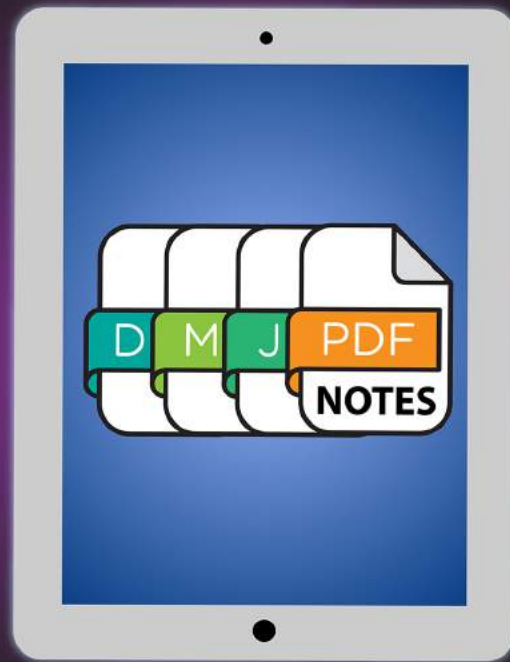




IndigoLearn

INDIGOLEARN.COM



*Prepare for CA EXAMS
LIKE NEVER BEFORE*

1Fin by Indigolearn

#StudentFirst



Download our APP - 1FIN





IndigoLearn

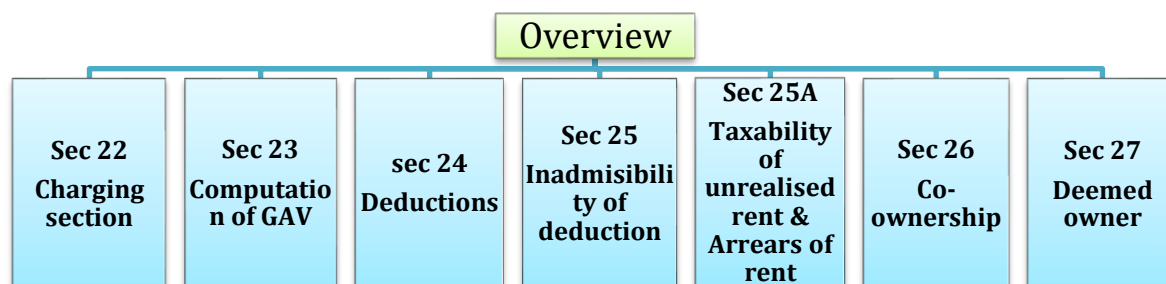
CA Inter

Direct Taxes



Paper-4A

Income from House Property



Chargeability [Section 22]

The **annual value of any property** (*computation given in sec 23*) comprising of **building or land appurtenant thereto**, of which the **assessee is the owner**, is chargeable to tax under the head "Income from house property".

Conditions for Chargeability

<u>HP</u>	<u>OS/PGBP</u>	<u>Not taxable</u>
Residential and commercial building	Vacant land – OS	Used by the assess for his business or profession
Land connected to building like garden, garage etc.	Subletting – OS	Let out to firm by the partner
Held as stock in trade	Letting out is incidental to main business – PGBP	One palace of ex-ruler
Letting – owner (including deemed owner)	Display of advertisement hoarding	Income from farm building used for agriculture purposes
Building on freehold / leasehold land	Letting with other facilities – like cotton mill with machinery. (if 2 lettings are inseparable)	Property held on charitable trust
	Assessee engaged in the business of letting out of properties – PGBP	House property owned by local authority or registered trade union

❖ Assessee must be the **owner** of the property

- who is entitled to receive income** (beneficial owner)
- Registration** of the sale deed is **not warranted**.
- The person **who owns the building need not also be the owner of the land upon which it stands**.
- Owner - **during the previous year**. It is not material whether he is the owner in the assessment year.

