. at twice the rate prescribed in the relevant provisions of the Act
  ii. at twice the rate or rates in force i.e., the rate mentioned in the Finance Act; or
  iii. at 5%

  However, section 206AB is **not** applicable in case of tax deductible at source under sections 192, 192A, 194B, 194BB, ***194-IA, 194-IB, 194M*** or 194N.
- If the provisions of section 206AA is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA.
- "Specified person" means
  - A person who has not furnished the return of income for the AY relevant to the PY immediately preceeding the FY in which tax is required to be deducted, for which the time limit of filing return of income under 139(1) has expired: and
  - The aggregate of TDS and TCS is ≥ Rs. 50,000 in each of these two previous years

  The specified person does not include a non-resident who does not have a permanent establishment in India or a person who is not required to furnish the return of income for the AY relevant to the said PY and is notified by CG in this behalf.

38. TAX COLLECTED AT SOURCE

1. **Section 206C(1C)** provides for collection of tax by every person who grants lease or a license or enters into a contract or otherwise transfers any right or interest in any parking lot or toll plaza or mine or quarry, to another person (not being a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purposes of business. The tax shall be collected as provided, from the licensee or lessee of any such licence, contract or lease of the specified nature, at the rate of **2%.**

Under Sec 206C(1), tax has to be collected at source in the following cases:

Nature of goods	% Rate of TCS applicable
Alcoholic liquor for human consumption	1
Scrap	1
Minerals, being coal or lignite or iron ore	1
Tendu leaves	5
Timber obtained under a forest lease	2.50
Timber obtained by any mode other than under a forest lease	2.50
Any other forest produce not being timber tendu leaves	2.50

2. **Time of collection**

Debiting the amount payable by the buyer to the account of the buyer/ licensee / lessee or Receipt of such amount, whichever is earlier.

In case of sale of a motor vehicle of the value exceeding ₹ 10 lakhs or sale of goods exceeding ₹ 50 lakhs [other than exported goods and goods mentioned in section 206C(1)], tax shall be collected at the time of receipt of such amount under section 206C(1F) and 206C(1H), respectively.

3. **Section 206C(1A): Non-applicability of TCS**

No collection of tax shall be made under section 206C(1), in the case of a resident buyer, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that goods referred to in section 206C(1) above are to be utilised for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

4. **Section 206C(1F)**: Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ₹ **10 lakhs**, shall collect tax from the buyer@**1%** of the sale consideration.

- **CBDT Clarification:**

Q.1 Whether TCS@1% is on sale of motor vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/ distributors?

A. To bring high value transactions within the tax net, section 206C has been amended to provide that the seller shall collect the tax @ 1% from the purchaser on sale of motor vehicle of the value exceeding ₹ 10 lakhs. This is brought to cover all transactions of retail sales and accordingly, it **will not apply on sale of motor vehicles by manufacturers to dealers/distributors.**

Q.2 Whether TCS@1% on sale of motor vehicle is applicable only to luxury cars?

A. No, as per section 206C(1F), the seller shall collect tax@1% from the purchaser on sale of any motor vehicle of the value exceeding ₹ 10 lakhs.

Q.3 Whether TCS@1% is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions, of motor vehicle or any other goods or provision of services?

A. Government, institutions notified under United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS@1% under section 206C(1F).

Q.4 Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

A. Tax is to be collected at source@1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to aggregate value of sale made during the year.

Q.5 Whether TCS@1% on sale of motor vehicle is applicable in case of an individual?

A. The definition of "Seller" as given in clause (c) of the *Explanation* below sub-section (11) of section 206C shall be applicable in the case of sale of motor vehicles also.

Q.6 How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?

A. The provisions of TCS on sale of motor vehicle exceeding ₹ 10 lakhs is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS@1%.

5. <u>Section 206C(1G)</u>:

- Provides for collection of tax by every person,
  - being **an authorized dealer**, who receives amount, under the Liberalised Remittance Scheme of the RBI, for overseas remittance from a buyer, being a person remitting such amount out of India;
  - being **a seller of an overseas tour programme package** who receives any amount from the buyer who purchases the package.

  At the rate of **5%** of such amount.

- Tax has to be collected at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier.

➢ Rate of TCS in case of collection by an authorized dealer:

S.No.	Amount and purpose of remittance	Rate of TCS
	Where the amount is remitted for purchase of overseas tour programme package	**5% of the amount (w.e.f 1st October 2023 – 5% till 7 lakhs and thereafter 20%}**
(i)	(a) Where the amount is remitted for a purpose other than purchase of overseas tour programme package; and (b) the amount or aggregate of the amounts being remitted by a buyer is **less than ₹ 7 lakhs** in a financial year	**Nil** (No tax to be collected at source)
(ii)	(a) where the amount is remitted for a purpose other than purchase of overseas tour programme package; and19` (b) the amount or aggregate of the amounts **in excess of ₹ 7 lakhs** is remitted by the buyer in a financial year	**5%** of the amt or agg. of amts in excess of ₹ 7 lakh {Increased to 20% w.e.f 1st October 2023}
	Where the amount is remitted for the purpose of education or medical treatment; and the amount or aggregate of amount remitted by the buyer is less than 7 lakhs in a financial year	**Nil** (No tax to be collected at source)
	Where the amount is remitted for the purpose of education or medical treatment; and the amount or aggregate of amount in excess of 7 lakhs is remitted by the buyer	**5% of the amount or aggregate of amount in excess of 7 lakhs**
(iii)	(a) where the amount being remitted out is a **loan** obtained from any financial institution as defined in **section 80E**, for the purpose of pursuing any education; and (b) the amount or aggregate of the amounts **in excess of ₹ 7 lakhs** is remitted by the buyer in a financial year	**0.5%** of the amt or agg. of amts in excess of ₹ 7 lakh

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- **Cases where no tax is to be collected:**

(i)	No TCS by the authorized dealer on an amount in respect of which the sum has been collected by the seller
(ii)	No TCS, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such tax
(iii)	No TCS, if the buyer is the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority[12] or any other person notified by the Central Government, subject to fulfillment of conditions stipulated thereunder. **Accordingly, the CBDT has, vide notification no. 20/2022 dated 30.3.2022, notified that the provisions of section 206C(1G) would not apply to an individual who is not resident in India as per section 6(1) and 6(1A), and who is visiting India.**

6. Section 206C(1H):

- Tax is also required to be collected by a seller, who receives any amount as consideration for sale of goods of the value or aggregate of such value exceeding ₹ 50 lakhs in a previous year [other than exported goods or goods covered under sub-sections (1)/(1F)/(1G)]
- Tax is to be collected at source @0.1% u/s 206C(1H) of the sale consideration exceeding ₹ 50 lakhs, at the time of receipt of consideration.
- Tax is, however, not required to be collected if the buyer is liable to deduct tax at source under any other provision of the Act on the goods purchased by him from the seller and has deducted such tax.
- **CBDT Clarification: [Circular no.17/2020]**

  The provisions of section 206C(1F) apply to sale of motor vehicle of the value exceeding ₹ 10 lakhs. Section 206C(1H) excludes from its applicability goods covered under section 206C(1F). It may be noted that the scope of sections 206C(1H) and (1F) are different. While section 206C(1F) is based on single sale of motor vehicle, section 206C(1H) is for receipt above ₹ 50 lakhs. Hence, in order to remove difficulty that whether all motor vehicles are excluded from the applicability of section 206C(1H), it is clarified that –

  - Receipt of sale consideration from a dealer would be subjected to TCS under section 206C(1H), if such sales are not subjected to TCS under section 206C(1F)
  - In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value of ₹ 10 lakhs or less to a buyer would be subjected to TCS under section 206C(1H), if the receipt of sale consideration for such vehicles during the previous year exceeds ₹ 50 lakhs during the previous year.

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- In case of sale to consumer, receipt of sale consideration for sale of motor vehicle of the value exceeding ₹ 10 lakhs would not be subjected to TCS under section 206C(1H) if such sales are subjected to TCS under section 206C(1F).

