DIRECT TAXATION

Group - I
Paper - VII

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(Statutory body under an Act of Parliament)
www.icmai.in

SYLLABUS - 2016

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DIRECT TAXATION

INTERMEDIATE

GROUP – I

PAPER – 7

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Preface

Professional education systems around the world are experiencing great change brought about by the global demand. Towards this end, we feel, it is our duty to make our students fully aware about their curriculum and to make them more efficient.

Although it might be easy to think of the habits as a set of behaviours that we want students to have so that we can get on with the curriculum that we need to cover.

It becomes apparent that we need to provide specific opportunities for students to practice the habits. Habits are formed only through continuous practice. To practice the habits, our curriculum, instruction, and assessments must provide generative, rich, and provocative opportunities for using them.

The main purpose of this volume is to disseminate knowledge and motivate our students to perform better. Thus, we are delighted to inform about the **e-distribution of the fourth edition of our 'Work book'.**

This book has been written to meet the needs of students as it offers the practising format that will appeal to the students to read smoothly. Each chapter includes unique features to aid in developing a deeper understanding of the chapter contents for the readers. The unique features provide a consistent reading path throughout the book, making readers more efficient to reach their goal.

Discussing each chapter with illustrations integrate the key components of the subjects. In the fourth edition, we have expanded he coverage in some areas and condensed others.

It is our hope and expectation that this fourth edition of work book will provide further an effective learning experience to the students like the first, second and third editions.

The Directorate of Studies,

The Institute of Cost Accountants of India

DIRECT TAXATION

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Suggested Marks Distribution from Examination Point of View

Only for Practice Purpose

		Paper-5/6/7/8/11	Paper-9/10/12
Total 100 Marks [3 Hours]	Objective	= 25 Marks	= 28 Marks
	Others	= 75 Marks	= 72 Marks

Objective Question

25 Marks/28 Marks (1 Mark each questions)	MCQ	1 mark
	Match	1 mark
	True/False	1 mark
	Fill in the Blanks	1 mark

Short Notes / Case Study

Minimum Marks for each Questions	4 Marks
Maximum Marks for each Questions	10 Marks

Practical Problem

Minimum Marks for each Questions	4 Marks
Maximum Marks for each Questions	15 Marks

Study Note – 1

BASIC CONCEPTS

Learning Objective:

After studying this chapter, students should able to :

- ***acquire a basic knowledge of the concepts, principles, and rules of taxation;***
- ***gain knowledge of preparation of tax forms;***
- ***understand the tax planning opportunities and appropriate tax-saving strategies for decision making.***

1. (a) Choose the correct alternative:

(i) Mr. X, partner of M/s XYZ, is assessable as –

(a) Firm

(b) Individual

(c) HUF

(d) None of the above

(ii) For the purpose of levying tax on income other than agricultural income, Union List contained entry _____.

(a) 82

(b) 92D

(c) 92C

(d) 92E

(iii) _____ is not a head of income.

(a) Income from House Property

(b) Salaries

(c) Income from Interest on securities

(d) Capital Gains

(iv) If total income of a person is ₹ 2,67,888.34, it shall be rounded off to –

(a) ₹ 2,67,888/-

(b) ₹ 2,67,890/-

(c) ₹ 2,67,880/-

(d) ₹ 2,67,889/-

(v) Income tax is a –

(a) Indirect Tax

(b) Entertainment Tax

(c) Direct Tax

(d) State Tax

Answer:

(i) (b) Individual

(ii) (a) 82

(iii) (c) Income from Interest on securities

(iv) (b) ₹ 2,67,890

(v) (c) Direct Tax

1. (b) Match the following

(i) Sec. 2(9)	**(a) Previous Year**
(ii) Sec. 2(7)	**(b) Heads of Income**
(iii) Sec. 14	**(c) Assessee**
(iv) Sec. 2(24)	**(d) Assessment Year**
(v) Sec. 3	**(e) Income**

Answer:

Sec. 2(9)	Assessment Year
Sec. 2(7)	Assessee
Sec. 14	Heads of Income
Sec. 2(24)	Income
Sec. 3	Previous Year

1. (c) Fill in the blanks:

(i) Income-tax shall be rounded off to the nearest multiple of ₹ ____

(ii) Rebate u/s 87A is available if total income of a resident individual does not exceed ₹ _____

Answer:

(i) 10

(ii) 3,50,000

2. (a) What are the sources of income tax law in India?

(b) Which heads of income the following will be categorised?

(i) Income from let-out house property

(ii) Income from lotteries

(iii) Profit from partnership firm

(iv) Dividend from foreign company

(v) Income from Horse Race

Answer:

2. (a)

Following are the sources of income tax law in India:

- Income tax Act, 1961
- Income tax Rules, 1962
- Annual Amendments made through Finance Act
- Notification, Circulars and Clarification issued by the CBDT
- Judicial decisions

2. (b)

(i) Income from House Property

(ii) Income from Other sources

(iii) Profits and Gains from business or profession

(iv) Income from Other sources

(v) Income from Other sources

3. Distinguish between

(a) Gross Total Income and Total Income

(b) Direct Tax and Indirect Tax

Answer:

(a) Gross Total Income -vs,- Total Income

Basis	Gross Total Income	Total Income
Meaning	Gross total income is the aggregate of income under all the five heads of income after adjusting the set-off & carry forward of losses	Total income means the total amount of income referred to in sec. 5, computed in the manner laid down in this Act [Sec. 2(45)]
Tax calculation	Tax is not calculated on this income	Tax is required to be calculated on this income
Rounded off	Gross total income is not required to be rounded off	Total income is required to be rounded off u/s 288A
Clubbing of Income	Gross total income includes (exclude) income which is subject to club	Total income includes (excludes) income which is subject to club
Set off of losses	Current year's losses and brought forward eligible losses shall be adjusted headwise and aggregate of income after adjusting such loss shall be considered as gross total income.	No adjustment is required again for such losses
Deductions under chapter VIA	Eligible deduction under chapter VIA shall not be considered while computing gross total income	Eligible deduction under chapter VIA shall be reduced from gross total income to derive total income

(b) Direct Tax and Indirect Tax

Basis	Direct Tax	Indirect Tax
Meaning	Direct tax is referred to as the tax, levied on person's income and wealth and is paid directly to the government.	Indirect Tax is referred to as the tax, levied on a person who consumes the goods and services and is paid indirectly to the government.
Nature	Progressive in nature i.e., higher tax is levied on a person earning higher income and vice versa.	Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.

Incidence and Impact	Falls on the same person. Assessee, himself bears such taxes. Thus, it pinches the taxpayer.	Falls on different person. Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.
Example	Income Tax	GST, Custom Duty
Inflation	Direct tax helps in reducing the inflation.	Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote inflation. However, sometimes it is useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.
Imposition and collection	Imposed on and collected from the same person	Imposed on and collected from consumers of goods and services but paid and deposited by the assessee.
Burden	Cannot be shifted	Can be shifted
Event	Taxable income of the assessee	Supply of goods and services

4. (a) Compute income-tax liability of a resident individual (aged 63 years) having total income of ₹ 5,70,000.

(b) Define Indian Company.

Answer:

(a) Computation of Tax Liability

Particulars	Working	Amount
Tax liability before Rebate	₹ 3,00,000 x Nil	Nil
	₹ 2,00,000 x 5%	10,000
	₹ 70,000 x 20%	14,000
Total		24,000
Less: Rebate u/s 87A		Nil
Liability before surcharge		24,000
Add: Surcharge		Nil
Tax liability after surcharge		24,000
Add: Health & Education cess	4% of above	960
Tax, surcharge and cess payable		24,960

(b) Indian Company [Sec. 2(26)]

An Indian company means a company formed & registered under the Companies Act, 1956 & includes

a. a company formed and registered under any law relating to companies formerly in force in any part of India other than the state of Jammu & Kashmir and the Union territories specified in (c) infra;

b. a company formed and registered under any law for the time being in force in the State of Jammu & Kashmir;

c. a company formed and registered under any law for the time being in force in the Union territories of Dadar & Nagar Haveli, Goa, Daman & Diu and Pondicherry;

d. a corporation established by or under a Central, State or Provincial Act;

e. any institution, association or body which is declared by the Central Board of Direct Taxes (CBDT) to be a company u/s 2(17).

In the aforesaid cases, a company, corporation, institution, association or body will be treated as an Indian company only if its registered office or principal office, as the case may be, is in India.

5. Tom deposited ₹ 10,000 into PPF account and purchased NSC for ₹ 5,000 to reduce his tax liability. On the other hand, Jerry did not show his interest on bank deposit amounting to ₹ 8,000 and thereby reduced his tax liability.

Comment on the nature of tax saving policies adopted by Tom and Jerry.

Answer:

Tax planning is a way to reduce tax liability by taking full advantages provided by the Act through various exemptions, deductions & relief.

Tax evasion is the illegal way to reduce tax liability by deliberately suppressing income or sale or by increasing expenses, etc., which results in reduction of total income of the assessee.

In respect of Tom it is tax planning and on the other hand in case of Jerry it is tax evasion.

6. (a) "The general rule is that the income of the previous year should be taxed in the immediately following assessment year." What are the exceptions to this rule?

(b) What do you mean by 'person'?

Answer:

6. (a)

Exception to the general rule that income of the previous year is taxed in the assessment year

This is the general rule that income of the previous year of an assessee is charged to tax in the immediately following assessment year. However, in the following cases, income of the previous year is assessed in the same previous year:

1. Income of non-resident assessee arising from shipping business (Sec. 172)
2. Income of person leaving India either permanently or for a long period (Sec 174)
3. Income of bodies formed for short duration (Sec. 174A)
4. Income of a person who is likely to transfer his properties to avoid tax (Sec. 175)
5. Income of a discontinued business (Sec. 176)

6. (a)

Person [Sec.2 (31)]

The term person includes the following:

(i) an Individual;

(ii) a Hindu Undivided Family, i.e. H.U.F;

(iii) a Company;

(iv) a Firm;

(v) an Association of Person (AOP) or a Body of Individuals (BOI), whether incorporated or not;

(vi) a Local authority; and

(vii) every artificial juridical person not falling within any of the preceding categories

7. Discuss the constitutional validity of levying income tax.

Answer:

The Constitution of India is the supreme law of India. It consists of a Preamble, 22 parts containing 444 articles and 12 schedules. Any tax law, which is not in conformity with the Constitution, is called *ultra vires* the Constitution and held as illegal and void. Some of the provisions of the Constitution are given below:

Article 265 of the Constitution lays down that no tax shall be levied or collected except by the authority of law. It means tax proposed to be levied must be within the legislative competence of the legislature imposing the tax[1].

Article 246 read with Schedule VII divides subject matter of law made by legislature into three categories:

- Union list (only Central Government has power of legislation on subject matters covered in the list)

[1] Kunnathat Thathunni Moopil Nair –vs.- The State of Kerala 1961 AIR 552 (SC)

- State list (only State Government has power of legislation on subject matters covered in the list)
- Concurrent list (both Central & State Government can pass legislation on subject matters).

If a state law relating to an entry in List III is repugnant to a Union law relating to that entry, the Union law will prevail, and the state law shall, to the extent of such repugnancy, be void. (**Article 254**).

Following major entries in the respective list enable the legislature to make law on the matter:

Union List (List I)	**Entry 82** - Taxes on income other than agricultural income i.e. **Income-tax**
State List (List II)	**Entry 46** - Taxes on agricultural income.

Study Note – 2

RESIDENTIAL STATUS

Learning Objective:

After studying this chapter, students should able to :

- ***gain the concept of residential status, residential status of Individual, HUF, Firm, AOP & Companies;***
- ***acquire knowledge of incidence of taxation, meaning of receipt and accrual in India and deemed Income.***

1. (a) Choose the correct alternative:

(i) The incidence of taxation depends on the –

(a) Residential status of the assessee

(b) Accommodation of the assessee

(c) Citizenship of the as assessee

(d) Marital status of the assessee

(ii) Income accruing in Sri Lanka and received in India is taxable in India in case of –

(a) Resident and ordinary resident only

(b) Non resident

(c) Resident but not ordinary resident

(d) All assessee irrespective of his residential status

(iii) A person is said to be a person of Indian origin if –

(a) He or either of his parents were born in undivided India

(b) He or either of his siblings were born in undivided India

(c) He or either of his parents or either of his grandparents were born in undivided India

(d) He was born in India

(iv) An individual is said to be a resident in India in the previous year (in which the Feb month has 29 days) if he is in India in that year for a period of ___.

(a) 182 days or more

(b) 183 days or more

(c) 70 days or more

(d) 150 days or more

(v) Income accrued and received out of India, from a business controlled from Tokyo, in the previous year is taxable in the hands of –

(a) Resident and Ordinarily Resident

(b) Non-Resident

(c) All assessee irrespective of residential status

(d) Non-ordinarily resident

Answer:

(i) (a) Residential status of the assessee

(ii) (d) All assessee irrespective of his residential status

(iii) (c) He or either of his parents or either of his grandparents were born in undivided India

(iv) (a) 182 days or more

(v) (a) Resident and Ordinarily Resident

1. (b) Match the following Assessee with their residential status for the previous year 2019-20:

(i) Mr. Deepak, who left India first time on 10/12/2019 for world tour	**(a) Resident**
(ii) Mr. Sushil, who is in India for 45 days during the previous year	**(b) Resident but not ordinarily resident**
(iii) X Ltd., registered under Companies Act, 2013	**(c) Non-resident**
(iv) Mr. Roshan visits India for the first time on 10/06/2019 for 200 days	**(d) Resident and ordinarily resident**

Answer:

(i) Mr. Deepak, who left India first time on 10/12/2019 for world tour	(a) Resident and ordinarily resident
(ii) Mr. Sushil, who is in India for 45 days during the previous year	(b) Non-resident
(iii) X Ltd., registered under Companies Act, 2013	(c) Resident
(iv) Mr. Roshan visits India for the first time on 10/06/2019 for 200 days	(d) Resident but not ordinarily resident

1. (c) Fill in the blanks:

(i) In case of a company, income from business in USA is taxable in India if residential status of such company is ____

(ii) The Residential status of an assessee is determined for the relevant _____

Answer:

(i) resident

(ii) previous year

2. (a) Sri Sen went to England from India for higher education on 1st December, 2016. So long he was in England, he had a residence in India. In winter vacations, he came twice to India. First time he came on 1st January, 2018 and stayed for 20 days, and second time he came on 15th December, 2018 and stayed for 25 days. After completing the education, he came back to India forever on 30th December, 2019. Determine the residential status of Sri Sen for the A.Y. 2020-21.

(b) State how the residential status of an individual is determined under the Income-tax Act, 1961.

Answer:

During past few previous years, Sri Sen was in India as under:

P.Y.	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
19-20	-	-	-	-	-	-	-	-	2	31	29	31	93
18-19	-	-	-	-	-	-	-	-	17	8	-	-	25
17-18	-	-	-	-	-	-	-	-	-	20	-	-	20

16-17	30	31	30	31	31	30	31	30	1	-	-	-	245
15-16 and back	30	31	30	31	31	30	31	30	31	31	28 or 29	31	365 or 366

Accordingly, his residential status can be decided as under:

Previous Year	Presence in India (In Days)	Resident (R) or Non-resident (NR)	Condition satisfied to became a resident
2019-2020	93	R	6(1)(c)
2018-2019	25	NR	None
2017-2018	20	NR	None
2016-2017	245	R	Both
2015-2016 & back	365 or 366	R	Both

From the above working, it is apparently clear that Sri Sen is satisfying sec. 6(1) and both conditions of sec. 6(6). Hence, he is resident and ordinarily resident in India.

Conclusion: Resident and ordinarily resident.

2. (b)

Residential status of an individual shall be determined as under:

Condition to be a Resident	Condition to be an Ordinarily resident
Assessee satisfies any one condition of sec. 6(1) i.e. (a) He is in India in the previous year for a period of 182 days or more; or (b) He is in India for a period of 60 days or more during the previous year and 365 days or more during 4 previous years immediately preceding the relevant previous year. *Exceptions* In the following cases, (b) is irrelevant: 1. An Indian citizen, who leaves India during the previous year for employment purpose.	Assessee satisfies both the conditions of sec. 6(6) (a) He has been resident in India in at least 2 out of 10 previous years immediately preceding the relevant previous year; and (b) He has resided in India for a period of 730 days or more during 7 previous years immediately preceding the relevant previous year.

2. An Indian citizen, who leaves India during the previous year as a member of crew of an Indian ship. 3. An Indian citizen or a person of Indian origin, who normally resides outside India, comes on a visit to India during the previous year.	

3. The incidence of income-tax depends upon the residential status of an assessee. Comment

Answer:

Section 5 of the Income-tax Act, 1961 provides for scope of total income in terms of residential status of the assessee. Sec. 6 provides the tests to be applied for determination of residential status of all types of the person. The impact of residential status on tax is as follow:

Nature of Income	Tax incidence in the case of		
	Resident & ordinarily resident	**Resident but not ordinarily resident**	**Non resident**
Income accrued or deemed to be accrued and received or deemed to be received in India	Taxable	Taxable	Taxable
Income accrued outside India but received or deemed to be received in India.	Taxable	Taxable	Taxable
Income accrued or deemed to be accrued in India but received outside India	Taxable	Taxable	Taxable
Income accrued and received outside India from a b usiness controlled in or profession set-up in India	Taxable	Taxable	Not taxable
Income accrued and received outside India from a b usiness controlled or profession set-up outside India.	Taxable	Not taxable	Not taxable
Income accrued and received outside India in the previous year	Taxable	Not taxable	Not taxable

Thus, residential status of a person plays a significant role in computing tax liability.

4. (a) Mr. Rupankar Roy, an Indian Citizen, left India for the purpose of employment in USA for the first time on 1st October, 2019. He came back to India on 15th March, 2020 for visit and returned back to USA on the next day. During the previous year 2019–20, he earned the following Income:

(i) Salary earned in USA ₹ 5,00,000 (computed) and credited in USA.

(ii) Interest received in India out of Fixed Deposit in Bank ₹ 1,20,000.

Determine his residential status and Tax Incidence in India for the A.Y. 2020-21.

Answer:

During the previous year, Mr. Roy was in India as under

P.Y.	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
19-20	30	31	30	31	31	30	1	-	-	-	-	2	186

Since, Mr. Roy resided in India for 186 days (as shown above) in the previous year 2019-20, hence he satisfies condition of sec. 6(1)(a). He is, therefore, a resident in India for the A.Y. 2020-21.

Further, he is leaving India for the first time, hence he is also satisfying both the conditions mentioned u/s 6(6). Thus, his residential status for the year is resident and ordinarily resident. Accordingly, tax incidence are as follow:

Particulars	Amount
Salary earned in USA	5,00,000
Interest of fixed deposit in bank	1,20,000
Income liable to be taxed in India	6,20,000

4. (b) Who is a non-resident?