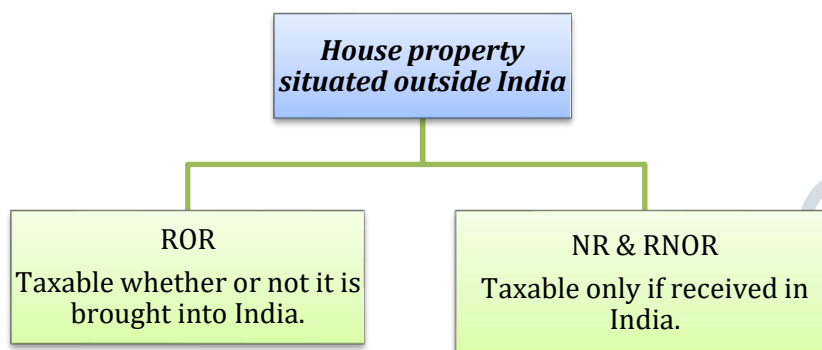
In case of recovery of **unrealised rent and arrears of rent**, ownership is not relevant.

(e) **Title** of the ownership of the property is under **dispute** in a court of law, the decision as to who will be the owner chargeable to income-tax under section 22 will be of the **Income-tax Department** till the court gives its decision to the suit filed in respect of such property.

Deemed owner - u/s 27		
In the following cases the Transferor is deemed to be the owner of assessed property.		
Sr.No.	Case	Condition
1.	Transfer to spouse	1. Without adequate consideration or 2. Not in connection with an agreement to live apart
2.	Transfer to minor child	1. Without adequate consideration not being minor married daughter. Where cash is transferred to spouse or minor child and the transferee acquires property out of that money, then transferor will not be treated as deemed owners, but clubbing provision will be attracted.
3.	Holder of an impartible estate	Impartible estate – property which is not legally divisible. Holder of an impartible estate is deemed to be the individual owner of all properties comprised in the estate.
4.	A member of co-operative society, company or any other AOP	The building is allotted on house building scheme
5.	Person in possession of a property	Sec 53A of Transfer of property act – 1. Possession handed over 2. Consideration paid 3. Power of attorney or agreement to sell executed.
6.	Leased for at least 12 years	where any person acquires any right by way of sale / exchange/ lease for at least 12 years. <u>Exception</u> – In case the person acquiring any rights by way of lease from month to month or for a period not exceeding one year, such person will not be deemed to be the owner.

Composite Rent	
Income from building + Other services like, Lifts, Security, Power backup. Etc.	
If the building and amenities are separable	If they are not separable

Income from Building – Taxed u/s 22 and Income from facilities - Taxed u/s 56 or 28 as the case may be	If letting of building is not acceptable without the letting of other assets – then OS / PGBP as the case may be.
Applicable even if composite rent is received by the assessee from his tenant for two lettings.	Even if income is fixed separately



Determination of Annual value - Sec 23		
Particulars	Amount	Amount
Gross Annual Value (GAV)		XXX
(Less) Municipal taxes (paid by owner)		(xx)
Net Annual Value (NAV)		XXX
(Less) - <u>Deduction u/s 24</u>		
(a) Standard deduction (30% of NAV- flat)	xxx	
(b) Interest on borrowed capital	xxx	(XXX)
Income under the head House property		XXX

Computation of GAV		
1	Let out property throughout the year	GAV = ER or AR (actual rent received/ receivable) whichever is higher. ER (Expected Rent) Step 1- Compare FR (fair rent) or MV (municipal value) whichever is higher Step 2- Compare step 1 and SR (standard rent) whichever is lower Step 3 –Compare step 2 (ER) and Actual rent received/receivable – Whichever is higher Step 2 gives ER and step 3 gives GAV If property is vacant for part of year and Actual Rent is less because of vacancy, then AR shall be GAV.
2	Self-occupied	GAV = Nil.

		No deduction of Municipal taxes.
3	Unoccupied for whole year	<p>GAV = Nil</p> <p>No deduction of Municipal taxes.</p> <p>Unoccupied only because assessee is working in different Place. (This is available only to Individual & HUF) (provided no other benefit is derived from such property)</p> <p>➤ The benefit of 'Nil' AV is available only up to 2 Self-occupied or Un-occupied properties.</p> <p>➤ The benefit of 2 Self-occupied properties mentioned above is only for Individual/HUF.</p>
4	Self-occupied for part of year and let out for other part	<p>ER for whole year compared with AR for let out period & whichever is higher is taken as GAV. [Treated as if let out for entire year]</p> <p>Municipal taxes for whole year allowed.</p>
5	Deemed to be let out (in case of more than 2 properties are self-occupied)	<p>GAV = ER,</p> <p>NAV = GAV – Municipal Taxes</p> <p>Deemed at the option of assessee. Option can be changed year after year.</p>
6	Portion let out and portion self-occupied	Treated as separate unit and computed separately. Taxes split based on area (sft).
7	Property being held as stock in trade	<p>GAV would be treated as NIL for a period of 2 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.</p> <p>GAV = ER after 2 year from the end of financial year in which certificate of completion of construction of the property is obtained from the competent authority.</p>

- In certain circumstances for computation of tax, Notional income is used instead of real income.