It is been clarified that no adjustment on account of sale return or discount or indirect taxes including GST is required to be made for collection of tax under section 206C(1H) since the collection is made with reference to receipt of amount of sale consideration.

7. Power of the CBDT to issue guidelines:

- In case of any difficulty arises in giving effect to the provisions of section 206C(1G)/(1H), the CBDT is empowered to issue guidelines, with the approval of the Central Government, for the purpose of removing the difficulty.
- Every guideline issued by the CBDT shall be laid before each House of Parliament and shall be binding on the income-tax authorities and on the person liable to collect tax.

8. Meaning of certain terms:

- **Overseas tour program package:** For section 206C(1G) Any tour package which offers visit to a country/(ies) or territory/(ies) outside India. It includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.
- **Buyer:**
  - For section 206C(1H): means a person who purchase any goods but does not include:
    a. The Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
    b. a local authority; or
    c. a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to stipulated conditions.
  - For section 206C(1): means a person who obtains in any sale (by way of auction, tender or any other mode) specified goods or the right to receive any such goods but does not include –
    a. A public sector company, the Central Government, a State Government and an embassy, a High Commission, Legation, Commission, consulate and the trade representation, of a foreign state and a club; or
    b. A buyer in the retail sale of such goods purchased by him for personal consumption.
  - For section 206C(1F): means a person who obtains in any sale, motor care, but does not include –
    a. The Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
    b. a local authority; or
    c. a public sector company which is engaged in the business of carrying passengers.

- **Seller:**
  - For section 206C(1H): A person whose total sales, gross receipts or turnover from Business carried on by him exceed Rs. **10 crores** during the F.Y immediately preceding the F.Y in which sales are carried out.
  - For section 206C(1) and section 206C(1F): Seller inludes –

    The Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society.

    Seller also includes an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed **₹ 1 crore** in case of business and ₹ 50 lakhs in case of profession during the financial year immediately preceding the financial year

9. Section 206CC: Higher rate of TCS for non-furnishers of PAN

- If the collectee has not provided PAN or Aadhar to the collector, then TCS rate shall be

Whichever is higher
- Twice of the rate or
- 5% [1% in case of sub-section (1H)]

- It does **not** apply to a non-resident who does not have a permanent establishment in India.
- Both the collectee and the collector have to compulsorily quote the PAN of the collectee in all correspondence, bills, vouchers and other documents exchanged between them.
- Tax would be collectible at the rates also in case where the person furnishes a declaration under section 206C(1A) but does not provide his PAN.

10. Section 206CCA: Higher rate of TCS for non-filers of income-tax return

- Tax to be collected at source under the provisions of this Chapter on any sum or amount received by a person **from a specified person**, at higher of the following rates –

Whichever is higher
- Twice of the rate or
- 5%

- In case the provisions of section 206CC are also applicable to the specified person, in addition to the provisions of section 206CCA, then, tax is required to be collected at higher of the two rates provided in section 206CC and section 206CCA.
- ***Meaning of "specified person":*** A person who has not furnished the return of income for assessment year relevant to the previous year immediately preceding the financial year in

which tax is required to be collected, for which the time limit for furnishing the return of income under section 139(1) has expired, and the aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in the said previous year.

However, the specified person does not include a non-resident who does not have a permanent establishment in India.

11. Section 206C(1B): Furnishing of copy of declaration within specified time

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Chief Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before **7th of the month** next following the month in which the declaration is furnished to him.

12. Section 206C(3): TCS to be paid within prescribed time

	Person collecting sums in accordance with section 206C	**Circumstance**		**Period within which such sum should be paid to the credit of the Central Government**
(1)	An office of the Government	(i)	where the tax is paid without production of an income-tax challan	on the same day
		(ii)	where tax is paid accompanied by an income-tax challan	on or before 7 days from the end of the month in which the collection is made
(2)	Collectors other than an office of the Government			within one week from the last day of the month in which the collection is made

Problems

1. State the applicability of TDS provisions and TDS amount in the following cases:
   (a) Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,50,000.
   (b) Fee paid to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed to a member of the family.
2. Ashwin doing manufacture and wholesale trade furnishes you the following information : Total turnover for the financial year

Particulars	Amount
2022-23	1,05,00,000
2023-24	95,00,000

State whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2023-24:

Particulars	Amount
Interest paid to UCO Bank on 15.8.2023	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each) on 12.12.2023	24,000
Shop rent paid (one payee) on 20.01.2024	2,50,000
Commission paid to Balu on 15.3.2024	7,000

3. X won the first prize in a lottery ticket on September 1, 2023 and the prize money was a Maruti car worth ₹ 4 lakh. According to section 194B, tax has to be deducted at source from the winnings of lottery at the time of payment of the prize money. What is the procedure to be adopted before handing over the Maruti car to X?
4. Punjab national bank pays ₹75,000 per month as rent to the central government for a building in which one of its branches is situated. Is there any TDS liability?
5. Mr.X sold his house property in Bangalore as well as his rural agricultural land for a consideration of ₹ 60 lakh and ₹ 15 lakh, respectively, to Mr. Y on 1.8.2023. He has purchased the house property and the land in the year 2021 for ₹ 40 lakh and ₹ 10 lakh, respectively. The stamp duty value on the date of transfer, i.e., 01.08.2023, is ₹ 85 lakh and ₹ 20 lakh for the house property and rural agricultural land, respectively. Determine the tax implications in the hands of Mr. X and Mr. Y and the TDS implications, if any, in the hands of Mr. Y, assuming that both Mr. X and Mr. Y are resident Indians. [Supplementary Study Paper 2013]

6. X ltd. Makes the following payments during the financial year 2023-24—
    1. Payment to A, a resident transport contractor: ₹11,50,000 (PAN is intimated by a to x ltd).
    2. Payment to B, a resident transport contractor: ₹1,00,000 (PAN is not intimated by b or b does not have pan).
    3. Payment to C, a resident catering contractor: ₹21,50,000 (PAN is intimated by c to x ltd.).
    4. Payment to D, a resident catering contractor: ₹2,00,000 (PAN is not intimated by d or d does not have pan).

    Determine the amount of tax deductible under section 194C in this case.

7. X is a sole proprietor. His annual turnover is more than ₹1,50,00,000 since last 5 years. During the financial year 2023-24, he makes the following payments of rent—

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1. Rent paid to A ltd. For a residential property for his personal use (amount of rent paid on March 1, 2024: ₹5,00,000).
2. Rent paid to B for taking a machinery on rent (amount of rent paid on March 21st, 2024: ₹ 6,00,000).

Under section 194-I, tax is deductible on rent payment. Discuss whether the aforesaid payments are covered by this provision.

8. Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the financial year 2023-24 as per the provisions of the Income-tax Act, 1961.

Sr. No.	Date	Nature of Payment
(i)	01-10-2023	Payment of ₹2,00,000 to Mr. "R" a transporter who is having PAN.
(ii)	01-11-2023	Payment of fee for technical services of ₹25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2023	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2024	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd.
(v)	01-01-2024	Payment made ₹ 2,30,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2024	Payment of commission of 14,000 to Mr. Y.

9. Examine the applicability of the provisions for tax deduction at source in the following cases-
   (i) The firm, M/s Duplicate, has two resident partners, Mr. Vikul and Mr. Rahul. During the previous year, the firm paid ₹ 25,000 and ₹ 30,000 as interest on capital to Mr. Vikul and Mr. Rahul, respectively.
   (ii) Fee of ₹ 41,000 paid to Dr. Kunal Garg by Taneja (HUF) for surgery performed on Master Vatsal Taneja, son of the Karta of HUF.
   (iii) Mr. Dheeraj, a resident, is due to receive ₹ 5.50 lakhs on 31.3.2024, towards maturity proceeds of LIC policy taken on 1.4.2021, for which the sum assured is ₹ 4.5 lakhs and the annual premium is ₹ 55,000.