Answer:

An individual is said to be a non-resident in India, if he fails to satisfy any of the following conditions —

(i) He is in India in the previous year for a period of *182 days or more* **[Sec. 6(1)(a)]**; **or**

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

However, sec.6(1)(c) is not applicable in case of following circumstances:

1. An Indian citizen, who leaves India during the previous year for employment purpose.
2. An Indian citizen, who leaves India during the previous year as a member of crew of an Indian ship.
3. An Indian citizen or a person of Indian origin, who normally resides outside India, comes on a visit to India during the previous year.

5. Discuss any six incomes which are deemed to accrue or arise in India.

Answer:

Following incomes are deemed to accrue or arise in India:

Income from connection in India	Salary earned in India	Salary from Govt. by an Indian citizen for services rendered outside India	Income from dividend paid by an Indian company	Income from interest payable by specified person	Income from royalty	Income from technical services	Deemed receipt of gift by non-resident
Sec. 9(1)(i)	Sec. 9(1)(ii)	Sec. 9(1)(iii)	Sec. 9(1)(iv)	Sec. 9(1)(v)	Sec. 9(1)(vi)	Sec. 9(1)(vii)	Sec. 9(1)(viii)

Income from connection in India [Sec. 9(1)(i)]

All income accruing or arising, whether directly or indirectly,:

a) through[1] or from any business connection in India; or

b) through or from any property / asset or source of income in India; or

c) through the transfer of a capital asset situated in India.

Salaries earned in India [Sec. 9(1)(ii)]

Salary payable for –

a) Services rendered in India; and

b) The rest period or leave period which is preceded and succeeded by the period during which services were rendered in India and forms part of the service contract of employment,

- shall be deemed to accrue or arise in India.

Salary payable by the Government to Indian citizen for services rendered outside India [Sec. 9(1)(iii)]

Any salary -

- payable by the Government of India;
- to a citizen of India;
- for services rendered outside India;

- shall be deemed to accrue or arise in India.

[1] The expression "through" shall mean and include "by means of", "in consequence of" or "by reason of". [Explanation 4]

Income from dividend [Sec. 9(1)(iv)]

Any dividend paid by an Indian company outside India is deemed to accrue or arise in India.

Income from Interest [Sec. 9(1)(v)]

Following interest shall be deemed to accrue or arise in India –

Interest payable by	Condition
The Government	Nil
A resident person	Money borrowed is not used for the purpose of - business or profession carried on by such person outside India; or earning any income from any source outside India.
A non-resident person	Money borrowed is used for the purpose of business or profession carried on by such person in India. *Taxpoint: In case money borrowed and used for the purpose of earning an income from any other source in India, interest shall not be treated as deemed to accrue or arise in India.*

Income from royalty [Sec. 9(1)(vi)]

Following royalty shall be deemed to accrue or arise in India –

Royalty payable by	Condition
The Government	Nil
A resident person	The right, property, information or services are not utilized for the purpose of - business or profession carried on by such person outside India; or earning any income from any source outside India.
A non-resident person	The right, property, information or services must be utilised for the purpose of - business or profession carried on by such person in India; or earning any income from any source in India.

Income from technical services [Sec. 9(1)(vii)]

Following income by way of fees for technical service shall be deemed to accrue or arise in India –

Fee for technical services payable by	Condition
The Government	Nil
A resident person	Such services must not be utilised in - business or profession carried on by such person outside India; or earning any income from any source outside India
A non-resident person	Such services must be utilized in - business or profession carried on by such person in India; or earning any income from any source in India.

6. **Mr. David, a citizen of Spain came to India for the first time in previous year 2015-16 and stayed for 100 days in that year. During the previous year's 2016-17, 2017-18, 2018-19 and 2019-20 he stayed in India for 120 days, 110 days, 80 d ays and 90 days respectively. What is the residential status of Mr. David for the assessment year 2020-21?**

Answer:

During the previous year 2019-20, Mr. David was in India for 90 days & during 4 years immediately preceding the previous year, he was in India for 410 days as shown below:

Year	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**Total**
No. of days stayed in India	100	120	110	80	**410**

Thus, he satisfies one of the conditions given u/s 6(1) & consequently, he is a resident in India for the previous year 2019-20.

However, he does not satisfy conditions specified u/s 6(6), hence he is resident but not ordinarily resident in India.

7. **During the financial year 2019-20, Sri Avirup Acharya had the following incomes. Compute the income liable to be taxed in India of Sri Acharya if he is (i) Not Ordinarily resident and (ii) Non-resident in India.**
   i. **Income from profession in India but received in USA ₹ 1,00,000**
   ii. **Agricultural income accrued and received in Australia ₹ 20,000**
   iii. **Income from business in Indonesia not brought into India ₹ 3,00,000. The business is controlled from India.**

iv. Property income accrued and received in London (out of which ₹ 40,000 was remitted to India) ₹ 1,30,000

v. Interest from deposits with an African company but received in India ₹ 75,000

Answer:

Computation of income liable to be taxed in India of Sri Avirup Acharya for the A.Y. 2020-21

Particulars	Case (i)	Case (ii)
(i) Income from profession in India but received in USA	1,00,000	1,00,000
(ii) Agricultural income accrued and received in Australia	-	-
(iii) Income from business in Indonesia not brought into India	3,00,000	-
(iv) Property income accrued and received in London	-	-
(v) Interest from deposits with an African company but received in India	75,000	75,000
Income liable to be taxed in India	4,75,000	1,75,000

Study Note – 3

AGRICULTURAL INCOME

Learning Objective:

After studying this chapter, students should able to :

- ***understand the term Agricultural Income, Non-agricultural Income as per Income Tax Act, 1961 and other relevant terms and contexts;***
- ***understand the calculation of tax on Agricultural Income and other related matters.***

1. (a) Choose the correct alternative:

(i) Rental income from an agricultural land situated in India is –

(a) exempt as agricultural income

(b) taxable as 'Capital Gain'

(c) taxable as 'Income from Other Sources'

(d) exempt u/s 10(2A)

(ii) Agricultural income is exempt provided that the –

(a) Land is situated in India

(b) Land is situated in any rural area of India

(c) Land is situated whether in India or outside India

(d) Land is situated outside India

(iii) There will be no partial integration of agricultural income with non agricultural income, if agricultural income does not exceed –

(a) ₹ 2,50,000

(b) ₹ 5,000

(c) ₹ 2,00,000

(d) it will always be integrated

(iv) There will be no partial integration, if the non-agricultural income of an individual does not exceed:

(a) ₹ 5,000

(b) Basic Exemption Limit

(c) ₹ 50,000

(d) None of the above

(v) Which of the following income is agricultural income —

(a) Revenue received from agricultural land

(b) Income from dairy farm

(c) Income from poultry farm

(d) Dividend from a company engaged in agriculture.

Answer:

(i) (a) exempt as agricultural income

(ii) (a) Land is situated in India

(iii) (b) ₹ 5,000

(iv) (b) Basic Exemption Limit

(v) (a) Revenue received from agricultural land

1. (b) Match the following

(i) Growing & manufacturing tea	**(a) 100% agricultural income**
(ii) Growing & manufacturing rubber	**(b) 60% agricultural income**
(iii) Growing & manufacturing coffee (grown and cured by the seller)	**(c) 65% agricultural income**
(iv) Growing of tea	**(d) 75% agricultural income**

Answer:

(i) Growing & manufacturing tea	(a) 60% agricultural income
(ii) Growing & manufacturing rubber	(b) 65% agricultural income
(iii) Growing & manufacturing coffee (grown and cured by the seller)	(c) 75% agricultural income
(iv) Growing of tea	(d) 100% agricultural income

1. (c) Fill in the blanks:

(i) Any rent or revenue derived from a land, which is *situated in* _____ & is *used for* agricultural purposes is considered as agricultural income.

(ii) Income from growing flowers and creepers is _____

Answer:

(i) India;

(ii) an agricultural income

2. Mr. Jiban Samanta is 54 years old and furnished the following information for P.Y. 2019-20:

	₹
Agricultural Income	**1,70,000**
Income from House Property	**2,00,000**
Income from Other Sources	**1,30,000**

Compute tax payable by Mr. Jiban Samanta for the assessment year 2020-21.

Answer:

Computation of Total Income & Tax Liability of Mr. Jiban Samanta for the A.Y. 2020-21

Particulars	₹
Income from House Property	2,00,000
Income from Other Sources	1,30,000
Total Income	3,30,000
Tax on above	
Income Tax on ₹ 5,00,000 (i.e. agro income ₹ 1,70,000 + non agro ₹ 3,30,000)	12,500
Less: Tax on ₹ 4,20,000 (i.e. agro income ₹ 1,70,000 + maximum exempted limit ₹ 2,50,000)	8,500
Tax Liability	4,000
Less: Rebate u/s 87A	4,000
	Nil
Add: Health & Education Cess	Nil
Tax & Cess	**Nil**

3. Define agricultural income.

Answer:

As per sec. 2(1A), agricultural income means -

1. Any rent or revenue derived from a land, which is *situated in India* & is *used for agricultural purposes;*

2. Any income derived from such land by agriculture

3. Any income derived from such land by the performance by –

   a) a cultivator;

   b) receiver of rent in kind;

   - of any process ordinarily employed by a them to render the produce raised or received by him fit to be taken to market.

4. Any income derived from such land by the sale by

   a) a cultivator of the produce raised by him; or

   b) receiver of rent-in-kind of the produce received by him;

   - in respect of which no process has been performed other than a process required to render it fit for the market.

5. Any income derived from a building subject to fulfillment of the following conditions -

   a) The building should be occupied by the cultivator or receiver of rent in kind.

   b) The building should be on or in the immediate vicinity of the land, being situated in India and used for agricultural purposes.

   c) The building should be used as dwelling house or store-house or other out building.

   d) The land is either situated in –

      i) Rural area; or

      ii) Urban area and assessed to land revenue / local rates.

4. Mrs. Rajnita is 60 years old and furnished the following information for the previous year 2019–20. Compute her taxable income for the Assessment year 2020–21.

- **Income from growing and manufacturing Tea ₹ 1,20,000.**
- **Income from growing and manufacturing Rubber ₹ 2,00,000.**

Answer:

Computation of taxable income

Particulars	Amount
Income from growing and manufacturing Tea [₹ 1,20,000 x 40%]	48,000
Income from growing and manufacturing Rubber [₹ 2,00,000 x 35%]	70,000
Total Income	**1,18,000**

5. Discuss, with reasons, whether the following incomes are treated as agricultural income or not:

a. Income by way of selling rice produced from the paddy purchased by assessee

b. Profit earned from the sale of agricultural land.

c. Profit earned from the sale of wild grass of spontaneous growth.

d. Income earned from the sale of tea grown and manufactured by the assessee.

e. Profits earned by selling agricultural produce from a land situated at Bangladesh.

Answer:

a. Income by way of selling rice produced from the paddy purchased by assessee shall not be treated as agricultural income as any income derived by processing the agricultural produce so as to render it fit for sale in market is treated as agricultural income u/s 2(1A) only in hands of cultivator or receiver of rent in kind.

b. Profit earn on sale of agricultural land shall not be considered as agricultural income as the same income is not derived from such land.

c. Income from sale of trees, grass grown spontaneously and without any human effort is non-agricultural income as basic operation is not performed on land.

d. As per Rule 8, 60% of income earned from sale of tea grown and manufactured by the assessee shall be treated as agricultural income.

e. As land is situated outside India, income from selling agricultural produce shall not be treated as agricultural income.

6. Explain the scheme of partial integration of agricultural income with the total income for computing tax liability.

Answer:

Section 10(1) of the Act exempts agricultural income from tax as our Constitution does not provide power to the Parliament to levy tax on agro-income. However, since 1973 an indirect method has been found, to levy tax on agro-income. According to this method, agricultural income is included in the total income of the assessee for deciding the tax slab of the assessee.

The way to apply higher rate of tax-slab on non-agricultural income by including agricultural income in the total income of the assessee are as under:

Conditions for including agricultural income in the total income of the assessee

1. The assessee is an individual, a Hindu-undivided family, a body of individual, an association of person or an artificial juridical person.
2. The assessee has non-agricultural income exceeding the maximum amount of exemption (i.e. in case of Senior citizen ₹ 3,00,000, Super Senior citizen ₹ 5,00,000 and in case of other individual/ HUF/AOP / BOI /artificial juridical person ₹ 2,50,000)
3. The agricultural income of the assessee exceeds ₹ 5,000.

Treatment

Step 1: Compute income tax on total income of assessee including Agro-income.

Step 2: Compute income tax on (Agro-income + Maximum exempted limit)

Step 3: Tax liability before cess = (Tax as per step 1) - (Tax as per step 2)

7. Mrs. Vasudha is running a cotton ginning factory. Raw cotton is grown in the lands owned by her and the same is issued for ginning in her factory. The ginned cotton is sold subsequently for ₹ 12,00,000. The following data are also available:

Cost of cultivation	**₹ 4,00,000**
Selling price of raw cotton when sent to the ginning factory	**₹ 6,00,000**
Expenses of ginning factory	**₹ 3,40,000**

You are required to ascertain the agricultural income and business income of Mrs. Vasudha.

Answer:

Computation of Income of Mrs. Vasudha for the A.Y. 2020-21

Particulars	Taxable Income	Agriculture Income Exempted u/s 10(1)
Sale of ginned cotton in market	12,00,000	-
Notional sale of raw cotton used in the process of ginning	-	6,00,000
Revenue [A]	12,00,000	6,00,000
Less: Expenses incurred		
Cost of ginning	3,40,000	-
Cost of raw cotton (As per rule 7)	6,00,000	-
Cost of cultivation	-	4,00,000
Expenditure [B]	9,40,000	4,00,000
Income [A – B]	**2,60,000**	**2,00,000**

Study Note – 4

INCOME, WHICH DO NOT FORM PART OF TOTAL INCOME

Learning Objective:

After studying this chapter, students should able to :

- ***understand various categories of Income which do not form part of Total Income and exempted Incomes.***
- ***know the treatment of the above income as per Income Tax Act, 1961.***

1. (a) Choose the correct alternative:

(i) Which out of the following income is exempt from tax?

(a) Sum received by a member from HUF

(b) Dividend received from a foreign company

(c) Agricultural income from Bangladesh

(d) Salary Income from a Non Profitable Organisation

(ii) Which of the following income is not exempt u/s 10?

(a) Share in total income of firm

(b) Income from agriculture in Lahore

(c) Bonus on life insurance

(d) Income from mutual funds

(iii) Daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof is _____.

(a) exempt

(b) taxable as salary income

(c) exempt to the extent of ₹ 7,500 p.m.

(d) none of these

(iv) Which of the following statement is incorrect?

(a) Share in the total income of the firm is exempt in the hands of partner u/s 10(2A)

(b) Dividend income from domestic company is exempt u/s 10(34)

(c) Daily allowance of MP is exempt u/s 10(17)

(d) None of these

(v) The annual value in respect of any one palace, which is in the occupation of an ex-ruler is exempt. Such exemption is provided in which section of the Income-tax Act?

(a) Sec. 10(19A)

(b) Sec. 10(20)

(c) Sec. 10(21)

(d) Sec. 10(19)

Answer:

(i) (a) Sum received by a member from HUF

(ii) (b) Income from agriculture in Lahore

(iii) (a) exempt

(iv) (d) None of these

(v) (a) Sec. 10(19A)

1. (b) Match the following

(i) Sukanya Samriddhi Account	**(a) Sec. 10(26AAA)**
(ii) National Pension Trust	**(b) Sec. 10(23A)**
(iii) Income of Professional Institutions	**(c) Sec. 10(11A)**
(iv) Income of Sikkimese	**(d) Sec. 10(12A)**

Answer:

(i) Sukanya Samriddhi Account	(a) Sec. 10(11A)
(ii) National Pension Trust	(b) Sec. 10(12A)
(iii) Income of Professional Institutions	(c) Sec. 10(23A)
(iv) Income of Sikkimese	(d) Sec. 10(26AAA)

1. (c) Fill in the blanks:

(i) As per Sec. 10(10D) of Income-tax Act, any sum received under a life insurance policy (including the bonus on such policy) is exempt, provided in respect of such policy issued on or after 01.04.2013 in respect of which the premium payable for any of the years does not exceed ___ (10%/20%) of the actual capital sum assured.

(ii) Maximum amount of exemption under section 10(10C) of the Income-tax Act in respect of compensation received for voluntary retirement is _____

Answer:

(i) 10%;

(ii) ₹ 5,00,000

2. Certain income of professional institution is exempt. Comment

Answer:

Income of Professional Institutions [Sec. 10(23A)]

Any income (other than income chargeable under the head "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of professional association shall be exempt provided -

a. Such association or institution is established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or other specified profession;

b. Such association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

c. The association or institution is approved by the Central Government.

3. Discuss the taxability of the following:

Question	Answer
X (HUF) is the owner of a house. Such HUF earned ₹ 2,00,000 by letting out such house property. Out of income earned, ₹ 25,000 transferred to Mr. X, a member of such HUF, as his share in the income of the family.	• Income from letting out of house property shall be taxable in hands of X (HUF). • Receipt of ₹ 25,000 by Mr. X, being his share in the income of the family, shall not be taxable again in hands of Mr. X. The same receipt is exempt u/s 10(2) in hands of Mr. X.

A, B & C are the member of A (HUF) Mr. B sold his house property to A (HUF) for ₹ 10 lakh which was acquired by him for ₹ 8 lakh one year back.	• ₹ 2 lakh (being ₹ 10 lakh – ₹ 8 lakh) shall be taxable in hands of Mr. B under the head "Capital Gains". • In this case, receipts by Mr. B from A (HUF) [in which he is also a member] is not his share of income in the income of the family. Sec. 10(2) do not provide exemption to such type of receipts.

4. Decide the exemption/taxability of following receipts/recipients:

(i) Educational scholarship of ₹ 10,000 received from a charitable trust by a college student.

(ii) Rental income earned by a registered trade union.

(iii) Co-operatives formed for promoting the interest of schedule tribes.

(iv) Dividend of ₹ 1,000 received from Indian companies by resident individuals

Answer:

(i) Scholarships granted to meet the cost of education is exempt u/s 10(16).

(ii) Any income chargeable under the heads "Income from house property" and "Income from other sources" of registered trade union is exempt u/s 10(24).

(iii) Income of corporation for promoting the interests of the members of the Scheduled Castes or the Scheduled Tribe or backward classes is exempt u/s 10(26B).

(iv) Dividend of ₹ 1,000 received from Indian companies by resident individuals is exempt u/s 10(34).

5. Mr. Y has bought a life insurance policy in July 2012. The details are as under:

a. Sum Assured – ₹ 1,00,000

b. Yearly Premium – ₹ 14,000

On 17-08-2019, he received the maturity amount of ₹ 1,40,000/- including bonus. Discuss whether such receipt is covered u/s 10(10D)

Answer:

- The policy was issued on or after 01-04-2012 but before 01-04-2013
- Yearly premium amount exceeds 10% of sum assured
- Hence, the receipt of ₹ 1,40,000 is not covered u/s 10(10D).