Treatment of unrealised rent [Explanation below section 23(1)]

- (1) The Actual rent received/receivable should not include any amount of rent which is not capable of being realised.
- (2) However the conditions prescribed in Rule 4 should be satisfied. They are –
- the tenancy is bonafide;
 - the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
 - the defaulting 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.

Property taxes (Municipal taxes)

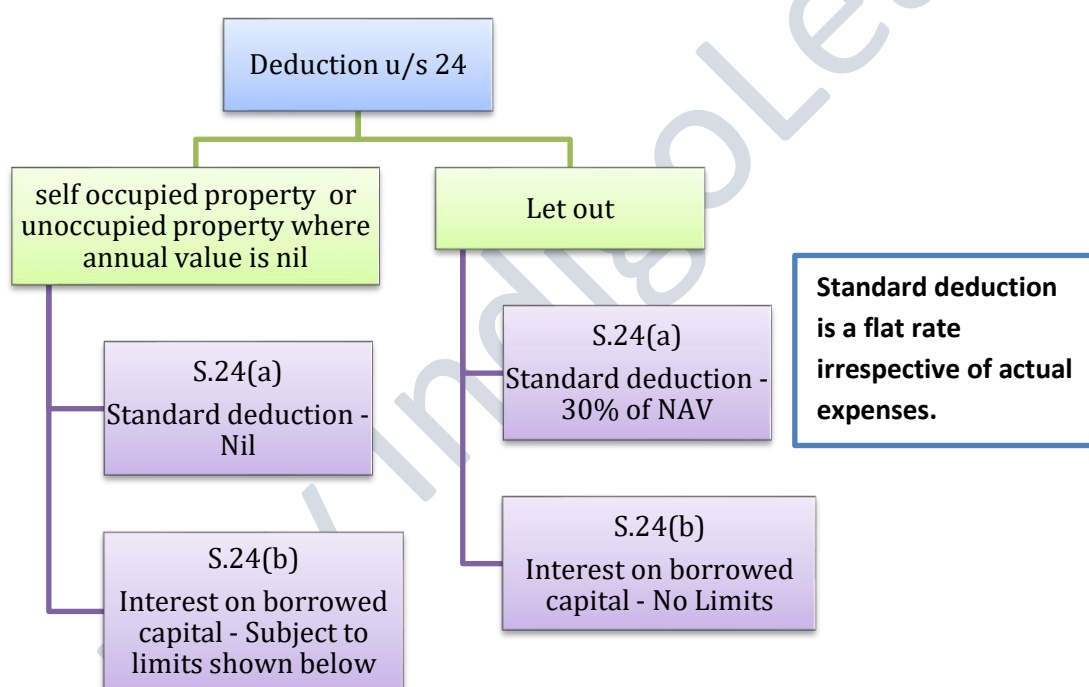
Deducted from GAV if,

- borne by assessee(owner) and
- actually paid during the previous year

Deduction is allowed only in the year of actual payment irrespective of the period of liability.

For property situated outside India, taxes levied by local authority of such country is deductible.