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Chapter 14
Return of Income

Before we Begin,

Return of income is the only medium to pay the taxes if any, apart form paying taxes, it also serves as a purpose to declare income of a person which can be useful in many ways in the common trade and commerce practices (Loan processing, credit rating, etc)

You will learn about the following

- Return filing Sections
- Late fees and interest charges during filing of Return
- Permanent Account Number
- Role of Aadhar number
- Income Tax Returns
- And other solutions in the above compliances

Great power comes with a great responsibility, similarly
Return filing is a great responsibility which comes with the power of knowledge in Income Tax Provisions

Happy learning!



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Filing of Return

- Compulsory filing of Return of Income [Section 139(1)]
- Return of Loss [Section 139(3)]
- Belated Return [Section 139(4)]
- Revised Return [Section 139(5)]
- Updated Return [Section 139 (8A)]

Interest and Fee for Default in Furnishing Return of Income

- Interest for default in Furnishing Return of income [Section 234A]
- Fee for Default in furnishing return of income [Section 234F]

Other Provisions

- Permanent Account Number [Section 139A]
- Quoting of Aadhaar Number [Section 139AA]
- Fee for non intimation of Aadhar Number [Section 234H]
- Submission of Returns through Tax Return Preparers [Section 139B]
- Person autthorised to verify the return of income [Section 140]
- Self-Assessment [Section 140A]
- Tax on updated return [Section 140B]

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1. RETURN OF INCOME

A return of income is the declaration of income and the resultant tax by the assessee in the prescribed format.

2. COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]

Section 139 (1) requires that every person, -

- Being a Company or a firm; or
- Being a local authority, if its total income during the previous year exceeds the maximum amount which is not chargeable to income tax; or
- Being a person other than a company or a firm or a local authority, if
  (i) his total income or
  (ii) the total income of any other person in respect of which he is assessable under the Income-tax Act, during the previous year (without giving effect to Chapter VI -A or section 54/54B/54D/54EC/54F), exceeds the maximum amount which is not chargeable to income-tax is required to file a return of income or Income of such other person on or before the due date in the prescribed form and manner and setting forth the prescribed particulars.

- **Compulsory filing of income-tax return in relation to assets located outside India**
  In the case of a resident person (but other than not ordinarily resident), it is mandatory to furnish return of income if he/she at any time during the previous year,

  a. Holds (as a beneficial owner or otherwise) any asset (including financial interest in any entity) located outside India or has signing authority in any account located outside India, or

  b. Is beneficiary in any asset (including any financial interest in any entity) located outside India.

  However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India would not be required to file return of income under this clause, where, income, if any, arising from such asset is includible in the income of the beneficial owner.

Beneficial Owner

- An individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person

Beneficiary

- An individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person, other than such beneficiary.

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- **Compulsory filing of income-tax return in certain other cases -**

  Any person other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person -

  1. has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or
  2. has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or
  3. has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or
  4. if his total sales, turnover or gross receipts, as the case may be, in the business > ₹ 60 lakhs during the previous year; or
  5. if his total gross receipts in profession > ₹ 10 lakhs during the previous year; or
  6. if the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more

     However, a resident individual who is of the age of 60 years or more, at any time during the relevant previous year would be required to file return of income only, if the aggregate of TDS and TCS during the previous year, in his case, is ₹ 50,000 or more
  7. the deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakhs or more during the previous year

Points:

Every company has to file a return in respect of its income or loss in every assessment year. Hence, the following companies are also required to file return of income even if there is no income/loss:

Type	Prescribed Transactions	Money Threshold
1. Person Carrying of Business	His Total Sales, Turnover or Gross Receipts, as the case may be, in the business	> Rs. 60 Lakhs during RPY
2. Person carrying on Profession	His Total Gross Receipts in Profession	> Rs. 10 Lakhs during RPY
3. Resident individual is aged >= 60 years at any time during the RPY	The Aggregate of TDS and TCS in his Case	>= Rs. 50,000 during RPY
4. Any other person	The Aggregate of TDS and TCS in his Case	>= Rs. 25,000 during RPY
5. Person having Savings Bank Account	The Deposit in one or more savings bank account of the person, in aggregate	>= Rs. 50 Lakhs during RPY

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- Although it is mandatory to file a return of income only when the total income exceeds the maximum exemption limit but the law does not prohibit the assessee to file a return of income even if his total income does not exceed the maximum exemption limit.
- "Due date'" means 31st October of the assessment year, where the assessee is -
  - a company; or
  - a person (other than a company) whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force; or
  - a working partner of a firm whose accounts are required to be audited under the income-tax Act, 1961 or any other law for the time being in force.

- 30th November- Company which is required to furnish a report U/S 92E.
- 31st July of the assessment year, in the case of any other assessee

3. PERSONS EXEMPT FROM FILING OF INCOME-TAX [SECTION 139(1C)]:

The central government may, by notification in the official gazette, exempt any class or any classes of persons from the requirement of furnishing a return of income having regard to conditions specified.

4. RETURN OF LOSS [SECTION 139(3)]:

- The section requires the assessee to file a return of loss in the same manner as in the case of return of income within the time allowed under section 139(1).
- Section 80 requires mandatory filing of return of loss u/s 139(3) on or before the due date specified u/s 139(1) for carry forward of the following losses.
  i. Business loss u/s 72(1)
  ii. Speculation business loss u/s 73(2)
  iii. Loss from specified business u/s 73A(2)
  iv. Loss under the head "Capital Gains" u/s 74(1)
  v. Loss from the activity of owning and maintaining race horses u/s 74A(3)
- However, loss under the head "Income from house property" under section 71B and unabsorbed depreciation under section 32 and loss from specified business u/s 35 AD can be carried forward for set-off even though return of loss has not been filed before the due date.

5. BELATED RETURN [SECTION 139(4)]

- Any person who has not furnished a return within the time allowed to him under section 139(1) or within the time allowed under a notice issued under section 142(1) may furnish the return for any previous year at any time—
  - before three months prior to the end of the relevant assessment year (i.e., 31.12.2023 for P.Y. 2022-23); or
  - before the completion of the assessment Whichever is earlier.

6. REVISED RETURN [SECTION 139(5)]

- If any person having furnished a return under section 139(1) or in pursuance of a notice issued under section 142(1) or a belated return under section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before three months

prior to the end of the relevant assessment year (i.e., 31.12.2023 for P.Y. 2022-23) or before completion of assessment year, whichever is earlier.

- If the assessee discovers any omission or any wrong statement in a revised return, it is possible to revise such a revised return provided it is revised within the same prescribed time.

7. OPTION TO FILE UPDATED RETURN OF INCOME [SECTION 139(8A)] (Introduced by Finance Act, 2022)

- Any person may furnish an updated return of his income or the income of any other person in respect of which he is assessable, for the previous year relevant to the assessment year at any time within 24 months from the end of the relevant assessment year.
- Any person may furnish an updated return irrespective of whether or not he has furnished a return under section 139(1) or belated return under section 139(4) or revised return under section 139(5) for that assessment year.
- The provisions of updated return would not apply, if the updated return of such person for that assessment year –
  - I. is a loss return; or
  - II. has the effect of decreasing the total tax liability determined on the basis of return furnished under section 139(1) or section 139(4) or section 139(5); or
  - III. results in refund or increases the refund due on the basis of return furnished under section 139(1) or section 139(4) or section 139(5)
- No updated return can be furnished by any person for the relevant assessment year, where
  - I. an updated return has been furnished by him under this sub-section for the relevant assessment year; or
  - II. any proceeding for assessment or reassessment or recomputation or revision of income is pending or has been completed for the relevant assessment year in his case
  - III. he is such person or belongs to such class of persons, as may be notified by the CBDT
- If any person has a loss in any previous year and has furnished a return of loss on or before the due date of filing return of income under section 139(1), he shall be allowed to furnish an updated return if such updated return is a return of income.
- If the loss or any part thereof carried forward under Chapter VI or unabsorbed depreciation carried forward under section 32(2) or tax credit carried forward under section 115JD is to be reduced for any subsequent previous year as a result of furnishing of updated return of income for a previous year, an updated return is required to be furnished for each such subsequent previous year.