Study Note – 5

INCOME UNDER HEAD SALARIES

Learning Objective:

After studying this chapter, students should able to :

- ***gain a concept of salary for the purpose of calculation of income from salary, Wages, Pension, Annuity, Gratuity, Advance Salary paid, Perquisites, Profit in lieu of Salary, P.F, Leave Encashment and other related matters.***
- ***compute tax on income from Salaries.***

1. (a) Choose the correct alternative:

(i) If Mr. A draw his salary in advance for the month of April 2020 in the month of March' 2020 itself, it will be taxable in which Assessment Year?

(a) A.Y. 2020-21

(b) A.Y. 2021-22

(c) Advance Salary is not taxable

(d) None of the above

(ii) Employer's contribution towards Recognized Provident Fund is –

(a) Fully Exempt

(b) Taxable

(c) Exempt to the extent of 12% of salary

(d) Exempt if salary does not exceed ₹ 6,500 p.m.

(iii) Which of the following Allowance is fully exempt?

(a) Overtime allowance

(b) House rent allowance

(c) Allowance paid by the United Nation Organization

(d) Medical Allowance

(iv) A teacher of a collage receives fees from a University for checking answer sheets. The fees received are taxable under which head of income?

(a) Salaries

(b) Income from other sources

(c) Profits or Gains of Business or Profession

(d) Income from speculative business

(v) The rate and method of depreciation applicable for the purpose of valuation of perquisite being car sold by an employer to employee is –

(a) 20%, reducing balance method

(b) 10%, straight line method

(c) 25%, straight line method

(d) 15%, reducing balance method

(vi) Maximum deduction allowed to an employee for children education allowance is –

(a) ₹ 300 per month for a child

(b) ₹ 100 per month for maximum of two children

(c) ₹ 100 per month for a child

(d) to the extent of actual expenses

(vii) Maximum deduction of Entertainment Allowance for a government employee is –

(a) 10% of salary

(b) ₹ 5,000

(c) Nil

(d) Actual expenses incurred

(viii) Sneha is an employee in a private company. In the previous year she received salary ₹ 1,80,000 and entertainment allowance ₹ 12,000. She spent ₹ 6,000 on entertainment. Under section 16(ii), she is entitled to deduction of –

(a) ₹ 12,000

(b) ₹ 5,000

(c) ₹ 6,000

(d) Nil

(ix) Interest free loan to an employee, where the amount of loan does not exceed any one of the following, shall be treated as the tax-free perquisite in all cases under section 17(2) –

(a) ₹ 10,000

(b) ₹ 15,000

(c) ₹ 20,000

(d) ₹ 25,000

(x) The maximum ceiling limit for claiming exemption under section 10(10) is _____.

(a) ₹ 20,00,000

(b) ₹ 3,00,000

(c) ₹ 10,00,000

(d) ₹ 5,00,000

Answer:

(i) (a) A.Y. 2020-21

(ii) (c) Exempt to the extent of 12% of salary

(iii) (c) Allowance paid by the United Nation Organization

(iv) (b) Income from other sources

(v) (a) 20%, reducing balance metho

(vi) (b) ₹ 100 per month for maximum of two children

(vii) (b) ₹ 5,000

(viii) (d) Nil

(ix) (c) ₹ 20,000

(x) (a) ₹ 20,00,000

1. (b) Match the following

(i) Gratuity	**(a) ₹ 5,000**
(ii) Leave encashment	**(b) ₹ 20 lakhs**
(iii) Entertainment allowance to Govt employee	**(c) ₹ 5 lakhs**
(iv) Voluntary Retirement Compensation	**(d) ₹ 3 lakhs**

Answer:

(i) Gratuity	**(a) ₹ 20 lakhs**
(ii) Leave encashment	**(b) ₹ 3 lakhs**
(iii) Entertainment allowance to Govt employee	**(c) ₹ 5,000**
(iv) Voluntary Retirement Compensation	**(d) ₹ 5 lakhs**

1. (c) Fill in the blanks:

(i) Where an employer gifts a furniture to an employee, the perquisite value is actual cost less depreciation at ___ % for every completed year under _____ method of computing depreciation.

(ii) Any commission due or received by a partner of a firm from the firm shall ___ be regarded as _____.

(iii) _____ salary is taxable, while _____ against salary is not taxable.

(iv) An individual can avail the benefit of exemption in respect of leave travel concession offered by his employer twice in a block of _____ years.

(v) Salary foregone is _____ (taxable/not taxable) in computing the income from salaries in the hands of the concerned employee.

Answer:

(i) 10%, straight line method

(ii) not, salary income

(iii) advance, advance

(iv) four

(v) taxable

2. Mr. Mukesh Agarwal, a resident Indian, an employee of P Ltd., furnishes the following information. Compute his salary income for the assessment year 2020-21

(a) Basic pay ₹ 10,000 p.m.

(b) D.A. 41% of basic pay

(c) Deputation allowance ₹ 300 p.m.

(d) Transport allowance ₹ 500 p.m.

(e) Computer allowance ₹ 200 p.m.

(f) He and his employer both contributed 15% of his basic and DA to RPF & interest credited to RPF @ 12% p.a. was ₹ 6,000

(g) He is provided with a rent free furnished accommodation in Kolkata having municipal value of ₹ 36,000 and furnished with furniture costing ₹ 25,000

(h) He is provided with a car of 1.6 liters both for official and private purpose. Entire expenses are borne by employer.

(i) He received leave travel assistance for a trip to Andaman ₹ 50,000 for his whole family.

(j) He has taken an interest free loan of ₹ 15,000 from his employer for purchase of a colour television, market rate of interest is 10%.

Answer:

Computation of Total Income of Mr. Mukesh Agarwal for the A.Y.2020-21

Particulars	Working	Details	Amount	Amount
Salaries				
Basic	10,000 x 12			1,20,000
Allowances				
Dearness allowance	41% of 1,20,000		49,200	
Deputation allowance	300 x 12		3,600	
Transport allowance	500 x 12		6,000	
Computer allowance	200 x 12		2,400	61,200
Perquisites u/s 17(2):				
Rent free accommodation	15% of salary	27,180		
Furniture	10% of cost	2,500	29,680	
Car facility	1,800 x 12		21,600	
Leave travel assistance	Exempted		Nil	
Interest free loan	Note		Nil	51,280
Employer's contribution to RPF	15% of salary	25,380		
Less: Exempted	12% of salary	20,304	5,076	
Interest @ 12% on RPF		6,000		
Less: Exempted	(6,000/12) x 9.5	4,750	1,250	6,326
Gross Salary				2,38,806
Less: Standard Deduction u/s 16(ia)				50,000
Taxable Salary	Rounded off u/s 288A			1,88,806

Notes:

1. Salary for the purpose of

Particulars	Accommodation	RPF
Basic salary	1,20,000	1,20,000
Dearness allowance	49,200	49,200
Deputation allowance	3,600	-
Transport allowance	6,000	-
Computer allowance	2,400	-
Total	1,81,200	1,69,200

2. Interest free or concessional loan from employer upto ₹ 20,000 is not taken as taxable perquisite.

3. (a) Mr. Basu retired on 9-3-2020 from a private company, after completion of 32 years and 10 months of service. He was entitled to 25 days leave for each completed year of service. He availed 10 months leave during his service life. His basic pay was ₹ 12,000 p.m. from 1-4-2019 and DA @ 50% of basic pay. He received ₹ 3,00,000 for leave encashment. Find out the amount of leave salary to be taxed for the assessment year 2020-21.

Answer:

Computation of taxable leave encashment of Mr. Basu for the A.Y. 2020-21

Particulars	Details	Amount
Leave encashment received		3,00,000
Less: Minimum of the following is exempted u/s 10(10AA):		
(a) Actual amount received	3,00,000	
(b) Statutory amount	3,00,000	
(c) 10 months x Avg. Salary p.m. (10 x ₹ 18,000)	1,80,000	
(d) [{25 days x completed year of service – Leave taken} x Avg. salary p.m.] = 16 2/3 months leave (16 2/3 x ₹ 18,000)	3,00,000	1,80,000
Taxable Leave Encashment		1,20,000

Workings:

1. Completed year of service: 32 years
2. Salary here means Basic + Dearness allowance + Commission on turnover (last 10 months average from the date of retirement). Since salary structure has not changed in last 10 month immediately preceding date of retirement, hence his average salary is ₹ 18,000 [i.e. ₹ 12,000 + ₹ 6,000]
3. Statement showing balance of leave lying to the credit of Mr. Basu

Total leave Allowed 25 days x 32 years	800 days
In terms of month [800 / 30]	26 $^{2}/_{3}$ months
Less: Leave actually availed during service	10 months
Balance leave lying to his credit at the time of retirement (in months)	16 $^{2}/_{3}$ months

3. (b) Distinguish between foregoing of salary and surrender of salary.

Answer:

Once salary has been earned by an employee, its subsequent waiver does not make it exempt from tax liability. Such waiver shall be treated as application of the income. Hence, salary foregone is taxable. However, where an employee opts to surrender his salary to the Central Government u/s 2 of *Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961*, the salary so surrendered shall not be taxable.

4. (a) Mr. Singha after serving for 22 years and 10 months of service in a private concern in Kolkata, retires on December 31, 2019 and receives gratuity of ₹ 35,000. His basic salary and dearness allowance at the date of retirement was ₹ 3,500 and ₹ 1,750 (50% of basic salary) per month respectively. His annual increment of salary of ₹ 100 per month fell due on 1st April each year. Calculate the taxable amount of gratuity for Mr. Singha.

Answer:

Computation of Taxable Gratuity, assuming Singha is not covered by Payment of Gratuity Act:

Particulars	Details	Amount
Gratuity received		35,000
Less: Minimum of the following is exempted as per sec. 10(10)		
a) Actual gratuity received	35,000	
b) Statutory amount	20,00,000	
c) ½ x completed year of service x salary p.m. [1/2 x 22 x ₹ 5,220]	57,420	35,000
Taxable Gratuity		Nil

Workings:

1. Completed year of service 22 years.
2. Salary here means Basic + Dearness Allowance + Commission on turnover (last 10 months average just preceding the month of retirement) as shown below:

	1	2	3	4	5	6	7	8	9	10	Total
	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	
Basic	3,400	3,400	3,500	3,500	3,500	3,500	3,500	3,500	3,500	3,500	34,800
D.A.	1,700	1,700	1,750	1,750	1,750	1,750	1,750	1,750	1,750	1,750	17,400
Commission	-	-	-	-	-	-	-	-	-	-	-
Total											52,200

Average salary = ₹ 52,200 / 10 months = ₹ 5,220

4. (b) Discuss the tax treatment of receipt of retrenchment compensation.

Answer:

Retrenchment means cancellation of contract of service by employer.

Tax Treatment [Sec. 10(10B)]: Any compensation received by a worker at the time of retrenchment is exempted to the extent of minimum of the following:

(a) Actual amount received;

(b) ₹ 5,00,000; or

(c) An amount calculated in accordance with the provisions of sec. 25F(b) of Industrial Dispute Act, 1947 (Under the said Act a workman is entitled to retrenchment compensation equivalent to 15 days' average pay, for every completed year of service or any part thereof in excess of 6 months).

Notes

(a) In case, where the compensation is paid under any *scheme approved by the Central Government* nothing shall be taxable.

(b) Compensation received by a workman at the time of closing down of the undertaking in which he is employed is treated as compensation received at the time of his retrenchment.

5. Mr. Narayan retired from service on 1/6/2019. As on that date, his monthly salary was Basic ₹ 5,000 p.m., Commission on turnover 5%. Total turnover achieved by him during last 10 months (occurred evenly) ₹ 5,00,000. On retirement, after 20 years 6 months of service, he received gratuity ₹ 5,00,000, leave salary ₹ 3,00,000. He is entitled to pension of ₹ 1,500 p.m. On 1/1/2020, he commuted 60% of his pension and received ₹ 90,000. Compute gross salary assuming he is covered by the Payment of Gratuity Act.

Answer:

Computation of Gross Salary of Mr. Narayan for the A.Y.2020-21

Particulars	Details	Amount	Amount
Basic Salary	5,000 x 2		10,000
Commission on turnover	(5,00,000/10x2) x 5%		5,000
Gratuity		5,00,000	
Less: Minimum shall be exempted u/s 10(10)(ii)			
a) Actual Amount Received	5,00,000		
b) Statutory Amount	20,00,000		
c) $^{15}/_{26}$ x 20 x ₹ 5,000	57,692	57,692	4,42,308
Leave Encashment		3,00,000	
Less: Minimum shall be exempted u/s 10(10AA)(ii)			
a) Actual Amount Received	3,00,000		
b) Statutory Amount	3,00,000		
c) 10 x ₹ 7,500	75,000		
d) 1 x 20 x ₹ 7,500	1,50,000	75,000	2,25,000
<u>Pension</u>			
Uncommuted Pension	(1500 x 7) + (600 x 3)		12,300
Commuted Pension Received		90,000	
Less: Exempted u/s 10(10A)(ii)	1/3rd x 1,50,000	50,000	40,000
Gross Taxable Salary			7,34,608

6. (a) What are "profits in lieu of salary" as per section 17(3) of the Income Tax Act, 1961?

Answer:

Following receipts are taxable as profits in lieu of salary:

1. 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 his employment, (b) modification of the terms and conditions of employment.
2. 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;
   - Payment from recognised provident fund to the extent it is exempt u/s 10(12).
3. Any payment from unrecognised provident fund or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.
4. Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy.
5. Any amount due to or received by the employee (in lump sum or otherwise) prior to employment or after cessation of employment.

6. (b) Name three perquisites free from Income Tax in the hands of all employees.

Answer:

(a) Telephone or mobile phone facility

(b) Computer or laptop facility

(c) Pick and drop facility

(d) Training to employee himself

(e) Tea, similar non-alcoholic beverages and snacks provided during working hours.

7. Compensation received as per Voluntary Retirement Scheme (VRS) is exempt to certain extent provided such scheme is framed in accordance with prescribed guidelines. Please enlist those guidelines.

Answer:

Scheme should be framed as per following guidelines (Rule 2BA):

1. Scheme (VRS) must be applicable to all employees (other than director) who have either completed age of 40 years or has completed 10 years of service. (This condition is, however, not applicable in the case of an employee of a public sector company)
2. Such scheme must be framed to reduce the number of employees.
3. The vacancy caused by VRS is not to be filled up.
4. The retiring employee is not to be employed in another company or concern belonging to the same management.
5. The amount of compensation does not exceed
   - the amount equivalent to 3 months' salary for each completed year of service; or
   - salary at the time of retirement multiplied by the balance month of service left.

Note: Salary here means [Basic + DA (if forms a part of retirement benefit) + fixed percentage of commission on turnover], last drawn.

8. Determine the taxable value of perquisite in the following cases:

(a) Shankar has been granted a housing loan for 4 years of ₹ 1,00,000 interest free as on 1/4/2019.

(b) Paresh has been granted a loan for computer ₹ 50,000 on 1/7/2019 @ 5% interest.

(c) Pankaj has been granted a car loan for 5 years of ₹ 2,00,000 @ 7% as on 1/4/2019.

(d) Janak has been granted an interest free loan for 3 years for higher study ₹ 10,000 on 31/7/2019.

(e) Miss Sonam has been granted a loan for furniture ₹ 1,00,000 as on 1/7/2019 @ 7%. She has been granted another loan of ₹ 3,00,000 for miscellaneous purpose @ 5% as on 1/10/2019.

(f) Ramesh has been granted a housing loan for 18 years of ₹ 1,00,000 as on 1/7/2019. On 31/12/2019, he has been further granted a loan of ₹ 24,000 @ 6% for miscellaneous purpose.

(g) Shruti has been granted an interest free loan of ₹ 1,00,000 as on 1/3/2020 for personal purpose with a condition that she must repay the loan in 10 equal monthly installment commencing from end of the March' 2020. As on 31/3/2020, she paid first installment.

SBI Rate of interest on 1st day of the previous year:

Home & Car Loan: 10%; Education Loan: 12% Personal Loan: 15%

Answer:

Computation of taxable value of perquisite:

Case	Interest as per perquisite rule (A)		Interest paid by employee (B)		Taxable perquisite (A – B)
	Working	₹	Working	₹	
a)	1,00,000 x 10%	10,000		Nil	10,000
b)	50,000 x 15% x 9/12	5,625	50,000 x 5% x 9/12	1,875	3,750
c)	2,00,000 x 10%	20,000	2,00,000 x 7%	14,000	6,000
d)	Loan is below ₹ 20,000	Nil		Nil	Nil
e)	1,00,000 x 9/12 x 15% 11,250 3,00,000 x 6/12 x 15% 22,500	33,750	1,00,000 x 9/12 x 7% 5,250 3,00,000 x 6/12 x 5% 7,500	12,750	21,000
f)#	1,00,000 x 9/12 x 10% 7,500 24,000 x 4/12 x 15% 1,200	8,700	24,000 x 3/12 x 6%	360	8,340
g)#	90,000 x 1/12 x 15%	1,125		Nil	1,125

#Note: Interest is calculated on the maximum outstanding monthly balance for income tax purpose but the employee will pay interest to the employer as usual. The month of December has been considered for loan taken for miscellaneous purpose, as interest is charged on *maximum monthly outstanding balance as on the last day of each month*.

9. Determine taxable perquisite in the following cases:

1. **Miss Shradha received a wrist-watch of ₹ 3,000 on 17/7/2019 and a golden chain worth ₹ 12,000 on 18/8/2019 from her employer, Mr. Raju.**
2. **Miss Rakhi received ₹ 11,000 cash–gift from her employer, Dipu Ltd.**
3. **Mr. Anirudha is working with X & Co. a partnership firm. During the year, the employer firm gifted a diamond ring worth ₹ 80,000 to wife of Mr. Anirudha.**

Answer:

1. Taxable perquisite in the hands of Shradha shall be ₹ 10,000 (being ₹ 3,000 + ₹ 12,000 – ₹ 5,000)
2. Taxable perquisite in the hands of Rakhi shall be ₹ 11,000.
3. Taxable perquisite in the hands of Mr. Anirudha shall be ₹ 75,000.

10. Mr. Rohit a non-Government employee has the following salary details:

a. Basic Salary	**₹ 5,000 p.m.**
b. D.A.	**₹ 2,000 p.m.**
c. Entertainment Allowance	**₹ 300 p.m.**
d. Professional tax paid by employee	**₹ 600**
e. Professional tax paid by employer on behalf of employee	**₹ 1,600**
f. Income tax paid by employee	**₹ 2,000**
g. LIC Premium paid by employer	**₹ 3,600**

Find his taxable salary.