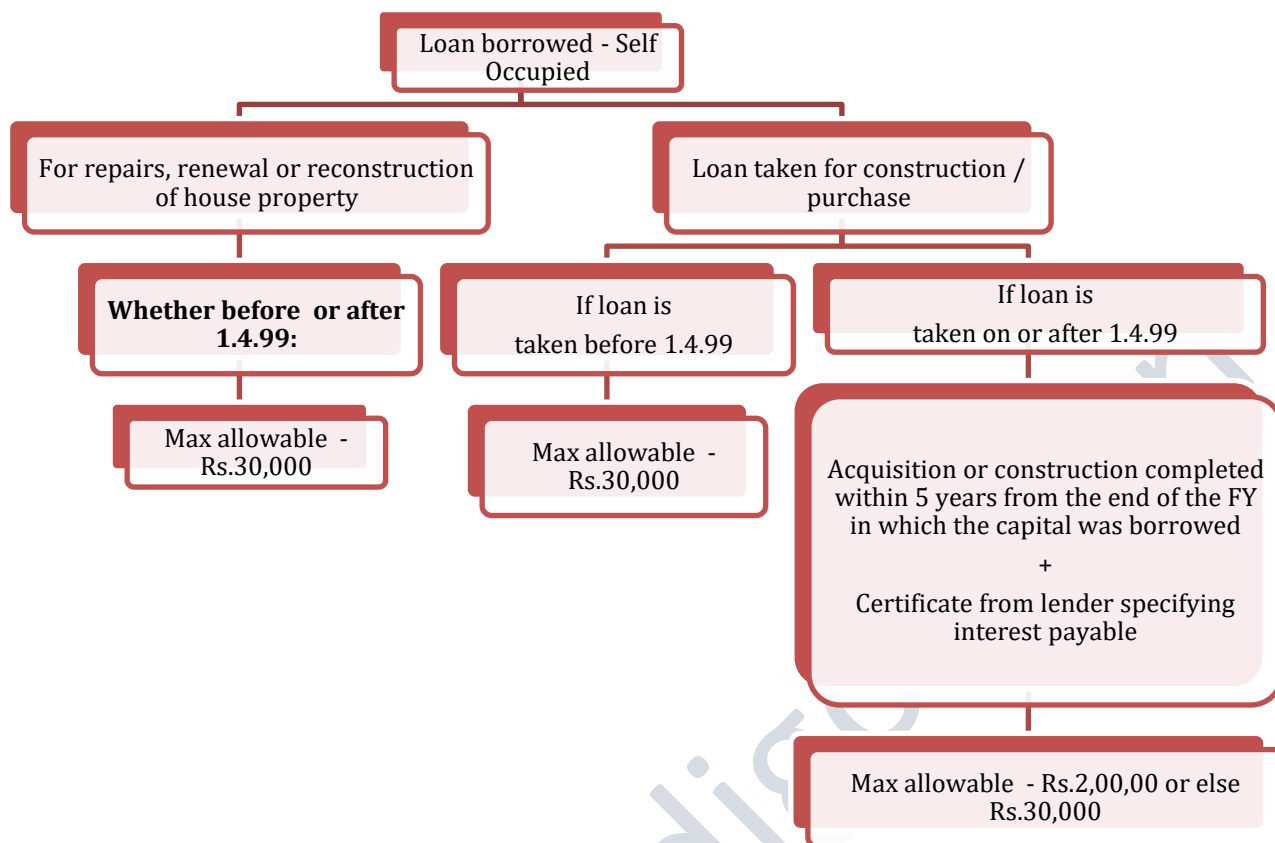
If Annual value is 'Nil', deduction is not allowed.



Interest on loan taken to repay the existing loan is also allowed as deduction.

Interest on interest is not allowed.

Interest to pay municipal taxes not allowed.



The above limit is including the pre-construction period interest

Interest	
Pre-construction period interest	Post construction period interest
Allowed in 5 equal installments from the PY in which building comes into existence.	Deduction allowed in the year of accrual
Pre-construction period: Starts from – 1 st year when loan is borrowed Ends on – 31 st March immediately prior to date of completion of construction or acquisition of property OR date of repayment of loan whichever is earlier.	Can be fully claimed in the year irrespective of date of completion/acquisition.

Inadmissible deductions [Section 25]
Interest chargeable under this Act which is payable outside India shall not be deducted if (a) No TDS - tax has not been paid or deducted from such interest and (b) No agent - there is no person in India who may be treated as an agent under section 163.

Arrears of rent and Unrealised [Section 25A]
<ul style="list-style-type: none"> ➤ Rent payable increased retrospectively- such arrears is taxed in the year of receipt. ➤ Standard deduction of 30% is allowed.

- Taxed - whether the assessee is the owner of that property or not

Treatment of income from co-owned property [Section 26]	
If shares are definite, and ascertainable income of each co-owner should be determined in individual assessment	If shares are not ascertainable, Assessed as AOP.
If it is self-occupied - then each is entitled to an aggregate deduction of Rs. 30,000 / Rs. 2,00,000, as the case may be	
If it is let out, the income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.	