8. DEFECTIVE RETURN [SECTION 139(9)]

- A return of income shall be regarded as defective unless all the following conditions are fulfilled, namely:
  - The annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in.
  - The return of income is accompanied by the following, namely:

- A statement showing the computation of the tax payable on the basis of the return
- The report of the audit obtained under section 44AB
- The proof regarding the tax, if any, claimed to have been deducted or collected at source and the advance tax and tax on self-assessment, if any, claimed to have been paid.
- The proof of the amount of compulsory deposit, if any, claimed to have been paid under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.
- The proof of payment the tax as required under section 140B, if the return of income is a updated return furnished under section 139(8A) (Amended by Finance Act, 2022)

- Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.
- If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.
- Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing officer can condone the delay and treat the return as a valid return.
- The return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.

9. PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A] [N 07]

The CBDT had introduced a new scheme of allotment of computerized 10 digits PAN. Such PAN comprises of 10 alphanumeric characters and is issued in the form of a laminated card.

Note:

PAN is a 10 digit alpha numeric number, where the first 5 characters are letters, the next 4 numbers and the last one a letter again. These 10 characters can be divided in five parts.

- First three characters are alphabetic series running from AAA to ZZZ
- Fourth character of PAN represents the status of the PAN holder:
  - C – Company
  - P – Person
  - H – HUF (Hindu Undivided Family)
  - F – Firm
  - A – Association of Persons (AOP)
  - T – AOP (Trust)
  - B – Body of Individuals (BOI)
  - L – Local Authority
  - J – Artificial Juridical Person
  - G – Government
- Fifth character represents first character of the PAN holder's last name/ surname.

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- Next four characters are sequential number running from 0001 to 9999.
- Last character in the PAN is an alphabetic check digit. Nowadays, the DOI (Date of Issue) of PAN card is mentioned at the right (vertical) hand side of the photo on the PAN card.
- The following persons are compulsorily required to obtain a permanent account number (PAN)

a) Every person, if his total income or the total income of any other person in respect of which he is assessable under the Act during any previous year exceeds the maximum amount which is not chargeable to income-tax on or before 31st May of the assessment year for which such income is assessable.

b) Every person carrying on any business or profession whose total sales, turnover or gross receipts exceeds or is likely to exceed ₹ 5 lakh in any previous year before the end of that financial year

c) Every person being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year On or before 31st May of the immediately following financial year

d) Every person who is a managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of any person referred in (c) above or any person competent to act on behalf of such person referred in (c) above On or before 31st May of the immediately following financial year in which the person referred in (c) enters into financial transaction specified therein

e) Any person by whom tax is payable under Income Tax Act

f) Any person or class of persons, notified by the Central Government in its official gazette

- Every person who is required to furnish a return of income under section 139(4A); or
- The Assessing Officer may allot to any other person whether or not is payable by him, EVEN WITHOUT AN APPLICATION. [ASEESING OFFICER'S DISCRETION]

Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions:

- In all returns to, or correspondence with, any income-tax authority;
- In all challans for the payment of any sum due under the Act;
- In all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue.

In this connection, CBDT has notified the following transactions, namely:

- **Transactions in Assets**
  - sale or purchase of any immovable property valued at ₹ 10 lakh or more or valued by stamp valuation authority referred to in section 50C at an amount exceeding ₹ 10 lakh
  - sale or purchase of motor vehicle or other vehicle (other than two wheeled motor vehicle) which requires registration under section 2 (28) of the Motor Vehicle Act, 1988
- **Transactions with banks**
  - A time deposit exceeding ₹ 50,000 in any account with Post Office/ bank/ cooperative bank/ NBFC.
  - Deposits aggregating to more than INR 5 lakh during the year will also need PAN.
  - Opening a bank account; (Basic savings bank deposit excluded)
  - Payment in cash for purchase of bank drafts/pay order/banker's cheque from a banking company for an amount exceeding ₹ 50,000 during any one day;

- ❖ cash deposit exceeding ₹ 50,000 with banking company during any one day;

- **Transactions in securities/ bonds/ units**
  Making an application for the following purposes involving payment of an amount exceeding ₹ 50,000-
  - ❖ for purchase of units of mutual fund;
  - ❖ for acquiring debentures of a company or institution;
  - ❖ for acquiring bonds of Reserve Bank of India.
- **Other transactions**
  - ❖ All TDS certificates
  - ❖ cash payments to hotels and restaurants exceeding ₹ 50,000 at any one time;
  - ❖ Cash payment in excess of ₹ 50,000 in connection with travel to any foreign country at any one time. Such payment includes cash payment made towards fare, or to a travel agent or a tour operator, or for the purchase of foreign currency. However, travel to any foreign country does not include travel to the neighboring countries or to such places of pilgrimage as may be specified by the CBDT under Explanation 3 to Section 139(1);
  - ❖ Making an application to any bank or banking institution or company or any institution for issue of a credit card; {Cooperative banks also to comply}
  - ❖ Payment of an amount exceeding ₹ 50,000 or more in a year as Life insurance premium to an insurer.
  - ❖ Opening a demat account
  - ❖ Purchase/ sale of shares of an unlisted company of an amount exceeding 1 lakh per transaction.
  - ❖ A contract for sale or purchase of securities (other than shares) as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 exceeding ₹ 1 lakh per transaction
  - ❖ Purchase/ sale of any goods/ services exceeding 2 lakh per transaction.
  - ❖ Payment for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India under the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or to any other company or institution- Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year.

Other points:

- Any person who does not have a PAN and who enters into any transaction specified in this rule, shall make a declaration in Form No.60 giving therein the particulars of such transaction either in paper form or electronically
- If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer
- Quoting of PAN in certain documents
  Where any amount has been paid after deducting tax at source, the person deducting tax shall quote the PAN of the person to whom the amount was paid in the following documents:
  i) in the statement furnished under section 192(2C) giving particulars of perquisites or profits in lieu of salary provided to any employee;
  ii) in all certificates for tax deducted issued to the person to whom payment is made;

iii) in all returns prepared and delivered or caused to be delivered to any income-tax authority in accordance with the provisions of section 206;
iv) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of section 200(3) [Sub-section (5B)].

- Inter-changeability of PAN with the Aadhaar number

  Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhar Number in lieu of the PAN, if he
  i) has not been allotted a PAN but possesses the Aadhar number
  ii) has been allotted a PAN and has intimated his Aadhar number to prescribed authority in accordance with the requirement contained in section 139AA(2).

  Any person, who has not been allotted a PAN but possesses the Aadhaar number and has furnished or intimated or quoted his Aadhaar number in lieu of the PAN, shall be deemed to have applied for allotment of PAN and he shall not be required to apply or submit any documents.

  Further, any person, who has not been allotted a PAN but possesses the Aadhaar number may apply for allotment of the PAN under section 139A(1)/(1A)/(3) by intimating his Aadhaar number and he shall not be required to apply or submit any documents
- For failure to comply with provisions of Sec 139A or quoting a wrong PAN, penalty of ₹ 10,000 is leviable.

10. QUOTING OF AADHAR NUMBER [SECTION 139AA]

- Mandatory Quoting Aadhar Number

  Every person who is eligible to obtain Aadhar Number is required to mandatorily quote Aadhar Number:
  i) in the application form for allotment of Permanent Account Number
  ii) In the return of income
- If a person does not have Aadhar Number, he is required to quote Enrolment ID of Aadhar application form issued to him at the time of enrolment in the application form for allotment of Permanent Account Number (PAN) or in the return of income furnished by him
- Every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before 31st March, 2022.
- As per rule 114AAA
  i) If a person, who has been allotted PAN as on 1st July, 2017 and is required to intimate his Aadhaar number under section 139AA(2), has failed to intimate the same on or before 31st March, 2022, the PAN of such person would become inoperative immediately after the said date (i.e., after 31st March, 2022)
  ii) Accordingly, where a person, whose PAN has become inoperative, is required to furnish, intimate or quote his PAN under the Act, it shall be deemed that he has not furnished, intimated or quoted the PAN and he would be liable for all the consequences under Rule 114AAA for not furnishing, intimating or quoting the PAN.