Answer:

Computation of Taxable Salary Mr. Rohit for the A.Y.2020-21

Particulars	**Details**	**Amount**
Basic Salary		60,000
Allowances		
Dearness Allowance	24,000	
Entertainment Allowance	3,600	27,600
Taxable perquisite		
Professional tax paid by employer	1,600	
LIC Premium paid by employer	3,600	5,200
Gross Taxable Salary		92,800
Less: Deduction u/s		
16(ia) Standard Deduction	50,000	
16(ii) Entertainment allowance (as assessee is a Non-government employee)	Nil	
16(iii) Professional Tax (₹ 1,600 + ₹ 600)	2,200	52,200
Taxable Salary		40,600

11. Miss Sonal, being a citizen of India and Government employee working outside India has following salary details:

Basic Salary	**2,000 p.m.**
Dearness Allowance	**3,000 p.m.**
Fees	**50,000 p.a.**
House Rent Allowance	**15,000 p.m. (Rent paid for Japan house ₹ 14,000 p.m.)**
Children Education allowance	**3,000 p.m. (She is having one adopted child)**
Children allowance	**1,000 p.m.**
Hostel allowance	**2,000 p.m.**
Dress Allowance	**5,000 p.m.(Actual expenditure ₹ 10,000 p.m.)**
Uniform Allowance	**2,000 p.m. (Actual expenditure ₹ 1,000 p.m.)**
Tiffin Allowance	**1,000 p.m.**
Education Allowance for her own education	**2,000 p.m. (Actual expenditure ₹ 1,500 p.m.)**

Compute her gross salary for the assessment year 2020-21.

Answer:

Computation of gross taxable salary of Miss Sonal for A.Y.2020-21

Particulars	Amount
Basic Salary	24,000
Fees	50,000
Gross Taxable Salary	**74,000**

Note: Since, Miss Sonal, being Government-employee and citizen of India, is working outside India. Hence, all allowances paid to her by the Government are exempted u/s 10(7).

Study Note – 6

INCOME UNDER HEAD HOUSE PROPERTY

Learning Objective:

After studying this chapter, students should able to :

- ***understand the meaning of House Property and its owner.***
- ***Gain knowledge about income from house property under different circumstances.***
- ***understand the calculation of the annual value, adjustments of deductions and treatments of income or loss from house property.***

1. (a) Choose the correct alternative:

(i) A person who acquires any right u/s 269UA(f) in or with respect to any building or part thereof, by way of lease agreement for a period _____ is deemed as the owner of that building (or part thereof)

(a) not less than 12 years

(b) more than 12 years

(c) not less than 20 years

(d) more than 20 years

(ii) Net Annual Value of a self-occupied property treated as such is –

(a) Fair Rent

(b) Nil

(c) Reasonable Expected Rent as reduced by municipal tax paid during the previous year

(d) Reasonable Expected Rent

(iii) One out of the following house properties is not exempted, which is –

(a) House property of a political party

(b) House property let out for the purpose of own business of tenant

(c) House property of a local authority

(d) A house property of ex-ruler

(iv) Annual value of the house property located outside India is –

(a) Taxable in hands of all assessee

(b) Taxable in hands of non residentassessee

(c) Exempted from tax in India

(d) Taxable in hands of resident and ordinarily resident assessee

(v) Deduction u/s 24(a) is –

(a) 30% of net annual value of the house property

(b) 30% of gross annual value of house property

(c) 30% of actual rent received

(d) Actual interest incurred during the previous year

(vi) Interest relating to pre construction period is allowable –

(a) In 5 equal installments from the year in which it was incurred

(b) In the year in which it was incurred

(c) In the year in which house property was constructed

(d) None of the above

(vii) Following assessee(s) can considered a house property as self occupied –

(a) Individual & HUF

(b) All assessee

(c) All assessee other than company

(d) None of the above

(viii) For the purpose of claiming higher deduction u/s 24(b), while computing income from a self occupied property, assessee is required to take –

(a) Loan on or before 01-04-1999

(b) Loan on or after 01-04-1999

(c) Loan after 01-04-1999

(d) Loan on 01-04-1999

(ix) Income from sub-letting of a house property is –

(a) Taxable under the head 'Income from House Property'

(b) Taxable under the head 'Income from Other Sources'

(c) Exempted

(d) Taxable under the head 'Capital Gains'

(x) Deduction u/s 24(a) is not available when –

(a) Net annual value is zero

(b) Net annual value is positive

(c) Net annual value is zero or negative

(d) Net annual value exceeds ₹ 1,00,000

Answer:

(i) (a) not less than 12 years

(ii) (b) Nil

(iii) (b) House property let out for the purpose of own business of tenant

(iv) (d) Taxable in hands of resident and ordinarily resident assessee

(v) (a) 30% of net annual value of the house property

(vi) (d) None of the above

(vii) (a) Individual & HUF

(viii) (b) Loan on or after 01-04-1999

(ix) (b) Taxable under the head 'Income from Other Sources'

(x) (c) Net annual value is zero or negative

1. (b) Match the following:

(i) Deemed Owner	**(a) Allowed on cash basis**
(ii) Deduction u/s 24(a)	**(b) Allowed on accrual basis**
(iii) Municipal Tax	**(c) 30% of net annual value**
(iv) Interest on loan u/s 24(b)	**(d) Sec. 27**

Answer:

(i) Deemed Owner	(a) Sec. 27
(ii) Deduction u/s 24(a)	(b) 30% of net annual value
(iii) Municipal Tax	(c) Allowed on cash basis
(iv) Interest on loan u/s 24(b)	(d) Allowed on accrual basis

1. (c) Fill in the blanks:

(i) The basis of chargeability under the head 'income from house property' is _____

(ii) Arrear rent is taxable after deducting ____% as per Section 25A of the Income-tax Act, 1961.

(iii) An assessee _____ (can/cannot) spread over the arrears of rent over the past several years.

(iv) Annual value of any one palace in the occupation of a former ruler is _____.

(v) Where any unrealized rent, earlier allowed as deduction is realized subsequently, the deduction available therefore is ____.

Answer:

(i) annual value

(ii) 30%

(iii) cannot

(iv) exempt

(v) 30%

2. Explain the tax treatment of arrears of rent received under the Income-tax Act, 1961.

Answer:

Recovery of unrealised rent and Arrears Rent [Sec. 25A]

Applicability

The assessee has received arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant

Tax Treatment

The amount so received shall be taxable under the head 'Income from house property' in the year of receipt after deducting standard deduction @ 30% of such amount.

Arithmetically, taxable amount shall be -

70% x [Recovery of Arrear Rent or Unrealised Rent]

Taxpoint

- *No other deduction shall be allowed from such income except standard deduction i.e. 30% of such receipt. (even legal expenditure shall not be allowed as deduction)*
- *The income is taxable on cash basis.*

Note: Such receipt shall be chargeable as income from house property although the assessee is not the owner of such property in the year of receipt.

3. (a) Mr. Jai Parkash has house property in Chennai, which he has given on rent during financial year 2019-20. Municipal valuation of the property is ₹ 1,94,000. Its fair rent as determined on the basis of similar property in similar area is ₹ 2,34,000. Standard Rent as determined under provisions of Rent Control Act is ₹ 1,60,000. Actual rent received during the year is ₹ 1,40,000. Jai Prakash has paid municipal taxes of ₹ 12,000. He incurred expenditure of ₹ 10,000 on repairs of building. Insurance premium paid was ₹ 2,000. He has borrowed from housing finance and interest payable was ₹ 84,000. Find the income from house property.

Answer:

Computation of Income from House Property of Mr. Jai Prakash for the A.Y. 2020-21

Steps	Particulars	Working	Details	Amount
	Municipal Value		1,94,000	
	Fair Rent		2,34,000	
	Standard Rent		1,60,000	
1	Reasonable Expected Rent	Higher of MV & FR (Max. of SR)	1,60,000	
2	Actual Rent Receivable		1,40,000	
3	Gross Annual Value	Higher of RER and ARR		1,60,000
	Less: Municipal Tax			12,000
	Net Annual Value			1,48,000
	Less: Deduction u/s			
	24(a) Standard Deduction	30% of NAV	44,400	
	24(b) Interest on Loan		84,000	1,28,400
	Income from House Property			**19,600**

3. (b) What conditions are to be satisfied to be entitled for deduction in respect of unrealised rent while computing taxable income from house property?

Answer :

Unrealised Rent [Rule 4]

When the assessee is unable to recover the rent from his tenant, the amount of rent so unrealised during the year will be deducted in full from Actual Rent Receivable, provided the following conditions (prescribed by rule 4) are satisfied:

(i) The tenancy is *bona fide*;

(ii) The defaulting tenant has vacated the property or steps have been taken to compel him to vacate the property;

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

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

4. (a) Calculate interest on loan allowed for assessment year 2015-16, 16-17, 17-18, 18-19, 19-20 and 20-21 from the following information:

- **Loan taken on 1/4/2009 ₹ 5,00,000 @ 10% p.a.**
- **Construction completed on 17/06/2014.**

Answer:

Since construction completed on 17/6/2014, therefore post construction period starts from 01/04/2014. Hence, pre-construction period is from 1/4/2009 to 31/3/2014. Interest on loan for pre-construction period ₹ 2,50,000 [i.e. ₹ 5,00,000 x 10% x 5 years] which will be allowed in 5 years starting from the previous year 2014-15 in equal instalment (₹ 50,000 p.a.). Hence, interest allowed in several years is as under:

Computation of Interest on Loan:

Assessment Year	Previous Year	Pre-construction period Interest	Post construction period Interest	Total Interest
2014-15	2013-14	Nil	Nil	Nil
2015-16	2014-15	50,000	50,000	1,00,000
2016-17	2015-16	50,000	50,000	1,00,000
2017-18	2016-17	50,000	50,000	1,00,000

2018-19	2017-18	50,000	50,000	1,00,000
2019-20	2018-19	50,000	50,000	1,00,000
2020-21	2019-20	Nil	50,000	50,000

4. (b) What deductions are allowed under section 24 while computing 'income from house property'?

Answer:

Following deductions are allowed under section 24 while computing 'Income from house property'

1. **Standard deduction u/s 24(a):** 30% of the net annual value is allowed as standard deduction in respect of all expenditures (other than interest on borrowed capital) *irrespective of the actual expenditure incurred*.
2. **Interest on loan or borrowed capital u/s 24(b):** Interest payable on amount borrowed for the purpose of *purchase, construction, renovation, repairing, extension, renewal or reconstruction* of house property can be claimed as deduction *on accrual basis*.

5. Mr. Sen is the owner of three houses. He furnished below the particulars of these houses for the year 2019-20

	House No. 1	House No. 2	House No. 3
	Let out for residence	Self-occupied for residence for 8 months & let out for residence for 4 months	¾th used for own business & ¼th let out to tenant residence
	₹	₹	₹
Municipal value	**24,000**	**18,000**	**19,200**
Rent received	**22,800**	**6,400**	**6,000**
Repairs	**2,500**	**1,200**	**2,400**
Interest on loan	**3,600**	**2,400**	**3,500**

Compute total income of Mr. Sen for the assessment year 2020-21 after taking into account the following considerations:

i. Municipal tax is assessed at 10% of the municipal value. In case of House No. 1, 50% of such tax is paid by the tenant. Municipal taxes for other houses are, however, paid by the owner.

ii. His taxable income from business without making any adjustment in respect of House No. 3 for the year comes to ₹ 57,500.

iii. He has claimed a deduction on account of unrealized rent of ₹ 7,500 in respect of House No. 1 relating to the years 2010-11 and 2011-12.

Answer:

Computation of Total Income of Sri Sen for the A.Y. 2020-21

Particulars	Details	Details	Amount
House 1: **Let out**			
Gross Annual Value (Working)		24,000	
Less: Municipal Tax (50% of 10% of Municipal Value)		1,200	
Net Annual Value (NAV)		22,800	
Less: Deduction u/s			
24(a) Standard Deduction @ 30% of NAV	6,840		
24(b) Interest on loan	3,600	10,440	12,360
House 2: **Partly let out and partly self-occupied (Period wise)**			
Gross Annual Value (Working)		19,200	
Less: Municipal Tax (10% of Municipal Value)		1,800	
Net Annual Value (NAV)		17,400	
Less: Deduction u/s			
24(a) Standard Deduction @ 30% of NAV	5,220		
24(b) Interest on loan	2,400	7,620	9,780
House 3: **Partly let out and partly self-occupied [upto 25%]**			
Gross Annual Value (Working)		6,000	
Less: Municipal Tax (25% of 10% of Municipal Value)		480	
Net Annual Value (NAV)		5,520	
Less: Deduction u/s			
24(a) Standard Deduction @ 30% of NAV	1,656		
24(b) Interest on loan (upto 25%)	875	2,531	2,989
Income from House Property			25,129

Profit and gains of Business or Profession			
Business Income		57,500	
Less: Expenditure incurred in respect of House 3			
Municipal tax (75% of 10% of Municipal Value)	1,440		
Repairs (75% of ₹ 2,400)	1,800		
Interest on loan for House III [75% of ₹ 3,500]	2,625	5,865	51,635
Gross Total Income			76,764
Less: Deduction u/s 80			Nil
Total Income (rounded off u/s 288A)			76,760

Working: Computation of GAV

Houses	**1**	**2**	**3**	
			75%	25%
Municipal value	24,000	18,000	14,400	4,800
Fair rent	22,800	19,200		
Actual rent Received	22,800	6,400	-	6,000
Gross Annual Value (GAV) (Higher of above)	24,000	19,200	-	6,000

House 2 is partly self-occupied (for 8 months) and partly let out (for 4 months). W.e.f. A.Y. 2002-03, if property is partly self occupied and partly let out (period wise) assessee will not get any benefit for self-occupied period and will be taxed as if the property is let out.

Further, fair rent is calculated as = (₹ 6,400 / 4) x 12 = ₹ 19,200.

No deduction is available for past year's unrealized rent.

6. (a) Kidwai Club is a private members club which provides entertainment to its members by offering accommodation, library, reading room, etc. The club also earned income by letting out its marriage hall to non-members by making them as temporary members. The club contends that the "doctrine of mutuality" would apply in such a case and hence, its income would not be taxable. Discuss the correctness or otherwise of the contention of the assessee club.

Answer:

A club may be exempt on its receipts from members on the mutuality principle as decided in ***CIT -vs.- Bankipur Club Ltd. [1997] 226 ITR 97 (SC)***. The real contributors of income by availing of the facilities of the marriage hall were not the members but non-members. In order to enable them to avail of the facilities of the club, non-members were to be given temporary membership only for the purpose of availing of this benefit. This issue came up before Kerala High Court in the case of ***CIT -vs.- Trivandrum Club 153 Taxman 481***, where the marriage hall was admittedly being rented out to non-members making them temporary members only for the purpose of letting out the marriage hall from non-members. The principle of mutuality would not apply. Rental income received from non-members was taxable.

6. (b) In a house belonging to Janak, his cousin is living without paying any rent. Janak says that since his relative is residing there without payment of any rent, there is no rental income chargeable to income tax. Is he correct?

Answer:

If assessee or his parents are residing in the house, then it will be considered as self-occupied property. However, in the instant case, such property is occupied by cousin of the assessee, such property shall not be considered as self-occupied property. Thus, income of that house property required to be computed as per provision of Sec. 23 and 24.

7. Sukesh Saha is the owner of a house in Dehradun. The house is divided in two equal residential units. One unit is used for own residential purpose and the other unit is rented for ₹ 8,000 p.m. The rented unit was vacant for two months during the previous year. The particulars of house for the previous year 2019-20 are as under:

Standard rent	**₹ 1,62,000 p.a.**
Municipal valuation	**₹ 1,90,000 p.a.**
Fair rent	**₹ 1,85,000 p.a.**
Municipal tax	**15% of municipal value**
Light and water charges	**₹ 500 p.m.**
Interest on borrowed capital	**₹ 2,500 p.m.**
Repairs	**₹ 32,000 p.a.**

Compute income from house property of Mr. Saha for the A.Y. 2020-21.

Answer:

Computation of Income from House Property of Sukesh Saha for the A.Y. 2020-21

Particulars	Working	Unit A		Unit B	
		Details	Amount	Details	Amount
Gross Annual Value	1		Nil		80,000
Less: Municipal Tax			Nil		14,250
Net Annual Value			Nil		65,750
Less: Deduction u/s					
24(a) Standard Deduction		Nil		19,725	
24(b) Interest on loan	50:50	15,000	15,000	15,000	34,725
Income from house property			(-) 15,000		31,025
Income under the head 'Income from house property'		16,025			

Working 1: Computation of Gross Annual Value (GAV)

Steps	Particulars	Working	Unit A	Unit B
	Municipal Value	50:50	95,000	95,000
	Fair Rent	50:50	92,500	92,500
	Standard Rent	50:50	81,000	81,000
1	RER	Higher of MV & FR (RER cannot exceed SR)	NIL (As S/O)	81,000
2	ARR	₹ 8,000 x 10	-	80,000
3	Gross Annual Value	Lower* of Step 1 & 2	-	80,000

*ARR is less than RER due to vacancy (otherwise ARR would have been ₹ 96,000). Therefore, GAV will be the ARR computed in step 2.

8. Mr. Abul Hasan owns three houses at Ranchi. He furnishes the following particulars for the previous year 2019-20:

***House No. I*: The house was constructed in 2018 and let out to a friend at a monthly rent of ₹ 10,000 upto 31.1.2020 and thereafter, it was let out at its fair rent of ₹ 15,000 per month. He has paid ₹ 15,000 as municipal taxes @10% of Municipal Value. He has also paid fire insurance premium of ₹ 2,000.**

***House No. II*: Ground floor is let out @ ₹ 20,000 p.m. first floor, identical to ground floor, is occupied by him for his residence. Municipal taxes paid @ 20% amounted to ₹ 80,000.**

***House No. III*: The house was constructed in 2009 and is used for his business. The annual value of this house is ₹ 1,00,000 and he spent ₹ 5,000 as municipal taxes and ₹ 2,000 for repairs.**

Other information:

A loan of ₹ 40,00,000 has been taken on 01-6-2017 for construction of House No. II. Construction of the house was completed on 01-6-2018. He repaid the entire loan on 31-12-2019. Interest on loan is payable @ 12% p.a. Compute his income from house property for the A.Y. 2020-21.

Answer:

Computation of Income from House Property of Mr. Abul Hasan for the A.Y. 2020-21

Particulars	Details	Details	Amount
House 1: Let out			
Gross Annual Value		1,80,000	
Less: Municipal Tax		15,000	
Net Annual Value		1,65,000	
Less: Deduction u/s			
24(a) Standard Deduction	49,500		
24(b) Interest on loan	Nil	49,500	1,15,500
House 2: Ground Floor (Let out)			
Gross Annual Value		2,40,000	
Less: Municipal Tax [50%]		40,000	
Net Annual Value		2,00,000	
Less: Deduction u/s			
24(a) Standard Deduction	60,000		
24(b) Interest on loan	2,20,000	2,80,000	(80,000)
House 2: First Floor (Self occupied)			
Net Annual Value		Nil	
Less: Deduction u/s			
24(b) Interest on loan		2,00,000	(2,00,000)
House 3: Used in own business			Nil
Income from House Property			**(1,64,500)**

Workings:

1 Fair Rent: Since 1st house is let out by assessee to his friend @ ₹ 10,000 p.m. and the same property is let out to other tenant @ ₹ 15,000 p.m., this signifies that 2nd house has fair rent ₹ 15,000 x 12 = ₹ 1,80,000.