However, the consequences shall have effect from the date specified by the CBDT i.e., 1st July 2023 [Circular No.3/2023 dated 28th March 2023]

- Further, Rule 114AAA provides that if PAN of a person has become inoperative, he will not be able to furnish, intimate or quote his PAN and would be liable to all the consequences under the Act for such failure. This will have a number of implications such as:-
  i) Pending returns will not be processed
  ii) Pending refunds cannot be issued to inoperative PANs
  iii) Pending proceedings as in the case of defective returns cannot be completed once the PAN is inoperative
  iv) Tax will be required to be deducted at a higher rate as PAN becomes inoperative
- The provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is
  i) residing in Assam, Jammu & Kashmir and Meghalaya;
  ii) a non-resident as per Income-tax Act, 1961;
  iii) of the age of 80 years or more at any time during the previous year;
  iv) not a citizen of India

11. FEE FOR DEFAULT RELATING TO INTIMATION OF AADHAR NUMBER [SECTION 234H]

- If a person, who is required to intimate his Aadhar Number under section 139AA(2), fails to do so by the date notified in section 139AA(2) i.e., 31st March, 2022, then at the time of subsequent intimation of his Aadhaar number to the prescribed authority, such person would be liable to pay, by way of fee, an amount equal to
  i) ₹ 500, in a case where such intimation is made within three months from the date referred in section 139AA(2) i.e., by 30.06.2022; and
  ii) ₹ 1,000, in all other cases

12. SCHEME FOR SUBMISSION OF RETURNS THROUGH TAX RETURN PREPARER [SEC 139B]

- This section provides that, for the purpose of enabling any specified class or classes of persons to prepare and furnish their returns of income, the CBDT may notify a Scheme to provide that such persons may furnish their returns of income through a Tax Return Preparer authorized to act as such under the Scheme.
- The Tax Return Preparer shall assist the persons furnishing the return in a manner that will be specified in the scheme, and shall also affix his signature on such return.
- A Tax Return Preparer means any individual, other than
  i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings.
  ii) any legal practitioner who is entitled to practice in any civil court in India.
  iii) an accountant
  iv) an employee of the 'specified class or classes of persons'
  who has been authorized to act as a Tax Return Preparer under the Scheme

- The 'Specified class or classes of person' for this purpose means any person other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other existing law, who is required to furnish a return of income under the Act.
- The scheme is applicable to any person being an individual or a Hindu undivided family
- An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as Tax Return Preparer
- the following an individual or a HUF cannot furnish a return of income for an assessment year through a Tax Return Preparer:
  i) who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or
  ii) who is not a resident in India during the previous year
- An eligible person cannot furnish a revised return of income for any assessment year through a Tax Return Preparer unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer
- **Note**: an employee of the "specified class or classes of persons" is not authorized to act as a Tax Return Preparer. Therefore, it follows that employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force (since they are not falling in the category of specified class or classes of persons), are eligible to act as Tax Return Preparers

13. AUTHORISED SIGNATORIES TO THE RETURN OF INCOME [SECTION 140]:

This section specifies the persons who are authorized to sign and verify return of income under section 139 of the Act.

Assessee	**Circumstance**	**Authorised Signatory**
1. Individual		-the individual himself
	where he is absent from India	-the individual himself; or -any person duly authorized by him in this behalf holding a valid power of attorney from the individual
	where he is mentally Incapacitated from attending to his affairs	-his guardian; or - any other person competent to act on his behalf
	where, for any other reason, it is not possible for the individual to sign the return	- any person duly authorized by him in this behalf holding a valid power of attorney from the individual (such power of attorney should be attached to the return of income)
2.Hindu Family Undivided		-the karta

	where the karta is absent from India	- any other adult member of the HUF
	where the karta is mentally incapacitated from attending to his affairs	- any other adult member of the HUF
3. Company		- the managing director of the company
	where for any unavoidable reason such managing director is not able to signed and verify the return; or where there is no managing director	any director of the company or any other person as may be prescribed for this purpose
	where the company is not resident in India	A person who holds a valid power of attorney from such company to do so.
	(a) Where the company is being wound up (whether under the orders of a court or otherwise); or (b) Where any person has been appointed as the receiver of any assets of the company	-Liquidator -Liquidator
	(v) Where the management of the company has been taken over by the Central Government or any state Government under any law	- the principal officer of the company
4.Firm	(i) in circumstances not covered under (ii) below	- the managing partner of the firm
	(ii) (a). where for any unavoidable reason such managing partner is not able to sign and verify the return; or (b) where there is no managing partner	- any partner of the firm, not being a minor - any partner of the firm, not being a minor
5. Local authority	-	-the principal officer
6. Political party [referred to in section 139(4B)]	-	-the chief executive officer of such party (whether he is known as secretary or by any other designation)

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7. Any other association	-	-any member of the association or the principal officer of such association
8.Limited Liability Partnership (LLP)	-	-The designated Partner, -when he is not able to sign and verify the return or when there is no designated partner, any other partner can sign the return.
9. Any other person	-	-That person or some other person competent to act on his behalf.

14. MANNER OF FILING THE RETURN:

The return of income referred to in sub-rule (1) may be furnished in any of the following manner:

i. Furnishing the return in a paper form;
ii. Furnishing the return electronically under digital signature;
iii. Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V;
iv. Furnishing a bar-coded return in a paper form.

Compulsory furnishing of return electronically under digital signature only:

a) Firm required to furnish the return in the form ITR-5 and to whom provisions of section 44AB are applicable;
b) Individuals/ HUF required to furnish return in Form ITR-4 and to whom the provisions of Sec 44AB are applicable;
c) A company required to furnish the return in Form ITR-6.

Compulsory furnishing of return electronically either under digital signature or without digital signatures:

a) A person, other than a company and a person required to furnish the return in Form ITR-7, his or its total income exceeds ₹ 5 lakhs.
b) All other assessees at their option.

Submission of Form ITR-V after signature:

Where return is filed electrically without digital signatures the verified ITR-V Form duly signed should be sent to Bengaluru, by ordinary post or speed post on or before the due date or within a period of 3-0 Days of uploading of the electronic return data whichever is later.

15. SELF-ASSESSMENT [SECTION 140A]

- Payment of tax, interest and fee before furnishing return of income [Section 140A(1)]

  Where any tax is payable on the basis of any return required to be furnished under, inter alia, section 139, after taking into account-

  i) the amount of tax, already paid, under any provision of the Income- tax Act, 1961
  ii) the tax deducted or collected at source

iii) any relief of tax claimed under section 89
iv) any tax credit claimed to set-off in accordance with the provisions of section 115JD; and
v) any tax or interest payable as per the provisions of section 191(2)

the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. The return shall be accompanied by the proof of payment of such tax, interest and fee

- If any assessee fails to pay the whole or any part of such of tax or interest or fee, he shall be deemed to be an assessee in default in respect of such tax or interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly

16. TAX ON UPDATED RETURN [SECTION 140B] (Introduced by Finance Bill, 2022)

- The additional income-tax payable at the time of furnishing the updated return under section 139(8A) would be-
  i) 25% of aggregate of tax and interest payable, as determined above, if such return is furnished after expiry of the time available under section 139(4) or 139(5) and before completion of the period of 12 months from the end of the relevant assessment year; or
  ii) 50% of aggregate of tax and interest payable, as determined above, if such return is furnished after the expiry of 12 months from the end of the relevant assessment year but before completion of the period of 24 months from the end of the relevant assessment year.
- Interest under section 234B where earlier return has been furnished [Section 140B(4)]
  In a case where an earlier return has been furnished, interest payable under section 234B has to be computed on the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.
  "Assessed tax" means the tax on the total income as declared in the updated return to be furnished under section 139(8A), after taking into account the following:
  i) the amount of relief or tax referred to in section 140A(1), the credit for which has been taken in the earlier return
  ii) the tax deducted or collected at source on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return
  iii) any tax credit claimed to set-off in accordance with the provisions of section 115JD, which has not been claimed in the earlier return
- Computation of Additional income-tax
  For the purpose of computation of Additional income-tax",
  i) tax would include surcharge and cess, by whatever name called, on such tax.

ii) the interest payable would be interest chargeable under any provision of the Act, on the income as per updated return furnished under section 139(8A), as reduced by interest paid in the earlier return, if any.

However, the interest paid in the earlier return would be considered to be nil, if no earlier return has been furnished

- In a case, where no earlier return has been furnished, the interest payable under section 234A has to be computed on the amount of the tax on the total income as declared in the updated return under section 139(8A), in accordance with the provisions of sub-section (1A) of section 140A
- Interest payable under section 234C, where an earlier return has been furnished, has to be computed after taking into account the income furnished in the return under section 139(8A) as the returned income.

17. INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234A]

- **Interest [Sec 234A]:** The assessee, upon his failure to file the return of his income within the due date, shall be liable to pay a simple interest @ 1% p.m or part thereof.
- **Note:**

The interest has to be calculated on the amount of tax on total income as determined under section 143(1) and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the advance tax paid and any tax deducted or collected at source, any relief of tax allowed under section 89 and any tax credit allowed to be set-off in accordance with section 115JD.

Tax on total income as determined under section 143(1) would not include the additional income-tax, if any, payable under section 140B or section 143. (Amended by Finance Act, 2022)

Tax on total income determined under regular assessment would not include the additional income-tax payable under section 140B (Amended by Finance Act, 2022)

- **FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234F]:**

If any person fails to furnish a return of income as required u/s 139(1) or by the proviso to section 139(1) before the end of the relevant assessment year, then he shall be liable to penalty of 5,000. However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed ₹ 1,000.

Problems

1. Paras is resident of India. During the F.Y. 2023-24, interest of ₹ 1,88,000 was credited to his Non-resident (External) Account with SBI. ₹ 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 3,000 as interest on this saving account. Is Paras required to file return of income?

2. Specify the persons who are authorized to sign and verify under section 140, the return of income filed under section 139 of the Income-tax Act, 1961 in the case of:

(i) Political party;
(ii) Local authority;
(iii) Association of persons, and
(iv) Limited Liability Partnership (LLP).

3. State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:
   (i) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.
   (ii) Where the Karta of a HUF is absent from India, the return of income can be signed by any male member of the family.

4. Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for the financial year ended on 31st March, 2024 audited under section 44AB. Her total income for the assessment year 2024-25 is ₹ 2,35,000. She wants to furnish her return of income for assessment year 2024-25 through a tax return preparer.

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Chapter 15

Levy of Interest

Before we Begin,

Late payment or any other delayed compliance of taxes will attract interest which should be paid to the Government as it is considered as loss of

You will learn about the following

- Interest for non-payment or short payment of Advance Tax
- Interest payable for deferment of Advance Tax
- Rounding off provisions

Happy learning!



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1. SECTION 234B- Interest for non-payment or short-payment of advance tax:

1.1. Applicability:

Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount less than 90% of ASSESSED TAX.

1.2. Rate of Interest: 1% per month or part of month from 1st day of AY till the actual date of payment of tax

1.3. Procedure:

Tax payable u/s 143(1) /143(3)/144 or the first assessment is made u/s.147/153A	XXX
Less: TDS/TCS	(XXX)
Relief u/s 89	(XXX)
Tax Credit allowed u/s 115JD	(XXX)
Amount on which 234B is payable	**XXX**

- However, where self-assessment tax is paid by the assessee under section 140A or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

2. SECTION 234C- Interest payable for deferment of advance tax:

2.1. Applicability: Where the assessee fails to pay any installment of advance tax or pays less amount than prescribed, he shall be liable to pay interest u/s 234C

2.2. Non-applicability:

where such shortfall is on account of under-estimate or failure to estimate –

(i) The amount of capital gains.

(ii) Casual Income

(iii) Income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time.

(iv) The amount of dividend other than deemed dividend under Section 2(22)(e)

However, the assessee should have paid the whole of the amount of tax payable in respect of such income as part of the remaining instalments of advance tax which are due or where nosuch instalments are due, by the 31st day of March of the financial year.

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Notes:-

- Income accrued unexpectedly after the installment due date is not valid reason and Interest shall be charged u/s 234C.

3. **ROUNDING OFF:**

The amount of tax, penalty or other sum in respect of which the interest is to be calculated shall be rounded off to nearest multiple of 100 and for this purpose any fraction of 100 shall be ignored.

Problems

1. During the financial year 2023-24, X Ltd. pays ₹ 2,10,000 (on September 15, 2023), ₹ 1,56,000 (on December 15, 2023) and ₹ 82,000 (on March 31, 2024) as advance tax. Assessment is completed on December 10, 2024 on the basis of income declared but after addition of ₹ 1,90,000 (income declared: ₹ 17,80,000). X Ltd. is also entitled for tax credit of ₹ 18,800 on account of tax deducted from interest on securities. Determine the amount of interest payable under section 234B and 234C (tax is not paid at the time of submission of return of income).

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Chapter 16

Income Exempt from Tax

Before we Begin,

As a matter of fact, we all knew that India is one of the largest democracies all around the world as well as fastest growing economy. As a vast country it would be unfair to tax every sort of income from every Person in the Country, as a part of liberalization and encouraging various sectors and various reforms and economical survival of middle-class people in the country, the Tax laws also provide relaxations on tax burden in the form of Exemptions.

This Chapter further more clarifies on the aspects of:

- Various Exemptions covered under section 10

Happy learning!



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SEC 10 (1): Agricultural income is exempt from tax, if it is covered under the definition of Agricultural income as per section 2(1A) of the Act. (Detail discussion in chapter Agricultural Income)

SEC 10 (2): Any sum received by an individual as a member of HUF out of the income of the Family or the income of the estate belonging to the family is exempt from tax. This exemption is subject to the provisions of Sec 64(2).

SEC 64(2): If a member converts his self-acquired property into joint family property without adequate consideration, the income from the asset so transferred will be taxable in the hands of the transferor individual. If the income is taxed in the hands of transferor individual, again it is not taxable in the hands of the HUF.

SEC 10(2A): The share income received by the partners from partnership firm is exempt from tax, provided if the income is taxed in the hands of firm (i.e., firm assessed as such).

SEC 10(4)(ii): Any individual:

- Resident outside India (as per FEMA)
- Permitted by RBI to maintain NRE A/C

then, interest on NRE A/c is exempt.

SEC 10(6): Individual assessees who are not citizens of India are entitled to exemption under this section as follows:

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Clause	Remuneration/*Salary received by	For	Conditions
(ii)	Officials of embassy, high commission, legation etc	Rendering services in their capacity	- Remuneration received should be exempt in the foreign country - The officials should be subjects of the respective countries - They should not be engaged in any other B/P or employment in India.
(vi)	Foreign National as an employee of foreign country	Service rendered by him during his stay in India	- Foreign enterprise is not engaged in any business or trade - Stay in India <= 90 days in PY - Remuneration is not liable to be deducted from the employer's income chargeable to tax under the Act
(viii)	*Non-citizen (+) Non-resident in India	Services rendered in connection with his employment on a foreign ship	- Stay in India <= 90 days in PY
Xi	Employees of Foreign Government from their respective Government	Their training in India	- Training should be in any establishment or office of or in any undertaking owned by: a) Government b) Company wholly owned by CG/SG(s) or jointly c) Any company which is a subsidiary of (b) above d) Statutory Corporation e) any society registered under the Societies Registration Act, 1860 or any other similar law, which is wholly financed by CG/ SG(s)/jointly

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SEC 10(11A): Sukanya Samriddhi Account Scheme

- Payment (Withdrawl) from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee.
- Sukanya Samriddhi Account scheme is declared as EEE (exempt-exempt-exempt) method of taxation.