2 Calculation of Interest to be deducted in A.Y.2020-21

Previous Year	Month	Interest
Pre-construction Interest		
2017-18	10	4,00,000
1/5th of pre-construction (a)		80,000
Post-construction interest (b) [₹ 40,00,000 x 12% x 9/12]	9	3,60,000
Total interest charged (a) + (b)		4,40,000
50% for Ground Floor		2,20,000

Study Note – 7

INCOME UNDER HEAD PROFITS AND GAINS OF BUSINESS OR PROFESSION

Learning Objective:

After studying this chapter, students should able to :

- ***understand what is business, profit and gains, business loss and other relevant terms.***
- ***understand the methods of accounting, deductions against business incomes, calculation of depreciation, treatment of Slump sale etc., other business profits and gains and their treatments.***

1. (a) Choose the correct alternative:

(i) Which of the following is not allowed as a deduction for computation of Income under the head 'Profit & Gains of Business or Profession'?

(a) Employer's contribution paid to an approved gratuity fund

(b) Interest paid on capital borrowed for acquiring a capital asset which is in use

(c) Interest paid outside India on which tax is deducted at source

(d) Outstanding Bonus

(ii) Expenditure incurred by a company for the purpose of promoting family planning among its employees, being of a capital nature –

(a) Is not allowed as a deduction

(b) Allowed as deduction in 4 equal installments in 4 years

(c) 1/5 of expenditure is allowed as deduction in the previous year

(d) 2/5 of expenditure is allowed as deduction in 4 equal installments in 4 years after the previous year

(iii) The preliminary expenses that can be amortized under the Income Tax Act, 1961 has to be restricted to _____ of the cost of project.

(a) 3%

(b) 8%

(c) 5%

(d) 20%

(iv) Expenditure on promotion of family planning is an allowance as deduction u/s 36(1)(ix) of the Income Tax Act, 1961 in case of –

(a) Individual

(b) Firm

(c) Company

(d) All of the above

(v) Deduction u/s 35AD is available in respect of expenditure on specified business, one of them is –

(a) Setting up and operating a cold chain facility

(b) Setting up and operating a power plant

(c) Setting up and operating an industrial unit

(d) Setting up and operating a trading business

(vi) Deduction u/s 35AD is available in respect of expenditure on specified business provided such business commenced its operation on or after 01-04-2009 subject to an exception that –

(a) Business of industrial undertaking may be commenced at any time on or after 01-04-2007

(b) Business of laying and operating a cross-country natural gas pipeline network may be commenced at any time on or after 01-04-2007

(c) Business of cold chain facility may be commenced at any time on or after 01-04-2007

(d) All of the above

(vii) In case of loss, a partnership firm may claim deduction in respect of remuneration to partner to the extent of –

(a) ₹ 1,50,000/- or remuneration paid, whichever is lower

(b) ₹ 1,50,000/-

(c) ₹ 1,50,000/- or 90% of book profit, whichever is lower

(d) Nil

(viii) Block of asset is required to be increased by an amount which is the actual cost of the asset being covered u/s 35AD that amount is –

(a) Actual expenditure

(b) Nil

(c) 50% of actual expenditure

(d) None of the above

(ix) A payment of ₹ 25,000 is made to the road transport-operator in cash, consequently, amount disallowed u/s 40A(3) is –

(a) Nil

(b) ₹ 25,000

(c) ₹ 5,000

(d) ₹ 10,000

(x) Benefit of Sec.44AD can be availed by the following assessee:

(a) Limited Liability Partnership

(b) Partnership Firm

(c) Domestic Company

(d) Foreign Company

Answer:

(i) (d) Outstanding Bonus

(ii) (c) 1/5 of expenditure is allowed as deduction in the previous year

(iii) (c) 5%

(iv) (c) Company

(v) (a) Setting up and operating a cold chain facility

(vi) (b) Business of laying and operating a cross-country natural gas pipeline network may be commenced at any time on or after 01-04-2007

(vii) (a) ₹ 1,50,000/- or remuneration paid, whichever is lower

(viii) (b) Nil

(ix) (a) Nil

(x) (b) Partnership Firm

1. (b) Match the following

(i) Scientific Research	**(a) Sec. 35CCD**
(ii) Amortization of Telecom Licence Fee	**(b) Sec. 35**
(iii) Expenditure on Skill Development Project	**(c) Sec. 41(4)**
(iv) Recovery of Bad Debt	**(d) Sec. 35ABB**

Answer:

(i) Scientific Research	(a) Sec. 35
(ii) Amortization of Telecom Licence Fee	(b) Sec. 35ABB
(iii) Expenditure on Skill Development Project	(c) Sec. 35CCD
(iv) Recovery of Bad Debt	(d) Sec. 41(4)

1. (c) Fill in the blanks:

(i) According to Section 40A(3), where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding _____ otherwise than by a crossed cheque or crossed bank draft _____ percent of such expenditure shall not be allowed as a deduction.

(ii) The additional or accelerated depreciation, for an eligible assessee, for machinery installed and used after 31.03.2005 is ___ % of _____ of the machinery.

(iii) Where an assessee has incurred any expenditure, by way of compensation to employees in connection with their voluntary retirement, the same is allowable as deduction, in ___ year(s) commencing from the year in which such expenditure was paid.

(iv) The rate of depreciation on specified intangible asset is ___.

(v) The deduction for amortization of preliminary expenses under section 35D is allowed at ___ of the qualifying expenditure in each of the ___ successive years beginning with the year in which business commences.

Answer:

(i) ₹ 10,000 and 100

(ii) 20%, actual cost;

(iii) 5;

(iv) 25%;

(v) 20%, five

2. Write short notes on conditions for allowing deduction of bad debts under Income Tax Act.

Answer:

Bad Debts [Sec. 36(1)(vii)]

Any debt or part thereof, which becomes bad shall be allowed as deduction.

Taxpoint: It is the assessee, who decides whether a debt has became bad or not and the Assessing Officer can never insist the assessee for production of proof that the debt had became bad.

Conditions

1. *Debt must be incidental to the business* or profession of the assessee. There must be a close nexus between the debt and the business of the assessee.
2. *The debt has been considered as income* of the assessee of that previous year or of earlier previous years.

   Exception: Bad debt arising due to insolvency of borrower is allowed as deduction provided money has been lent in ordinary course of money lending business (even though such money lent had never been a part of income)
3. *It must have been written off* in the accounts of the assessee.

   Taxpoint: Provision for bad debt is not allowed as deduction.

   Exception: Where the amount of such debt has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt becomes irrecoverable or of an earlier previous year on the basis of notified Income Computation and Disclosure Standards (ICDS) without recording the same in the accounts, then, such debt shall be allowed in the previous year in which such debt becomes irrecoverable and it shall be deemed that such debt has been written off as irrecoverable in the accounts.
4. *Business must be carried on during the previous year* or any part of the previous year.

   Taxpoint: Bad debt of a discontinued business is not allowed as deduction even though the assessee has any other business continued.
5. *It must be of a revenue nature*

   Taxpoint: Bad debt arising due to insolvency of a debtor for sale of an asset (not goods) is not allowed as deduction.

3. (a) State any four expenditure which are allowable for amortization as 'preliminary expenses' under section 35D.

Answer:

Following expenses are considered as preliminary expenses u/s 35D -

1. Expenses in connection with –

- Preparation of project report;
- Preparation of feasibility report;
- Conducting market survey or any other survey necessary for the business;
- Engineering services related to the business.

2. Legal charges for drafting any agreement between the assessee and any other person for any purpose related to the setting up or conduct of business of the assessee.
3. Legal charges for drafting & printing of Memorandum of Association & Articles of Association (in case of company-assessee only).
4. Registration fees under provisions of the Companies Act, 1956 (in case of company-assessee only).
5. Expenses in connection with public issue of shares in or debentures of the company being underwriting commission, brokerage & charges for drafting, typing, printing & advertisement of the prospectus (in case of company-assessee only).
6. Any other prescribed expenditure.

3. (b) Name any four expenses which are deductible only on payment basis under section 43B.

Answer:

Deduction in respect of following expenses are allowed only if payment is made on or before the due date for furnishing return of income u/s 139(1) of the previous year in which such liability is incurred:

1. Any sum payable by way of tax, duty, cess, fee, by whatever name called, under any law for the time being in force.
2. Any sum payable as bonus or commission to employees for services rendered.
3. Any sum payable as interest on loan or borrowing from any
   - public financial institutions (i.e., IFCI, LIC, etc.);
   - a State financial corporation; or
   - State industrial investment corporation.
4. Any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company, in accordance with the terms and conditions of the agreement governing such loan or borrowing
   - *Systemically important non-deposit taking non-banking financial company* means a n on-banking financial company which is not accepting or holding public deposits and having total assets of not less than ₹ 500 crore as per the last audited balance sheet and is registered with the RBI.
   - *Deposit taking non-banking financial company* means a non-banking financial company which is accepting or holding public deposits and is registered with the RBI.

5. Any sum payable as interest on any loans and advances from a scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank in accordance with the terms and conditions of the agreement governing such loan or advances
6. Any sum payable by an employer in lieu of any leave at the credit of employee (i.e. leave encashment).
7. Any sum payable by an employer by way of contribution to any provident fund, superannuation fund, gratuity fund or any other fund for the welfare of employees.
8. Any sum payable by the assessee to the Indian Railways for the use of railway assets

4. (b) Discuss the admissibility or otherwise of the following items in computation of income under the head "Profits and Gains of Business or Profession" for the assessment year 2020-21:

(i) A machine worth ₹ 45,000 was purchased for scientific research relating to the business carried on by the assessee.

(ii) A cash payment of ₹ 30,000 made to a creditor who refused to accept a cheque.

(iii) Penalty of ₹ 5,000 paid to customs authority for violation of customs law.

(iv) Brokerage of ₹ 10,000 paid for raising a loan for the purpose of business.

(v) ₹ 15,000 paid to an Income-tax advisor for conducting Appeal before the Income Tax Appellate Tribunal.

Answer:

(i) Capital expenditure incurred by the assessee for scientific research is fully allowed u/s 35.

(ii) Expenses of ₹ 30,000 shall be disallowed u/s 40A(3)

(iii) Any penalty paid for violation of law is disallowed u/s 37(1)

(iv) Brokerage paid for raising loan for the business purpose is an allowable expenditure provided tax has been deducted at source.

(v) Advisory fees shall be allowed as expenditure.

4. (b) Sara Jahan Ltd. has following assets as on 1/4/2019

Assets	₹	Depreciation Rate
Building A	50,000	10%
Furniture B	30,000	10%
Building C	10,000	10%
Machinery A	40,000	15%
Machinery B	50,000	15%

During the year, building was purchased on 1/5/2019 for ₹ 50,000. Depreciation @ 10%.

(i) Machinery A sold for ₹ 60,000 on 1/11/2019.

(ii) Furniture B sold for ₹ 50,000 on 1/6/2019.

Compute depreciation allowed u/s 32 for the A.Y.2020-21.

Answer:

Computation of Depreciation Allowed u/s 32 for the A.Y.2020-21

Particulars	Amount	Amount
Block 1: **Building @ 10%**		
W.D.V. as on 1/4/2019	60,000	
Add: Purchase during the year	50,000	
	1,10,000	
Less: Sold during the year	Nil	
	1,10,000	
Depreciation @ 10%		11,000
Block 2: **Furniture @ 10%**		
W.D.V. as on 1/4/2019	30,000	
Add: Purchase during the year	Nil	
	30,000	
Less: Sold during the year	50,000	
Short term capital gain	20,000	
Block 3: **Machinery @ 15%**		
W.D.V. as on 1/4/2019	90,000	
Add: Purchase during the year	Nil	
	90,000	
Less: Sold during the year	60,000	
	30,000	
Depreciation @ 15%		4,500
Depreciation allowed u/s 32		15,500

5. (a) On 01-04-2019, Everrise Ltd. owns plants A, B, C and D (rate of depreciation: 15%). Depreciated value of the block as on 01-04-2019 is ₹ 4,60,000. On 14-06-2019, Plant E which was initially purchased for ₹ 51,000 for conducting scientific research is transferred from laboratory to the factory. No other asset is purchased or sold. Find out the written down value as on 31-03-2020.

Answer:

Computation of written down value as on 31-3-2020

Particulars	Amount
Block 1: Plants @ 15%	
W.D.V. as on 1/4/2019	4,60,000
Add: Addition during the year being plant earlier used for scientific research	Nil
Less: Sale made during the year	Nil
Less: Depreciation allowed u/s 32 @ 15%	69,000
W.D.V. as on 31.3.2020	3,91,000

5. (b) East India Pharmaceuticals Ltd., a manufacturer, submitted the following list of expenses incurred in connection with research during the previous year 2019-20:

For in-house research relating to its business

Cost of land ₹ 50,000, purchase of machinery ₹ 75,000 and ₹ 80,000 towards salary of research personnel.

Contribution for carrying out approved research

₹ 40,000 to Calcutta University for carrying out approved social research project.

Calculate the amount of deduction admissible for scientific research.

Answer:

Computation of amount of deduction admissible u/s 35 for Scientific Research

Particulars	If assessee is covered u/s 35(2AB)		If assessee is not covered u/s 35(2AB)	
	Working	Amount	Working	Amount
Contribution to Calcutta University		40,000		40,000
Expenditure on in-house research				
Cost of land	Not eligible	Nil	Not eligible	Nil

Purchase of machinery	150% of ₹ 75,000	1,12,500		75,000
Salary of research personnel	150% of ₹ 80,000	1,20,000		80,000
Total deduction u/s 35		2,72,500		1,95,000

6. (a) Discuss the provision relating to allowability of provision for bad debts in hands of banks and financial institutions.

Answer:

Provision for Bad Debts [Sec. 36(1)(vii)]

In the case of following person, provision for bad debts shall be allowed to the extent of specified amount:

Person	To that extent PBDD is allowed
A. Scheduled bank [not being a foreign bank] or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank	8.5% of the total income (computed before making any deduction under this section and Chapter VIA)
Additional Deduction for the Person covered under (A) a. 10% of the aggregate average advances made by the rural branches of such bank. b. Further, at its option, further deduction shall also be allowed for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government provided such income has been disclosed in the return of income under the head "Profits and gains of business or profession"	
B. foreign bank or Public financial institution or State financial corporation or State industrial investment corporation or Non-banking financial company	5% of the total income (computed before making any deduction under this section and Chapter VIA)

Taxpoint

- In case of person covered under this section, the deduction for bad debts u/s 36(1)(vii) shall be limited to an amount by which such debts exceed the credit balance in the provision for bad and doubtful debts. If the actual bad debt during the previous year is less or equal to the provision for doubtful debts, no deduction for bad debt shall be allowed.

- *Rural branch* means a branch of a scheduled bank or a non-scheduled bank situated in a place which has a population of not more than 10000 according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

6. (b) The Statement of Profit and Loss of a company includes interest of ₹ 5,00,000 on a loan taken for financing its expansion scheme. The machineries purchased with the borrowed amount were in transit at the end of the year. Is such interest allowable as deduction in computation of the company's business income?

Answer:

Interest on borrowings made for acquiring & installing assets shall be treated as under:

Interest for the period	Treatment of interest
Prior to commencement of business	Interest is to be added to actual cost of the asset
After commencement of business but before asset is put to use	
After asset is put to use	Interest is allowed u/s 36(1)(iii)

In the instant case, the asset is not put to use, hence interest on borrowed capital for acquisition of such asset shall not be allowed u/s 36(1)(iii). However, such interest shall be added to the cost of the asset

7. A and B are partners of AB & Co., a registered professional firm, sharing profit and loss equally. Their income and expenditure account for the year ended 31-3-2020 is given below:

Particulars	Amount	Particulars	Amount
To Salaries	**75,000**	**By Consultancy fees**	**3,30,000**
To Depreciation	**20,000**	**By Bank interest**	**14,000**
To Office Expenses	**58,000**		
To Rent	**12,000**		
To Provision for bad debt	**5,000**		
To Salary to A	**54,000**		
To Salary to B	**72,000**		
To Commission to B	**9,000**		

To Interest on capital @ 20% p.a.			
A	**8,000**		
B	**7,000**		
To Share of profit			
A	**12,000**		
B	**12,000**		
	3,44,000		**3,44,000**

Additional information

(a) Office expenses include penalty to customs ₹5,000

(b) Depreciation as per Income-tax Rule ₹17,000

Compute the total income of the firm and allocate the income for the purpose of tax assessment of each partner.

Answer:

Computation of Total Income of AB & Co. for the A.Y. 2020-21

Particulars	Notes	Amount	Amount	Amount
Profits & gains of Business or Profession				
Net profit as per books of accounts				24,000
Add: Expenditure disallowed but debited to P/L A/c				
Provision for bad debts	1		5,000	
Salary to partner (to be treated separately)			1,26,000	
Commission to partner (to be treated separately)			9,000	
Interest on capital in excess of 12%	2		6,000	
Penalty paid to customs	3		5,000	
Depreciation (excess provided)			3,000	1,54,000
				1,78,000
Less: Income taxable under other head				
Bank interest				14,000
Book profit				1,64,000

Less: Remuneration to partner				1,35,000
Profits & gains of Business or Profession				29,000
Income from other sources				
Bank interest				14,000
Gross Total Income				43,000
***Less*: Deduction u/s ch. VIA**				Nil
Total Income				43,000

Notes:

1. Any anticipated loss is not allowed.
2. Interest upto 12% is allowed. Hence, ₹ 6,000 [being ₹ 8,000 + 7,000)/20} x 8]
3. Any payment made in violation of law is disallowed.
4. Calculation of maximum allowable remuneration being minimum of the following

a) Remuneration as per IT Act			
90% of ₹ 1,64,000 or ₹ 1,50,000, whichever is higher			1,50,000
b) Remuneration as per books			
Salary to partner			
A	54,000		
B	72,000	1,26,000	
Commission to B		9,000	1,35,000

Computation of Profits and Gains of Business or Profession of Partners

Particulars	**A**		**B**	
	Details	**Amount**	**Details**	**Amount**
Share of profit from firm [Exempted u/s 10(2A)]	-	Nil	-	Nil
Interest on capital from firm (to the extent allowed to the firm)	8,000 x 12/20	4,800	7,000 x 12/20	4,200
Remuneration from firm (to the extent allowed to the firm)	(54,000 /1,35,000) x 1,35,000	54,000	(81,000 /1,35,000) x 1,35,000	81,000
Profits and gains of Business or Profession		58,800		85,200

8. Tweety Enterprises has acquired telecom licence. Details in respect of this licence are as under:

Particulars		Particulars	
Acquisition cost	₹ 3,00,000	Life of licence	7 years
Date of purchase	14/7/2016	Licence sold	40%
Payment terms	Lump sum	Date of sale of licence	12/12/2019
Date of first payment	14/7/2017	Sale value	₹ 1,20,000

State the tax consequence in the several previous years up to 2019-20 related to such transactions.