(i) The investments made in the Scheme will be eligible for deduction under section 80C of the Act.,

(ii) The interest accruing on deposits in such account will be exempt from income tax., and

- The withdrawal from the said scheme in accordance with the rules of the said scheme is exempt from tax under clause (11A) under section 10 of the Income Tax Act, 1961

SEC 10(16): Any scholarship granted to meet the cost of education is exempt from tax.

SEC 10(17): Allowances to MPs and MLAs are exempt from tax.

SEC 10(17A): Awards or rewards in cash or in kind which were instituted in public interest by the Central /State Govt., are exempt from tax. Like award for literacy, scientific & artistic works etc.

SEC 10(18): Pension to gallantry award winners is exempt from tax by the receiver who has been awarded Param-vir-chakra or Maha-vir-chakra or Veera-chakra or any other notified gallantry award. Exemption is also available if family pension is received by a family member of an individual who received in the above awards.

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Note: The entire disability pension granted to members of naval, military or air forces who have been invalided out of naval, military or air force service on account of bodily disability attributable to or aggravated by such service would be exempt from tax.

SEC 10(26AAA): Income of a Sikkimese Individual

- If any person is a Sikkimese Individual, then following income will be exempted in his hands
  - Income from any source in the state of Sikkim.
  - Income from dividend / interest on securities from anywhere in India.

Exemption is allowed even in the case of following:

- A Sikkimese woman marrying a non Sikkimese on or after April 1, 2008.
- An Individual who was domiciled in Sikkim on or before April 26, 1975.
- An Individual whose specified ancestors were domiciled in Sikkim on or before April 26, 1975.

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SEC. 10AA: SPECIAL PROVISIONS IN RESPECT OF NEWLY ESTABLISHED UNITS IN SPECIAL ECONOMIC ZONE (SEZ)

- Sec 10AA has been inserted to give income-tax concession to newly established units in Special Economic Zone.

- The following conditions should be satisfied to claim deduction under Sec 10AA:
  - The assessee is an entrepreneur as defined in Sec 2(i) of SEZ Act, 2005. Entrepreneur is a person who has been granted a letter of approval by the Development Commissioner to set up a unit in a Special Economic Zone.

  - The unit in Special Economic Zone ***begins*** to manufacture or produce articles or things or provide services during the previous year relevant to A.Y.2006-07 or any subsequent assessment year but not later than A.Y.2020-21.

    If approval received on or before 31st March, 2020 and the manufacture or production of articles or things or providing services has not begun on or before 31st March, 2020, still it shall be deemed that the manufacture has begun in the AY 2020-2021.

  - Manufacture for this purpose means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or used and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.

  - The assessee has income from export of articles or thing or from services from such unit. In other words, the assessee has exported goods or provided services out of India from the Special Economic Zone by land, sea, air or by any other mode.

  - Books of the account of the taxpayer should be audited. The taxpayer should submit audit report in Form No. 56F along with the return of income.

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- Amount of deduction - If the above conditions are satisfied, one can claim deduction under Sec 10AA. Deduction depends upon quantum of profit derived from export of articles or things or services (including computer software).

- Profit from Export = Profits of the unit in SEZ X Export turnover / total turnover of the business carried on by the undertaking.

- For this purpose, 'export turnover' means the consideration in respect of export by the undertaking of articles or things or services received in or brought into India within 6 months from the end of FY by the assessee, but does not include the following:
  - freight;
  - telecommunication charges;
  - insurance

  attributable to the delivery of the articles or things or computer software outside India, expenses, if any, incurred in foreign exchange in providing the technical services including, computer software outside India.

- Profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

- **Period & Amount of Deduction: -**

  - **DEDUCTION FOR FIRST FIVE ASSESSMENT YEARS - *100 per cent*** of the profit and gains derived from export of articles or things or from services is deductible for a period of 5 consecutive assessment years. Deduction for the first year is available in the assessment year relevant to the previous year in which the unit begins to manufacture or produce articles or things or provide services.

  - **DEDUCTION FOR SIXTH ASSESSMENT YEAR TO TENTH ASSESSMENT YEAR- *50 per cent*** of the profit and gains derived from export of articles or things or from services is deductible for the next 5 years.

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- **DEDUCTION FOR ELEVENTH ASSESSMENT YEAR TO FIFTEENTH ASSESSMENT YEAR**-For the next 5 years, a further deduction would be available to the extent of ***50 per cent*** of the profit provided an equivalent amount is debited to the profit and loss account of the previous year and credited to Special Economic Zone Re-investment Allowance Reserve Account (hereinafter referred to as Special Reserve Account) to be created and utilised in the manner laid down under section 10AA(2) for next 5 consecutive years.

Conditions to claim deduction for eleventh assessment year to fifteenth assessment year

- The Special Reserve Account should be utilized-

  a) for the purpose of acquiring new plant and machinery. The new plant and machinery should be first put to use before the expiry of 3 years from the end of the year in which the Special Reserve Account was created. Eg:- If the reserve account was created during the previous year ending March 31, 2008, it should be utilized for acquiring machinery or plant on or before March 31, 2011.

  b) Until the acquisition of new plant and machinery the Special Reserve Account can be utilized for the business of the undertaking but it cannot be utilized for distribution of dividends/profits or for remittance outside India as profits or for creating an asset outside India.

- Prescribed particulars [Form No. 56FF] should be submitted in respect of new plant and machinery along with the return of income for the previous year in which such plant and machinery was first put to use.

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- If the Special Reserve Account is ***misutilised***, then the ***deduction would be taken back*** in the year in which the Special Reserve Account is misutilised. If the Special Reserve Account is ***not utilized for acquiring new plant and machinery within three years*** as stated above, then the ***deduction would be taken back*** in the year immediately following the period of three years. For instance, if Rs.1,50,000 is transferred to the reserve account for the year ending March 31, 2008, and out of which only Rs.96,000 is utilized for acquiring plant and machinery up to March 31, 2011, then Rs.54,000 would be taxable for the previous year 2011-12.

Note:

1. The business loss under section 72(1) or loss under the head "Capital Gains" under section 74(1), in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.

2. The assessee should furnish the report of a chartered accountant certifying that the deduction has been correctly claimed, before the date specified in section 44AB.

3. During the period of deduction, depreciation is deemed to have been allowed on the assets. Written Down Value shall accordingly be reduced.

4. If deduction is claimed in respect of a specified business (as referred to in section 35AD(8)(c)) under section 10AA, no deduction in respect of that business will be available under section 35AD.

5. ***In case of amalgamation and demerger*** - No deduction shall be admissible under this section to the amalgamating or the demerged Unit for the previous year in which the amalgamation or the demerger takes place.