Answer:

Tax consequence u/s 35ABB in several previous years up to 2019-20

Particulars	Amount
Deduction u/s 35ABB(1) in previous year:	
- 2016-17	Nil[1]
- 2017-18	50,000[1]
- 2018-19	50,000[1]
- 2019-20	20,000[2]
Business income on sale of licence u/s 35ABB(3) in the P.Y.2019-20	Nil
Capital gain on sale of licence in the P.Y.2019-20	Nil

1. Though licence was acquired in the previous year 2016-17 but payment was made in the previous year 2017-18, hence deduction shall be available u/s 35AAB(1) in 6 years (7 year – 1 year) starting from the year 2017-18. Amount of deduction will be ₹ 3,00,000/6 = ₹ 50,000.

2. Sale of part of licence B

Particulars	Details	Amount
Balance of licence as on 1/4/2019	₹ 3,00,000 – ₹ 1,00,000	2,00,000
Less: Sale of licence		1,20,000
Balance value		80,000
Balance life	4 years	
Deduction in the previous year 2019-20	₹ 80,000 / 4	20,000

9. Taj Electric Supply Company Ltd. which was charging depreciation on straight line method and whose actual cost of the asset was ₹ 20,00,000 and written down value ₹ 18,72,300 sold the said asset during 2019-20 after 2 years. What will be the tax treatment for assessment year 2020-21 if the asset is sold for:

(i) ₹ 30,000;

(ii) ₹ 18,72,300;

(iii) ₹ 19,80,000;

(iv) ₹ 21,00,000

Answer:

i. ₹ 18,42,300 (being ₹ 18,72,300 – ₹ 30,000) is treated as terminal depreciation and fully allowed from business income.

ii. Assessee will cease to get depreciation.

iii. ₹ 1,07,700 (being ₹ 19,80,000 – ₹ 18,72,300) shall be treated as balancing charge and fully taxable as business income

iv. ₹ 1,27,700 (being ₹ 20,00,000 – ₹ 18,72,300) shall be treated as balancing charge and fully taxable as business income. And gain of ₹ 1 lakh i.e., over and above original cost is treated as short term capital gain.

In all the cases, no further depreciation is allowable to the assessee in respect of such asset.

10 . Name any four businesses which are eligible for deduction under section 35AD of the Income-tax Act, 1961.

Answer:

Following are the businesses which are eligible for deduction u/s 35AD:

a. setting up and operating a cold chain facility;

b. setting up and operating a warehousing facility for storage of agricultural produce; or

c. laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network

Note: The project has been approved by the Petroleum and Natural Gas Regulatory Board and being notified by the Central Government.

d. building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government;

e. building and operating, anywhere in India, a hospital with at least 100 beds for patients;

f. developing and building a notified housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government (or a State Government)

g. developing and building a notified housing project under a scheme for affordable housing framed by the Central Government (or a State Government)

h. production of fertilizer in India;

i. setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;

j. bee-keeping and production of honey and beeswax;

k. setting up and operating a warehousing facility for storage of sugar

l. laying and operating a slurry pipeline for the transportation of iron ore

m. setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed

n. developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility by an Indian company (or consortium thereof) / authority / board / corporation having agreement with Central Government or State Government or local authority or any statutory body.

Study Note – 8

INCOME UNDER HEAD CAPITAL GAINS

Learning Objective:

After studying this chapter, students should able to :

- ***determine the adjusted basis of capital assets,***
- ***understand whether it is long-term or short-term capital assets,***
- ***calculate the taxable gain or deductible loss from the sale of capital assets***
- ***determine whether a taxpayer meets the ownership and use tests and other related matters.***

1. (a) Choose the correct alternative:

(i) Mr. X incurred ₹ 5,000 as Brokerage on sale of a gold ring. The expense of ₹ 5,000 will be considered as –

(a) Cost of acquisition

(b) Cost of improvement

(c) Expense on transfer

(d) Part of sale consideration

(ii) In which of the following case Indexation benefit is not available on transfer of long term capital asset being –

(a) Shares of a company

(b) Debentures of a company

(c) A residential house

(d) Agricultural land

(iii) Any gain on transfer of asset being house property on which depreciation u/s 32(1)(ii) is claimed, shall be treated as –

(a) Long Term Capital Gain

(b) Short Term Capital Gain

(c) Income from other source

(d) Income from house property

(iv) Long Term Capital Gain on transfer of Zero Coupon Bonds shall be taxable at the rate of –

(a) 10% (without indexation)

(b) 10% (with indexation)

(c) 20% (with indexation)

(d) 20% (without indexation)

(v) Cost of acquisition in case of right entitlement is –

(a) Issue price

(b) Right issue price

(c) Nil

(d) Market value of such share on the date of allotment of such shares

(vi) Deduction u/s 54F is available on –

(a) Transfer of long term house property and acquisition of another house property

(b) Transfer of any capital asset other than house and acquisition of another house property

(c) Transfer of any long term capital asset other than a residential house property and acquisition of one residential house property

(d) Transfer of any long term capital asset

(vii) Caution money forfeited by the assessee on 01-01-2020 shall be –

(a) Taxable in the year of forfeiture as income from other source

(b) Exempted fully

(c) Reduced from the cost of acquisition of such capital asset

(d) Considered as casual income and liable to tax @ 30%

(viii) In respect of listed shares held for 10 months sold during the previous year through stock exchange, the rate of tax in respect of capital gain is –

(a) 10%

(b) 20%

(c) 15%

(d) not determinable, as the capital gain will form part of the total income whose other component are not known.

(ix) The cost of acquisition of 100 bonus shares, where the original shares (100 nos.) were acquired for ₹ 30,000 is –

(a) ₹ 1,000

(b) ₹ 10,000

(c) ₹ 30,000

(d) Nil

(x) Capital gain on Slump sale is –

(a) always short-term capital gain

(b) always long-term capital gain

(c) Depends on period of holding of capital asset being undertaking transferred

(d) Not taxable

Answer:

(i) (c) Expense on transfer

(ii) (b) Debentures of a company

(iii) (b) Short Term Capital Gain

(iv) (a) 10% (without indexation)

(v) (c) Nil

(vi) (c) Transfer of any long term capital asset other than a residential house property and acquisition of one residential house property

(vii) (a) Taxable in the year of forfeiture as income from other source

(viii) (c) 15%

(ix) (d) Nil

(x) (c) Depends on period of holding of capital asset being undertaking transferred

1. (b) Match the following:

(i) Short term capital gain u/s 111A	**(a) Slab rate**
(ii) Long term capital gain on shares	**(b) 15%**
(iii) Long term capital gain on land	**(c) 10%**
(iv) Short term capital gain on land	**(d) 20%**

Answer:

(i) Short term capital gain u/s 111A	(a) 15%
(ii) Long term capital gain on shares	(b) 10%
(iii) Long term capital gain on land	(c) 20%
(iv) Short term capital gain on land	(d) Slab rate

1. (c) Fill in the blanks:

(i) A Zero coupon bond is a long-term capital asset, if it is held for more than __ months before transfer.

(ii) In case of slump sale of any undertaking indexation benefit is _____ (allowed/not allowed) for the purpose of computation of capital gain.

(iii) Securities transaction tax is _____ under the head capital gains.

(iv) Profit and gains arising from the transfer of a capital asset are taxable as _____

Answer:

(i) 12;

(ii) not allowed;

(iii) not allowable;

(iv) capital gains;

2. Write short notes on Reverse mortgage and its income-tax implications.

Answer:

A reverse mortgage (or lifetime mortgage) is a loan available to senior citizens. Reverse mortgage, as its name suggests, is exactly opposite of a typical mortgage, such as a home loan. In this, a homeowner can borrow money against the value of his or her home. No repayment of the mortgage (principal or interest) is required until the borrower dies or the home is sold. After accounting for the initial mortgage amount, the rate at which interest accrues, the length of the loan and rate of home price appreciation, the transaction is structured so that the loan amount will not exceed the value of the home over the life of the loan. Often, the lender will require that there can be no other liens against the home. Any existing liens must be paid off with the proceeds of the reverse mortgage

Tax implication

As per Sec.47(xvi), any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be regarded as transfer for the purpose of capital gain.

Further, as per Sec.10(43), any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage is exempt.

3. (a) State briefly the requisites of a charge income-tax on capital gains u/s 45(1) of the Income-tax Act, 1961.

Answer:

Following are the essential conditions to be satisfied to charge any income under the head "Capital Gains":

i. There must be a capital asset.

ii. The assessee transfers such capital asset during the relevant previous year.

iii. There must be profit or gain on such transfer.

iv. Such profit or gain is not exempt under any provision of the Act.

3. (b) What do you mean by 'transfer' for purposes of capital gains.

Answer:

Transfer [Sec. 2(47)]

Transfer in relation to a capital asset includes:

a) Sale, Exchange & Relinquishment of the asset;

b) Extinguishment of any right in an asset;

c) Compulsory acquisition of an asset under any law;

d) Conversion of asset into stock-in-trade by the owner;

e) Any transaction of immovable property u/s 53A of the Transfer of Property Act, 1882;

f) Any transaction which has the effect of transferring or enabling the enjoyment of any immovable property.

g) Maturity or redemption of a zero coupon bond

It also includes

- disposing of or parting with an asset or any interest therein, or
- creating any interest in any asset in any manner whatsoever,

directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

4. Mr. Dhoni sold a residential building at Cochin for ₹ 65 lakhs in December 2019. The stamp valuation authority determined the value at ₹ 80 lakhs which was not contested by Mr. Dhoni. The property was acquired in April, 2004 for ₹ 6 lakhs. He acquired a residential flat at Ranchi for ₹ 55 lakhs and an other residential house at Cuttack for ₹ 25 lakhs before March, 2020. Compute the capital gain of Mr. Dhoni for the assessment year 2020-21.

You are required to plan in such a way that the incidence of tax is the least.

Answer:

Computation of Capital Gain of Mr. Dhoni for the A.Y. 2020-21

Particulars	Details	Amount
Full value of consideration (being higher of actual consideration and value determined by stamp valuation authority)		80,00,000
Less: Expenditure on transfer		Nil
Net sale consideration		80,00,000
Less: Indexed cost of acquisition	₹ 6,00,000 x 289 / 113	15,34,513
Less: Indexed cost of improvement		-
Long–term Capital Gain		64,65,487
Less: Exemption u/s 54		64,65,487
Taxable Long–term Capital Gain		**Nil**

5. X Ltd. is shifting its undertaking from Jaipur to Napasar (other than urban area). In this regard it sold its 4 machineries and 2 sets of furniture during the previous year 2019-20 as under –

Machinery	Depreciation Rate	Book Value	Sold for	Furniture	Depreciation Rate	Book value	Sold for
A	**15%**	**2,00,000**	**3,00,000**	**X**	**10%**	**1,00,000**	**2,00,000**
B	**15%**	**3,00,000**	**8,00,000**	**Z**	**10%**	**60,000**	**90,000**
C	**15%**	**5,00,000**	**6,00,000**				
D	**30%**	**6,00,000**	**5,00,000**				

WDV of the block of asset as under –

Name of the Block	Block consist of	WDV as on 1/04/2019
Machinery 15%	**A, B & C**	**11,00,000**
Machinery 30%	**D**	**9,00,000**
Furniture 10%	**X & Z**	**1,50,000**

X Ltd. is seeking whether the transaction shall be taxable as slump sale or not and compute capital gain.

On 7/04/2020, assessee further purchased machineries worth ₹ 3,70,000 and land of ₹ 1,00,000 for the purpose of new industrial undertaking. Compute capital gain.

Answer:

In the given case though assessee has transferred a group of assets still the transaction cannot be taxed as slump sale because value has been assigned to individual asset. The tax treatment shall be as under:

Particulars	Details	Amount
On sale of Machinery A, B & C		
Block: Machinery (Rate 15%)		
W.D.V. as on 1/04/2019	11,00,000	
Add: Purchase during the year	Nil	
	11,00,000	
Less: Sale during the year	17,00,000	
Short Term Capital Gain		6,00,000
On sale of Machinery D		
Block: Machinery (Rate 30%)		
W.D.V. as on 1/04/2019	9,00,000	
Add: Purchase during the year	Nil	
	9,00,000	
Less: Sale during the year	5,00,000	
WDV before depreciation	4,00,000	
Less: Depreciation @ 30%	1,20,000	

WDV after depreciation	2,80,000	
Short Term Capital Gain		Nil
On sale of Furniture X & Z		
Block: Furniture (Rate 10%)		
W.D.V. as on 1/04/2019	1,50,000	
Add: Purchase during the year	Nil	
	1,50,000	
Less: Sale during the year	2,90,000	
Short Term Capital Gain		1,40,000
Total Short Term Capital Gain		7,40,000
Less: Exemption u/s 54G		4,70,000
Taxable Short Term Capital Gain		**2,70,000**

6. (a) Distinguish between: 'Cost of acquisition' and 'cost of improvement'

Answer:

Cost of Acquisition [Sec. 55(2)]

Cost of acquisition includes expenditure incurred for acquiring the asset or completing the title of the asset. If asset is acquired before 01.04.2001, then fair market value of the asset as on 01.04.2001 and actual cost of asset shall be considered as cost of acquisition. In some cases, cost of acquisition shall be considered as nil. E.g. Bonus shares allotted on or after 01.04.2001, self-generated goodwill of a business.

Cost of Improvement [Sec. 55(1)(b)]

Cost of improvement means an expenditure incurred to increase the productive quality of the asset. It includes all expenditures of a capital nature incurred in making any additions or alterations to the capital asset. Any expenditure which is deductible in computing the income chargeable under any other head of income shall not be treated as cost of improvement. Any improvement expenditure incurred before 01.04.2001 shall be ignored while computing capital gain.

6. (b) Janak has sold a plot of land situated within the limits of Salem Corporation on 16.1.2020. The resultant long term capital gain is ₹ 120 lakhs. On 30.3.2020, he invests ₹ 60 lakhs, and on 2.4.2020 he invests further sum of ₹ 60 lakhs in Rural Electricity Corporation Bonds, approved under section 54EC. What is the amount of exemption he can claim u/s. 54EC of the Income Tax Act, 1961 for the assessment year 2020-21?

Answer:

₹ 50 lakhs, as per sec. 54EC, the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the *subsequent financial year* does not exceed ₹ 50 lakhs.

7. (a) The total income of Mr. X, a resident individual, for the A.Y. 2020-21 is ₹ 2,72,000, which includes long term capital gains of ₹ 15,000. Compute his tax liability before rebate & cess for the said year.

Answer:

Computation of Tax Liability of Mr. X for the A.Y.2020-21

Particulars	Other income	LTCG	Total
Income	₹ 2,57,000	₹ 15,000	₹ 2,72,000
Tax liability before rebate & cess	₹ 350	₹ 3,000	***₹3,350***
Less: Rebate u/s 87A			***₹3,350***
Tax payable			Nil

7. (b) Mr. Mitra furnishes the following particulars for the previous year 2019-20:

1) He sold his residential house on December 15, 2019 for ₹ 7,70,000. He purchased the house on March 2, 1998 at a cost of ₹ 75,000 (Fair market value on April 1, 2001 was ₹ 1,50,000).

2) He sold the shares of AB Co. Ltd. on February 12, 2020 for ₹ 18,700 (purchased on March 21, 2019 for ₹ 15,300). Compute his income from capital gain /loss for the A.Y. 2020-21.

Answer :

Computation of Capital Gains of Mr. Mitra for the A.Y.2020-21

Particulars	Amount
House	
Sale Proceeds	7,70,000
Less: Expenses on transfer	Nil
Net sale consideration	7,70,000

Less: Indexed Cost of acquisition [(₹ 1,50,000 x 289)/100]	4,33,500
Long Term Capital Gain	**3,36,500**
Shares	
Sale Proceeds	18,700
Less: Expenses on transfer	Nil
Net sale consideration	18,700
Less: Cost of acquisition	15,300
Short Term Capital Gain	**3,400**

8. State the circumstances under which the Assessing Officer may refer the valuation of capital asset to the Valuation Officer.

Answer:

Reference to Valuation Officer [Sec. 55A]

With a view to ascertaining the fair market value of a capital asset for the purposes of this chapter [e.g. sec. 45(1A), 45(2), 45(4), 46(2), 55 and 2(47)] the Assessing Officer may refer the valuation of capital asset to a Valuation Officer.

Cases where reference to Valuation Officer can be made

Case	Condition
Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer.	If the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value
In any other case	If the Assessing Officer is of the opinion— **1.** That the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than • 15% of the value of the asset as so claimed; or • by more than ₹ 25,000 whichever is less. **2.** That having regard to the nature of the asset and other relevant circumstances, it is necessary to do so.

9. State the conditions to be satisfied when a sole proprietary concern is succeeded by a company, to avail tax exemption in respect of capital gains.

Answer:

As per sec. 47(xiv), where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset to the company, subject to following conditions, capital gain arising thereon shall be exempt –

(a) All assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(b) Proprietor holds not less than 50% of the total voting power in the company and his shareholding continues to remain as such for a period of 5 years from the date of succession; and

(c) The sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company.

10. Where an urban agricultural land owned by an individual, continuously used by him for agricultural purposes for a period of two years prior to the date of transfer, is compulsorily acquired under law and the compensation is fixed by the State Government, is the resultant capital gain chargeable to tax?

Answer:

The exemption u/s 10(37) is available subject to following:

Applicable to: An individual or an HUF

Conditions:

1. Assessee has transferred urban agricultural land (being a capital asset).
2. Such land was used for agricultural purposes by such HUF or individual or his parents during the period of 2 years immediately preceding the date of transfer.
3. Such land is transferred –
   - by way of compulsory acquisition under any law, or
   - for a consideration to be determined or approved by the Central Government or the RBI.
4. The compensation or consideration for such transfer is received by such assessee on or after 1/4/04.

Treatment: Income on such transfer shall be exempted.

11. Miss Isha has 1,000 10% Debentures of X Ltd. acquired on 17/04/2009 for ₹ 120 each. As on 1/02/2020, she sold such asset for ₹ 1,45,000. Brokerage @ ½ % of sale value was paid by her. Compute capital gain.

Answer:

Computation of capital gain in the hands of Miss Isha for the A.Y. 2020-21

Particulars	Working	Details	Amount
Sale consideration			1,45,000
Less: Expenses on transfer	½ % of ₹ 1,45,000		725
Net sale consideration			1,44,275
Less: **i)** Cost of acquisition	1,000 Debentures @ ₹ 120 each	1,20,000	
ii) Cost of improvement		Nil	1,20,000
Long Term Capital Gain			**24,275**
Note: Though the asset sold is long term capital asset still indexation shall not be applicable as indexation benefit is not available on transfer of debentures.			