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Amendments by FA 2023:

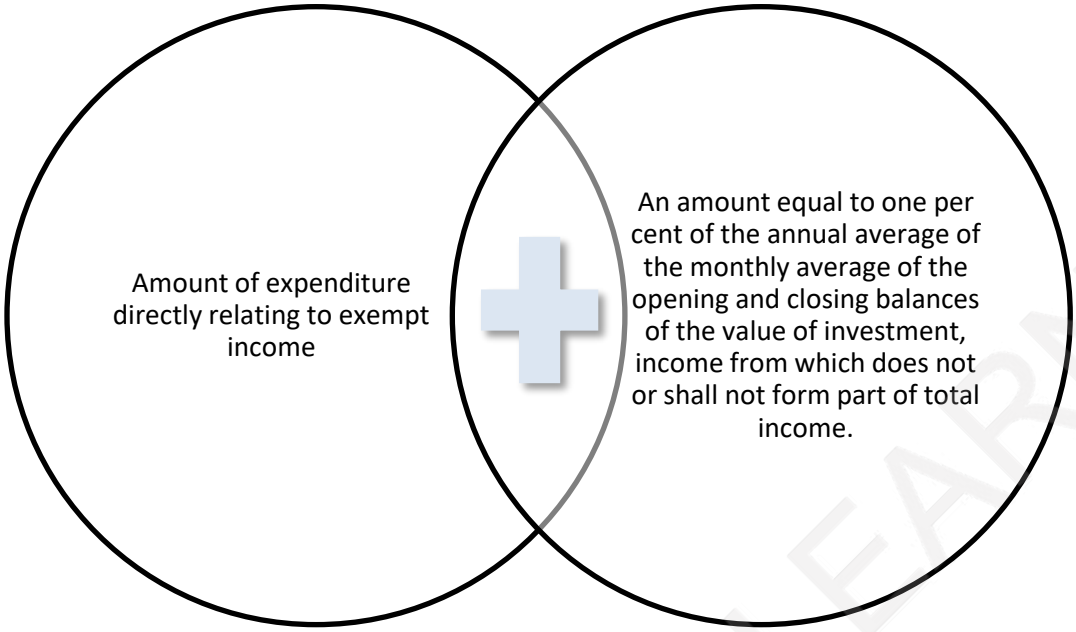
- Deduction under Section 10AA is allowed only if the assessee has filed return of income within the due date under Section 139(1).
- Deduction under Section 10AA shall be available only if sale proceeds are received in convertible foreign exchange within 6 months from the end of PY or within such further period as may be allowed by the competent authority.
- Export proceeds shall be deemed to have been received in India where such proceeds are credited to a separate account maintained by the assessee with any bank outside India with the approval of RBI.

❖ Expenditure related to Exempt Income

- For the purposes of computing the total income, no deduction shall be allowed in respect of expenditure incurred in relation to exempt income.
- The AO can determine the disallowable expenditure in accordance with the method prescribed by the CBDT in the following cases:
  - Where he is not satisfied with the correctness of the claim of such expenditure by assessee,
  - where an assessee claims that no expenditure has been incurred by him in relation to exempt income.
- Rule 8D lays down the method for determining the amount of such expenditure.

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- Expenditure in relation to income =



- However, any disallowance computed under this Rule cannot exceed total expenditure claimed by assessee.

- *Sec. 14A read along with Rule 8D (Method of determining amount of expenditure in relation to income not includable in total income) provides for disallowance of expenditure even where the taxpayer has not earned any exempt income in a particular year.*

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PROBLEMS

1. State whether the following are chargeable to tax and the amount liable to tax:
   (i) Arvind received ₹ 20,000 as his share from the income of the HUF.
   (ii) Mr. Xavier, a 'Param Vir chakra' awardee, received a pension of ₹ 2,20,000 during the financial year 2022-23.
   (iii) Agricultural income of ₹ 1,27,000 earned by a resident of India from a land situated in Malaysia
   (iv) Rent of ₹ 72,000 received for letting out agricultural land for a movie shooting.

Solution:

S. No.	Taxable/ Not Taxable	Amount liable to tax (₹)	Reason
(i)	Not Taxable	-	Share received by member out of the income of the HUF is exempt under section 10(2).
(ii)	Not Taxable	-	Pension received by Mr. Xavier, a former Central Government employee who is a 'Param Vir Chakra' awardee, is exempt under section 10(18).
(iii)	Taxable	1,27,000	Agricultural income from a land in any foreign country is taxable in the case of a resident taxpayer as income under the head "Income from other sources". Exemption under section 10(1) is not available in respect of such income.
(iv)	Taxable	72,000	Agricultural income is exempt from tax as per section 10(1). Agricultural income means, *inter alia*, any rent or revenue derived from land which is situated in India and is used for agricultural purposes. In the present case, rent is being derived from letting out of agricultural land for a movie shoot, which is not an agricultural purpose. In effect, the land is not being put to use for agricultural purposes. Therefore, ₹ 72,000, being rent received from letting out of agricultural land for movie shooting, is not exempt under section 10(1). The same is chargeable to tax under the head "Income from other sources".

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2. Discuss the taxability of agricultural income under the Income-tax Act, 1961. How will income be computed where an individual derives agricultural and non-agricultural income?

3. Which income of Sikkimese individual is exempted from tax under section 10(26AAA)?

4. State, with reference to the provisions of the Income-tax Act, 1961, whether the following receipts during the P.Y.2023-24 are chargeable to tax:
   i. Mr. Sunil, a member of a HUF, received ₹ 8,000 as his share from the income of the HUF.
   ii. Mr. Ankit, a former Central Government employee and a 'Param Vir Chakra' awardee, receives pension of ₹ 2,50,000 during the P.Y. 2023-24.
   iii. ₹ 25,000 received by Mrs. X, a Sikkimese woman from interest on securities. She had married a Non-Sikkimese individual, Mr. X, on 1st October,

5. State, with reference to the provisions of the Income-tax Act, 1961, whether the following are chargeable to tax and if so, the amount liable to tax :
   i. Sargam received ₹ 29,000 as his share of income from a partnership firm.
   ii. Mr. Tarun has derived an income of ₹ 80,000 derived from manufacturing, growing and curing coffee in India during the financial year 2023-24.

6. *Rudra Ltd. has one unit at Special Economic Zone (SEZ) and other unit at Domestic Tariff Area (DTA). The company provides the following details for the previous year 2023-24.*

Particulars	***Rudra Ltd. (₹)***	***Unit in DTA (₹)***
Total Sales	*6,00,00,000*	*2,00,00,000*
Export Sales	*4,60,00,000*	*1,60,00,000*
Net Profit	*80,00,000*	*20,00,000*

Calculate the eligible deduction under section 10AA of the Income-tax Act, 1961, for the

Assessment Year 2024-25, in the following situations:

(i) If both the units were set up and start manufacturing from 22-05-2015.

(ii) If both the units were set up and start manufacturing from 14-05-2019.

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Solution:

Computation of deduction under section 10AA of the Income-tax Act, 1961

As per section 10AA, in computing the total income of Rudra Ltd. from its unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce articles or things or provide any services during the previous year relevant to the assessment year commencing on or after 01.04.2006 but before 01.04.2021, there shall be allowed a deduction of 100% of the profit and gains derived from export of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and 50% of such profits for further five assessment years.

Computation of eligible deduction under section 10AA [See Working Note below]:

(i) If Unit in SEZ was set up and began manufacturing from 22-05-2015:

Since A.Y. 2024-25 is the 9th assessment year from A.Y. 2016-17, relevant to the previous year 2015-16, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 50% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.

= Profits of Unit in SEZ x (Export turnover of Unit in SEZ/Total turnover of Unit in SEZ) x 50%

= 60 lakhs X (300 lakhs/400 lakhs) x 50%

= ₹ 22.50 lakhs

(ii) If Unit in SEZ was set up and began manufacturing from 14-05-2019:

Since A.Y. 2024-25 is the 5th assessment year from A.Y. 2020-21, relevant to the previous year 2019-20, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 100% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.

= Profits of Unit in SEZ x (Export turnover of Unit in SEZ/ Total turnover of Unit in SEZ) x 100%

= 60 lakhs x (300 lakhs/400 lakhs) x 100%

= ₹ 45 lakhs

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The unit set up in Domestic Tariff Area is not eligible for the benefit of deduction under section 10AA in respect of its export profits, in both the situations.

Working Note:

Computation of total sales, export sales and net profit of unit in SEZ

Particulars	Rudra Ltd. (₹)	Unit in DTA (₹)	Unit in SEZ (₹)
Total Sales	6,00,00,000	2,00,00,000	**4,00,00,000**
Export Sales	4,60,00,000	1,60,00,000	**3,00,00,000**
Net Profit	80,00,000	20,00,000	**60,00,000**

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