Study Note – 9

INCOME UNDER HEAD INCOME FROM OTHER SOURCES

Learning Objective:

After studying this chapter, students should able to :

- ***gain the concept of Income from Other Sources, its calculation and treatment in the context of Income Tax Act, 1961.***

1. (a) Choose the correct alternative:

(i) Interest on delayed compensation or enhanced compensation is taxable –

(a) On accrual basis

(b) Exempt from tax

(c) As per method of accounting of the assessee

(d) On receipt basis

(ii) While computing taxable interest on delayed compensation, a standard deduction is allowed @ –

(a) 50%

(b) 15%

(c) 30%

(d) Nil

(iii) An individual purchased a painting for ₹ 5,00,000 though fair market value of the asset is ₹ 5,25,000. Income taxable u/s 56(2)(x) is –

(a) ₹ 25,000 i.e., difference between market value and actual consideration

(b) Nil as this is not gift

(c) Nil as difference between market value and actual consideration does not exceed ₹ 50,000

(d) The provision of sec. 56(2)(x) is not applicable for such transaction

(iv) The provision of sec.56(2)(x) is applicable –

(a) All assessee

(b) Only on corporate assessee

(c) On an individual only

(d) On an individual and HUF only

(v) Tax is deducted at source on winning from lottery, the rate for such deduction in case of resident individual deductee is –

(a) 30.9%

(b) Maximum marginal rate of tax

(c) 30% if such winning exceeds ₹ 10,000

(d) 33.99%

(vi) While computing income from other sources, deduction is not allowed to the assessee for –

(a) Personal expenditure

(b) Direct tax

(c) Interest payable outside India without TDS

(d) All of the above

(vii) Gift received by an individual in certain circumstances is not taxable, one of them is –

(a) Any gift received from family friend

(b) Any gift received on the occasion of any marriage in the family

(c) Any gift received on the occasion of the marriage of the individual assessee

(d) All of the above

(viii) Generally, dividend is exempt from tax. Exceptions to this rule is –

(a) Dividend distributed by foreign company

(b) Dividend in excess of ₹ 10 lakhs

(c) Dividend from co-operative society

(d) All of the above

(ix) One of the following receipts is taxable under the head 'Income from Other Sources' –

(a) Uncommuted pension received from ex-employer

(b) Income from racing establishment

(c) Rental income from house property

(d) Income on transfer of rural agricultural land

(x) Which of the following income is not chargeable under Income from Other Sources –

(a) Dividend income

(b) Lottery held as stock in trade

(c) Interest on bank deposits

(d) None of the above

Answer:

(i) (d) On receipt basis

(ii) (a) 50%

(iii) (c) Nil as difference between market value and actual consideration does not exceed ₹ 50,000

(iv) (a) All assessee

(v) (c) 30% if such winning exceeds ₹ 10,000

(vi) (d) All of the above

(vii) (c) Any gift received on the occasion of the marriage of the individual assessee

(viii) (d) All of the above

(ix) (b) Income from racing establishment

(x) (b) Lottery held as stock in trade

1. (b) Match the following

(i) Lottery	**(a) In excess of ₹ 50,000**
(ii) Gift	**(b) Standard deduction @ 50% of receipt**
(iii) Family pension	**(c) Taxable @ 30%**
(iv) Interest on delayed receipt of compensation	**(d) ₹ 15,000**

Answer:

(i) Lottery	(a) Taxable @ 30%
(ii) Gift	(b) In excess of ₹ 50,000
(iii) Family pension	(c) ₹ 15,000
(iv) Interest on delayed receipt of compensation	(d) Standard deduction @ 50% of receipt

1. (c) Fill in the blanks:

(i) Interest on refund on Income-tax paid in excess is a _____ receipt.

(ii) Amount received towards permission for putting up hoarding at the top of the building is taxable under the head _____.

(iii) Mr. Nathan acquired a building on 30.3.2020 for ₹ 10 lakhs when the State stamp valuation authority adopted ₹ 10.25 lakhs for stamp duty purpose. The amount taxable in the hands of Mr. Nathan u/s 56(2) will be ____.

(iv) Amount received under keyman insurance policy including bonus thereon is _____ (income/exempted income) under the Income-tax Act, 1961.

(v) Loss from gambling _____ (can /cannot) be carried forward and set off in subsequent years under profits from gambling.

Answer:

(i) taxable

(ii) Income from Other Sources;

(iii) Nil;

(iv) income;

(v) cannot

2. Write a note on how interest received by an assessee on delayed compensation or enhanced compensation is taxed.

Answer:

Income by way of interest received on compensation or on enhanced compensation [Sec.56(2)(viii)]

Interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is *received*.

***Tax Treatment*:** It is taxable under the head "Income from other sources" after allowing standard deduction of 50% of such income.

E.g., During the previous year 2019-20, Mr. X received ₹ 65,000 (₹ 45,000 pertaining to the previous year 2018-19) as interest on delayed compensation. Such interest after allowing standard deduction shall be considered as an income of the previous year 2019-20 (irrespective of previous year to which such interest pertains). Thus, ₹ 32,500 (i.e., ₹ 65,000 – ₹ 32,500 being standard deduction @ 50%) shall be considered as income of the previous year 2019-20.

3. State briefly with regard to deduction allowable u/s 57 of the Income Tax Act, 1961 in respect of income from other sources.

Answer:

Income from other sources are subject to following deduction:

1. Any reasonable expenses paid for realization of dividend or interest
2. Interest on borrowed capital
3. Current repairs
4. Insurance premium paid for machinery, plant, furniture or building
5. Depreciation and unabsorbed depreciation.
6. Any other revenue expenditure expended, during the previous year, wholly and exclusively for earning such income.
7. In case of family pension, 1/3rd of pension or ₹ 15,000, whichever is lower shall be allowed.
8. In case of enhanced compensation, 50% of compensation received

4. Mr. Janak receives the following gifts during the previous year 2019-20:

Date of gift	Details of gift and donor	Amount of gift (₹)
01.07.2019	Gift from Raju, a friend, by cheque	1,50,000
01.09.2019	Cash gift from sister-in-law	1,00,000
01.12.2019	Gift of diamond ring on his birthday, by his friend living in Dubai	75,000
15.12.2019	Cash gifts of ₹ 31,000 each made by four friends on the occasion of his son's marriage	1,24,000
01.12.2019	Gift of a rosewood cot made by friend on house opening ceremony	51,000

Discuss the taxability of each of the above as income from other sources.

Answer:

Computation of Income from Other Sources of Mr. Janak for the A.Y. 2020-21

Particulars	Amount
Cash Gift	
Gift from Raju	1,50,000
Cash gift from sister-in-law (being a relative)	Nil
Cash gifts from four friends on the occasion of his son's marriage	1,24,000
Gift of movable property	
Gift of diamond ring on his birthday, by his friend living in Dubai	75,000
Gift of a rosewood cot made by friend on house opening ceremony	Nil
Income from Other Sources	**3,49,000**

5. From the following information, compute income from other sources of Mrs. Biswas for the A.Y. 2020-21.

(i) Family pension @ ₹ 4,500 p.m.

(ii) Dividend received from an Indian company ₹ 7,000 and from a foreign company ₹ 5,000.

(iii) Sub-letting of house @ ₹ 6,000 per month. Rent paid to landlord ₹ 4,500 per month, municipal tax paid ₹ 2,000

Answer:

Computation of income from other sources of Mrs. Biswas for A.Y. 2020-21

Particulars	Amount	Amount	Amount
Family pension		54,000	
Less: Standard Deduction (Being lower of the following)			
a. 1/3rd of Pension	18,000		
b. ₹ 15,000	15,000	15,000	39,000
Dividend received from an Indian company			Nil
Dividend received from Foreign company			5,000
Sub-letting of House		72,000	

Less: Expenses			
- Payment to landlord	54,000		
- Municipal tax	2,000	56,000	16,000
Income from Other Sources			**60,000**

6. What do you mean by 'bond washing transaction'? Why this practice must be checked.

Answer:

Bond Washing Transactions [Sec. 94(1)]

Interest on securities shall not accrue on day-to-day basis. It accrues on the due date of interest as prescribed by issuing authority. Entire interest shall be charged in the hands of assessee who holds security on such date (irrespective of the date of acquisition of such security). Tax liability may be evaded by transferring securities just before the due date of interest (interest includes dividend) to any person (like friend or relative who has low income) and reacquiring the same, after the interest is received by the transferee. With this practice, income, which should have been charged at higher rate, shall be charged at lower rate or nil rates.

To avoid these practices, sec. 94(1) provides that where an assessee transfers the securities before the due date of interest and reacquires the same, then the interest received by the transferee will be deemed to be the income of the transferor.

7. Prudent Ltd. intends to take a 'keyman insurance policy' in the name of its CEO and mentor. The company seeks your advice as to tax implication of such policy in the hands of company and the CEO. Explain.

Answer*:*

Keyman Insurance Policy means a life insurance policy taken by a person on the life of another person, who is either the employee or is connected in any manner with the business of the former person [Explanation to Sec. 10(10D)].

Where the premium is paid on such a policy, it can qualify for deduction as business expenditure and the maturity proceeds thereof shall be considered as income u/s 2(24). The taxability of such proceeds is as under:

1. Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy is taxable as salary income.
2. Any sum received by the employer under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy is taxable as business income.
3. Any sum received by the legal heir of the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy is taxable as income from other sources.

8. Explain the provisions relating to taxation of winnings from lotteries.

Answer:

Casual Income: Winning from lotteries, crossword puzzles, etc. [Sec. 56(2)(ib)]

Winnings from —

1. Lotteries;
2. Crossword puzzles;
3. Races including horse races;
4. Gambling and betting of any nature or form; or
5. Card games, game show or entertainment program on television or electronic mode and any other game of any sort,

- are taxable under this head.

Lottery includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called.

Card game and other game of any sort includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

Exemption/deduction [Sec. 58(4)]: Such income shall be fully taxable & no deduction shall be allowed.

Tax rate [Sec. 115BB]: Tax is charged at a flat rate of 30%.

9. Discuss the taxability of the following income:

(i) Charlie, a member of a H.U.F. received his shares of ₹ 1,00,000 out of family income of ₹ 10,00,000.

(ii) Chameli received ₹ 10,000 as dividend from a 'Foreign Company'.

Answer:

(i) Any sum received by an individual as a member of a Hindu undivided family

a. where such sum has been received out of the income of the family; or

b. Where such sum has been received out of the income of an impartible estate belonging to the family.

- is exempt u/s 10(2)

(ii) Dividend received from a foreign company is taxable under the head 'Income from Other Sources".

10. Mrs. T Basu earned the following income during the previous year 2019-20. Discuss the taxability of such incomes for the Assessment Year 2020-21:

(i) Agriculture income received from agricultural operation in India ₹ 25,000.

(ii) Share of Profit received from partnership firm assessed as a firm where she is a Partner ₹ 15,000.

(iii) Interim Dividend received from Tata Steel Ltd. (Indian Company) ₹ 35,000.

(iv) Amount Received from Unrecognised Provident Fund ₹ 1,21,000. (Own contribution ₹ 50,000, interest thereon ₹ 5,000, employer contribution ₹ 60,000 and interest thereon ₹ 6,000)

Answer:

(i) Agricultural income is exempt u/s 10(1)

(ii) Share in profit of the firm is exempt in hands of partner u/s 10(2A).

(iii) Dividend from domestic company is exempt u/s 10(34)

(iv) Interest on own contribution is taxable under 'Income from Other Sources'. Amount received against employer's contribution and interest thereon shall be taxable under the head 'Salaries'. Amount received against own contribution to URPF is not taxable.

11. Enlist the income which is specifically taxable under the head 'Income from Other Sources'

Answer:

Following are the income which are specifically taxable under the head 'Income from Other Sources:

Income absolutely chargeable under this head

1. Dividends [Sec. 56(2)(i)]
2. Casual income e.g. Winning from lotteries, etc. [Sec. 56(2)(ib)]
3. Gift [Sec. 56(2)(x)
4. Share premium in excess of fair market value of shares [Sec. 56(2)(viib)
5. Income by way of interest received on compensation or on enhanced compensation [Sec.56(2)(viii)]
6. Sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if:

   (*a*) such sum is forfeited; and

   (*b*) the negotiations do not result in transfer of such capital asset [Sec. 56(2)(ix)]

Income chargeable under this head if not charged under the head 'Profits and gains of business or profession'

7. Any sum received by the assessee from his employees as contribution to provident fund, etc. [Sec. 56(2)(ic)]
8. Interest on securities [Sec. 56(2)(id)]
9. Income from letting of machinery, plant or furniture [Sec. 56(2)(ii)]
10. Composite Rent [Sec. 56(2)(iii)]

Income chargeable under this head if not charged under the head 'Profits and gains of business or profession' or under the head 'Salaries'-

11. Any sum (including bonus) received under a Keyman Insurance Policy [Sec. 56(2)(iv)] *Keyman Insurance Policy* means a life insurance policy taken by a person on the life of another person, who is either the employee or is connected in any manner with the business of the former person [Explanation to Sec. 10(10D)]
12. Any compensation or other payment, due to or received by any person, in connection with the termination of his employment or the modification of the terms and conditions relating thereto. [Sec. 56(2)(xi)]

Study Note – 10

INCOME OF OTHER PERSONS INCLUDED IN ASSESSEES TOTAL INCOME

Learning Objective:

After studying this chapter, students should able to :

- ***understand the concept of Clubbing of income, that includes the income of any other person in Assessees total income.***
- ***The Income-tax Act has specified certain cases where income of one person is statutorily required to be included in the income of another person if some conditions are satisfied.***

1. (a) Choose the correct alternative:

(i) As per sec.60, income is clubbed if –

(a) Asset yielding income is transferred as revocable transfer

(b) Income is transferred without transferring asset yielding income

(c) Asset yielding income is transferred as irrevocable transfer

(d) Asset is transferred without transferring income

(ii) Any income from an asset transferred to spouse without adequate consideration is clubbed in the hands of the transferor if –

(a) Such asset is hold by the spouse as on the last day of the previous year

(b) Relationship between them exist as on the date of accrual of income

(c) Transferee is not a senior citizen

(d) Such asset is hold by the spouse during the previous year

(iii) For the purpose of sec.64, an individual have substantial interest in a company if he holds 20% of voting right along with his relative. Here, relative do not include –

(a) Father

(b) Spouse

(c) Brother of Father

(d) Brother

(iv) When income of a minor is clubbed, assessee will get deduction u/s 10(32) of:

(a) ₹ 1,500/-

(b) Income clubbed subject to maximum of ₹ 1,500

(c) Such deduction is not available u/s 10(32) but u/s 10(33)

(d) ₹ 100 per month

(v) Mr. X's minor daughter earned ₹ 50,000 from his special talent. This income will be clubbed with –

(a) The income of Mr. X

(b) The income of Mrs. X

(c) Mr. X or Mrs. X, whoever's income is higher

(d) It will not be clubbed

(vi) Mr. A gifted debenture of ₹ 1,00,000 to his wife. She received ₹ 10,000 interest which she reinvests and earns ₹ 1,000. This ₹ 1,000 will be taxable in the hands of –

(a) Mr. A

(b) Mrs. A

(c) Not Taxable

(d) Mr. A or Mrs. A, at the choice of the Assessing Officer

(vii) Income arising to a minor married daughter shall be –

(a) assessed in the hands of minor married daughter

(b) clubbed with the income of that parent whose total income is higher

(c) Exempt from tax

(d) clubbed with the income of her spouse

(viii) Income of a minor child suffering from any disability of the nature specified in section 80U shall be:

(a) assessed in the hands of minor

(b) clubbed with the income of that parent whose total income is higher

(c) Exempt from tax

(d) taxable in hands of provider of income like reverse charge

(ix) In certain cases, income of other person is included in the income of assessee. It is called –

(a) Clubbing of income

(b) Addition to income

(c) Increase in income

(d) Set-off of income

(x) Transfer of income without transfer of asset would be taxable in the hands of –

(a) Transferor only

(b) Transferee only

(c) Either transferor or transferee

(d) Both transferor and transferee

Answer:

(i) (b) Income is transferred without transferring asset yielding income

(ii) (b) Relationship between them exist as on the date of accrual of income

(iii) (c) Brother of Father

(iv) (b) Income clubbed subject to maximum of ₹ 1,500

(v) (d) It will not be clubbed

(vi) (b) Mrs. A

(vii) (b) clubbed with the income of that parent whose total income is higher

(viii) (a) assessed in the hands of minor

(ix) (a) Clubbing of income

(x) (a) Transferor only

1. (b) Match the following:

(i) Revocable Transfer	**(a) Sec. 64(1)(ii)**
(ii) Remuneration to spouse	**(b) Sec. 64(1A)**
(iii) Income of minor child	**(c) Sec. 64(2)**
(iv) Conversion of self-occupied property into HUF property	**(d) Sec. 61**

Answer:

(i) Revocable Transfer	(a) Sec. 61
(ii) Remuneration to spouse	(b) Sec. 64(1)(ii)
(iii) Income of minor child	(c) Sec. 64(1A)
(iv) Conversion of self-occupied property into HUF property	(d) Sec. 64(2)

1. (c) Fill in the blanks:

(i) For the purposes of clubbing of income of the specified person in the income of the individual under section 64, the word 'income' includes _____.

(ii) In case the income of an individual includes any income of his minor child in terms of section 64(1A), such individual shall be entitled to exemption of the amount of such income or _____, whichever is less.

Answer:

(i) negative income

(ii) ₹ 1,500;

2. Write short notes on Clubbing of income of a minor child.

Answer:

Income of minor child [Sec. 64(1A)]

Income of a minor child shall be clubbed with income of the parent whose total income (excluding this income) is higher.

Exceptions

The above clubbing provision shall not apply in the following cases -

1. The income arises or accrues to the minor child due to any manual work done by him; or
2. The income arises or accrues to the minor child due to his skill, talent, specialised knowledge or experience; or
3. The minor child is suffering from any disability of nature specified u/s 80U.

Exemption [Sec. 10(32)]

In case income of a minor child is clubbed in hands of parent as per provision of sec. 64(1A), the assessee (parent) can claim exemption of an amount being minimum of the following -

a) ₹ 1,500; or

b) Income so clubbed

Taxpoint: *Such exemption shall be available for each child (irrespective of the number of children) whose income is so clubbed.*

When marriage does not subsist between parents

In case marital relationship does not subsist at the time of accrual of income to the minor child, income of minor child shall be clubbed with income of that parent who maintains the minor child during the previous year.

3. The following details of income of Mr. X and his wife, for the assessment year 2020-21 are made available to you:

	Mr. X	**Mrs. X**
Income from own business/profession	1,20,000	90,000
Income from other sources	2,10,000	1,10,000
Interest received from Z & Co.	20,000	4,10,000
Salary received from Z & Co.	96,000	84,000

Mr. X and Mrs. X are partners in Z & Co., each having 10% share in profits. Determine the total income of Mr. X and Mrs. X. Will your answer be different, (a) If each one of them hold 8% of shares in profit of Z & Co.? (b) If Mr. X and Mrs. X both possess professional qualifications.

Answer:

Computation of Income of Mr. X and Mrs. X are as under:

Particulars	**Mr. X**	**Mrs. X**
Own business income	1,20,000	90,000
Interest received from Z & Co.	20,000	4,10,000
Income from other sources	2,10,000	1,10,000
	3,50,000	6,10,000
Salary received from Z & Co.		84,000
Add: Salary received from Z & Co. by Mr. X		96,000
Gross Total Income	**3,50,000**	**7,90,000**

In both the alternative situations, clubbing provisions are not applicable. Accordingly, income of Mr. X will be ₹4,46,000 (i.e. ₹ 3,50,000 + ₹ 96,000) and that of Mrs. X will be ₹ 6,94,000 (i.e. ₹ 7,90,000 – ₹ 96,000).

4. Mrs. Sukanya is a qualified cost accountant. She is a salaried employee in a firm of cost accountants in which Mr. Ashok (her husband) is a partner. Mr. Ashok's share in the firm is 10%. His younger brother holds 10% share in this firm. Mrs. Sukanya draws a salary of ₹ 18,000 per month from the firm. This is however paid in kind and not in cash. Mr. Ashok's income by way of sitting fees from the various boards of the companies in which he is an independent director is ₹ 3,50,000. Will Mrs. Sukanya's income be clubbed with that of Mr. Ashok under Section 64 of the Income-tax Act, 1961?

Answer:

Income generated through technical or professional qualification of the spouse is not to be clubbed in the total income of the individual. The term technical or professional qualification must be construed in a liberal manner as the term has not been defined in the Act. It does not necessarily relate to technical or professional qualification acquired by obtaining a certificate, diploma or degree or in any other form, from a recognised body like University or Institute. It can be treated as fitness to do a job or to undertake an occupation requiring intellectual skill and also includes technicality generated through experience, skill etc. Technical qualification includes specialization in a particular subject (e.g. accountancy, management, commerce, science, technology etc.). Since, Mrs. Sukanya possess technical or professional qualification for her job, hence her income from firm cannot be clubbed with her husband.

5. Explain the tax incidence in the case of a transfer of a let out property, which is not revocable during the life time of the transferee.

Answer:

Revocable Transfer [Sec. 61]

If an assessee transfers an asset under a revocable transfer, then income generated from such asset, shall be clubbed in the hands of the transferor.

As per sec. 63(a), a transfer shall be deemed to be *revocable* if -

- It contains any provision for the retransfer (directly or indirectly) of any part or whole of the income/assets to the transferor; or
- It, in any way, gives the transferor a right to re-assume power (directly or indirectly) over any part or whole of the income/assets.

Exceptions [Sec. 62]

As per sec. 62(1), the provision of sec. 61 shall not apply to an income arising to a person by virtue of -

(i) A transfer by way of creation of a trust which is irrevocable during the lifetime of the beneficiary;

(ii) Any transfer which is irrevocable during the lifetime of the transferee; or

(iii) Any transfer made before 1.4.61, which is not revocable for a period exceeding 6 years.

Thus, the income is taxable in hands of transfree.

6. An assessee is not only liable in respect of his own incomes for tax purposes, but his liability may extend to income of other persons also. Comment.

Answer:

Generally, an assessee is taxed on income accruing to him only and he is not liable to tax for income of another person. However, there are certain exceptions to the above rule (mentioned u/s 60 to 64). Sec. 60 to 64 deals with the provisions of clubbing of income, under which an assessee may be taxed in respect of income accrued to other person. These provisions have been enacted to counteract the tendency on the part of the taxpayers to dispose off their income or income generating assets to escape tax liability.

Following are the income covered u/s 60 to 64:

a. Transfer of income without transferring assets

b. Revocable transfer

c. Remuneration to spouse from a concern in which assessee has substantial interest

d. Income from assets transferred to spouse directly or otherwise

e. Income from assets transferred to son's wife directly or otherwise

f. Income of minor child

g. Conversion of self acquired property into HUF property

7. Yash, a minor, who is a physically handicapped (suffering from disability of the nature specified in sec.80U), earns bank interest of ₹ 50,000 and ₹ 60,000 from making bags manually by himself. State whether income of Yash should be clubbed with the income of his parents as per ec.64(1A).

Answer:

The clubbing provision of sec. 64(1A) is not apply in the following cases -

1. The income arises or accrues to the minor child due to any manual work done by him; or
2. The income arises or accrues to the minor child due to his skill, talent, specialised knowledge or experience; or
3. The minor child is suffering from any disability of nature specified u/s 80U.

Hence, such income shall be taxable in hands of Yash.

8. In whose hand the following incomes will be taxable?

(a) Interest on Debentures of ABC Ltd. received by Mrs. Y when the Debentures were transferred by Mr. X to Mrs. Y assuming that:

(i) Such transfer was made before marriage.

(ii) Such transfer was made at a time when there is husband-wife relationship between Mr. X and Mrs. Y.

(b) Mr. P held 22% shares of Star Ltd. where Mrs. Q. wife of Mr. P, is employed as Finance Manager at a salary of ₹ 50,000 p.a. Mrs. Q is a Chartered Accountant and also holds MBA (Finance) degree.

(c) Nipa is the minor child of Mr. and Mrs. Bose. Mr. Bose has salary income of ₹ 4,00,000 and Mrs. Bose has income from other sources of ₹ 5,00,000. Nipa earns income of ₹ 50,000 from a T.V. Reality show and ₹ 10,000 interest on fixed deposit with a bank.

Answer:

a. (i) Interest shall be taxable in hands of Mr. X; (ii) Interest shall be taxable in hands of Mrs. X.

b. Remuneration shall be taxable in hands of Mrs. Q

c. Income from TV Realty show shall be taxable in hands of Nipa and Interest on fixed deposit shall be taxable in hands of Mrs. Bose.

9. A proprietary business was started by Smt. Rani in the year 2017. As on 1.4.2018 her capital in business was ₹ 3,00,000.

Her husband gifted ₹ 2,00,000, on 10.04.2018, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietary business for the financial years 2018-2019, ₹ 1,50,000 and financial year 2019-2020 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for the assessment year 2020-2021 with reasons.

Answer:

Where asset transferred to spouse is invested in the proprietary business then proportionate share being calculated in following manner shall be clubbed in the hands of transferor:

$$\frac{\text{Income of such business * Value of such assets as on the 1st day of the P.Y.}}{\text{Total investment in the business by the transferee as on the 1st day of the P.Y.}}$$

= ₹ 3,90,000 x ₹ 2,00,000 / ₹ 6,50,000[1] = ₹ 1,20,000

Hence, ₹ 1,20,000 shall be clubbed in the hands of husband of Smt. Rani

[1] Computation of total investment in the business on 1-4-2019

Particulars	Amount
Investment as on 1-4-2018	₹ 3,00,000
Add: Investment of gift from husband on 10-4-2018	₹ 2,00,000
Add: Net profit earned during the year 2018-19 (assumed reinvested in the business)	₹ 1,50,000
Total investment in the business as on 1-4-2019	**₹ 6,50,000**

Income arising from accretion to transferred asset shall not be liable to clubbing.

Assume, Net profit earned during the year 2018-19 is retained in the business.

Alternatively, one can assume that net profit earned during the year 2018-19 is withdrawn. In such case income to be clubbed shall be computed as under:

$$\frac{\text{Income of such business * Value of such assets as on the 1st day of the P.Y.}}{\text{Total investment in the business by the transferee as on the 1st day of the P.Y.}}$$

= ₹ 3,90,000 x ₹ 2,00,000 / ₹ 5,00,000 = ₹ 1,56,000

Hence, ₹ 1,56,000 shall be clubbed in the hands of husband of Smt. Rani

1. Computation of total investment in the business on 1-4-2019

Particulars	Amount
Investment as on 1-4-2018	₹ 3,00,000
Add: Investment of gift from husband on 10-4-2018	₹ 2,00,000
Total investment in the business as on 1-4-2019	**₹ 5,00,000**

Study Note – 11

SET OFF AND CARRY FORWARD OF LOSSES

Learning Objective:

After studying this chapter, students should able to :

- ***understand the procedure of set off of loss under one head against the income under a different head.***
- ***understand how can losses under a particular head of income are set off against income from another head of income.***
- ***understand how to carry forward & set off of business losses and other issues.***

1. (a) Choose the correct alternative:

(i) The maximum period for which speculation loss can be carried forward is –

(a) 4 years

(b) 8 years

(c) Indefinitely

(d) Cannot be carried forward

(ii) Mr. A incurred long term capital loss of ₹ 10,000 on sale of land. Such loss can be set off:

(a) Against Long Term Capital Gain

(b) Against both Short Term Capital Gain & Long Term Capital Gain

(c) Against any head of income

(d) Against Short Term Capital Gain

(iii) Which of the following loss cannot be carried forward?

(a) Loss from speculative business

(b) Loss under the head Capital gain

(c) Loss under the head Income from Other Sources

(d) Loss under the head Income from House Property

(iv) Unabsorbed depreciation cannot be set off against –

(a) Income under the head 'Income from Other Sources'

(b) Income under the head 'Income from House Property'

(c) Income under the head 'Salaries'

(d) Capital Gains

(v) Loss which cannot be set off against inter-head adjustment is –

(a) Loss under the head Capital Gains

(b) Non speculative Business Loss

(c) Loss under the head 'Income from House Property'

(d) Loss under the head 'Income from Other Sources'

(vi) Accumulated losses of a firm which is converted into Limited Liability Partnership can be carried forward for –

(a) 8 years

(b) 7 years

(c) 4 years

(d) Cannot be carried forward

(vii) The maximum period for which business loss can be carried forward is –

(a) 8 years

(b) 4 years

(c) any number of years

(d) Not carried forward

(viii) Loss from activity of owning and maintaining horse race can be carried forward for –

(a) 8 Years

(b) 4 Years

(c) Indefinite years

(d) 2 Years

(ix) Short term capital loss can be set off from –

(a) Any capital gains

(b) Long term capital gain only

(c) Income from business or profession

(d) Income from salary

(x) Business loss of an amalgamating company shall be –

(a) carried forward and set off in the hands of amalgamated company unconditionally

(b) carried forward and set off in the hands of amalgamated company subject to certain conditions

(c) not be carried forward

(d) allowed to be carried forward only by amalgamating company

Answer:

(i) (a) 4 years

(ii) (a) Against Long Term Capital Gain

(iii) (c) Loss under the head Income from Other Sources

(iv) (c) Income under the head 'Salaries'

(v) (a) Loss under the head Capital Gains

(vi) (a) 8 years

(vii) (a) 8 years

(viii) (b) 4 years

(ix) (b) Long term capital gain only

(x) (b) carried forward and set off in the hands of amalgamated company subject to certain conditions

1. (b) Match the following:

(i) Long term capital loss	**(a) 0 years**
(ii) Unabsorbed Depreciation	**(b) 4 years**
(iii) Speculation loss	**(c) 8 years**
(iv) Loss under the head "Income from other sources"	**(d) Indefinite years**

Answer:

(i) Long term capital loss	(a) 8 years
(ii) Unabsorbed Depreciation	(b) Indefinite years
(iii) Speculation loss	(c) 4 years
(iv) Loss under the head "Income from other sources"	(d) 0 years

1. (c) Fill in the blanks:

(i) Accumulated losses of amalgamating company shall be allowed to be set off or carried forward by amalgamated company, if the amalgamated company holds continuously for a minimum period of _____ years from date of amalgamation at least three-fourths of _____ of the amalgamating company.

(ii) Loss from short term capital loss ____ (can/cannot) be set off against income under the head "Salaries".

(iii) Indian income-tax law does not provide any exemption in case of amalgamation of an Indian company with a foreign company wherein the resultant amalgamated company is a _____ .

(iv) Loss under the head "Income from House Property" can be carried forward for a maximum period of ____ assessment years.

Answer:

(i) 5; the book value of assets

(ii) cannot;

(iii) foreign company;

(iv) eight;

2. A Ghosh submits the following particulars of his incomes and losses for the A.Y. 2020-21:

Income from house property	**₹ 12,800**
Income from textile business	**₹ 35,700**
Loss from stationery business	**₹ 10,000**
Speculation loss	**₹ 2,000**
Long term capital gains	**₹ 25,000**
Short term capital gains	**₹ 10,000**

Income from the activity of owning and maintaining race horses	**₹ 13,000**
Winning from lottery	**₹ 22,000**
The losses of A Ghosh brought forward from the assessment year 2019-20 are as follows:	
Loss from house property	**₹ 8,000**
Loss from stationery business	**₹ 7,000**
Loss under the head capital gains	**₹ 4,300**
Loss from the activity of owning and maintaining race horses	**₹ 14,700**
All the above losses were first computed in the assessment year 2019-20. Compute his total income for the A.Y. 2020-21.	

Answer:

Computation of Gross Total Income of Mr. A Ghosh for the A.Y. 2020-21

Particulars	Details	Amount
Income from house property	12,800	
Less: Brought forward loss from house property	8,000	4,800
Profits and gains of business or profession		
- Profit from textile business	35,700	
- Loss from stationery business	(10,000)	
	25,700	
Less: Brought forward loss from stationery business	(7,000)	18,700
Speculative Business	(2,000)[1]	
Capital gains		
- Short term capital gain		10,000
- Long term capital gain	25,000	
Less: Brought forward capital loss	4,300	20,700
Income from Other sources		
Income from activity of owning & maintaining race horses	13,000	
Less: Brought forward loss from such activity	13,000	Nil
Winning from lottery (Gross)		22,000
Gross Total Income		**76,200**

Loss to be carried forward for subsequent assessment years:

1. Speculation loss of ₹ 2,000 shall be carried forward to next year.
2. Brought forward loss from activity of owning & maintaining race-horses of ₹ 1,700 (i.e. ₹ 14,700 – ₹ 13,000) shall be carried forward to next year.

3. Write short not on inter source adjustment u/s 70

Answer:

When the net result of any source of income is loss, it can be set off against income from any other source under the same head. Sec. 70 deals with the set off of loss from one source against income from another source under the same head of income, subject to the following exceptions –

(a) ***Long term capital loss*** can be set off only against long term capital gain [Sec. 70(3)]. However, short-term capital loss can be set off against short term as well as long term capital gains [Sec. 70(2)].

(b) ***Loss of a speculation business*** can be set off only against the profits of a speculation business, under the head 'Profits and gains of business or profession'. However, loss from a non-speculative business can also be set off against income from speculation business [Sec. 73(1)]

(c) ***Loss of a specified business covered u/s 35AD*** can be set off only against the profits of other specified business. However, loss from a non-specified business can be set off against income from specified business.

(d) ***Loss incurred in activity of owning and maintaining race horses*** can be set off against income from such activity only [Sec. 74A]

(e) ***Loss from a source, income of which is exempt u/s 10***, cannot be set off against any income.

(f) ***No loss can be set off against winning from lotteries***, crossword puzzles, races, card games, gambling or betting, etc. [Sec. 58(4) & 115BB]

4. From the following information, compute income of Ms. Tewari for the P.Y. 2019-20:

Particulars	Amount (₹)
Income from house 1	**50,000**
Loss from house 2	**3,50,000**
Salary Income	**5,00,000**
Loss from non-speculative Business	**3,00,000**
Income from speculative Business	**5,50,000**
Short Term Capital Loss	**60,000**
Long term Capital gain	**50,000**

Answer:

Computation of total income of Ms. Tewari for the A.Y. 2020-21

Particulars	Amount	Amount
Salaries		5,00,000
Income from House Property		
Income from house 1	50,000	
Less: Loss from house 2	(3,50,000)	
	(3,00,000)	
Less: Loss under the Profits and Gains of Business or Profession	(2,00,000)	Nil
(₹ 1,00,000 shall be carried forward)		
Profits and Gains of Business or Profession		
Income from speculative Business	5,50,000	
Less: Loss from non-speculative Business	(3,00,000)	
	2,50,000	
Less: Adjusted with Loss under the head Income from House Property	2,00,000	50,000
Capital Gains		
Long term Capital gain	50,000	
Less: Short Term Capital Loss	(50,000)	Nil
(Short term capital loss of ₹ 10,000/- shall be carried forward)		
Total Income		**5,50,000**

5. State the conditions to be fulfilled for carry forward of unabsorbed depreciation and accumulated losses in the hands of the amalgamated company.

Answer:

Carry forward and set off of accumulated loss and unabsorbed depreciation in case of amalgamation

Applicability:

Sec. 72A is applicable on following amalgamation, where -

1. There has been an amalgamation of a company owning -
   - an industrial undertaking$; or
   - a ship; or
   - a hotel,

   with another company; or
2. There has been amalgamation of a banking company with a specified bank.
3. There has been an amalgamation of one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business,

$*Industrial undertaking* means an undertaking engaged in—

- manufacture or processing of goods; or
- manufacture of computer software; or
- business of generation or distribution of electricity or any other form of power; or
- business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or
- mining; or
- the construction of ships, aircrafts or rail systems.

Conditions

1. The amalgamating company -
   - has been engaged in the business (in which the accumulated loss occurred or depreciation remains unabsorbed) for three or more years;
   - has held continuously as on the date of the amalgamation at least 3/4th of the book value of fixed assets held by it 2 years prior to the date of amalgamation.
2. The amalgamated company—
   - holds continuously for a minimum period of 5 years from the date of amalgamation at least 3/4th of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;
   - continues the business of the amalgamating company for a minimum period of 5 years from the date of amalgamation;
   - fulfils such other conditions# as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose."

     # Conditions for Carry forward & set off of accumulated loss and unabsorbed depreciation allowable in case of amalgamation [Rule 9C Notified by Notification No.11169, dated 15-12-1999]

     (a) The amalgamated company owns the industrial undertaking of the amalgamating company;

(b) The amalgamated company achieves the level of production of at least 50% of the installed capacity of the said undertaking before the end of the 4 years from the date of amalgamation and continue to maintain the said minimum level of production till the end of 5 years from the date of amalgamation;

(c) Account must be verified by an accountant & a certificate in Form 62 shall be furnished along with the return of income for the assessment year relevant to the previous year during which the prescribed level of production is achieved & for subsequent assessment years relevant to the previous year falling within 5 years from the date of amalgamation.

Note: Installed capacity means the capacity of production existing on the date of amalgamation.

Treatment:

The accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or depreciation of the amalgamated company for the previous year in which the amalgamation was effected.

Taxpoint: Accumulated loss of the amalgamating company can be carried forward for further 8 years.

Consequences if the conditions are not satisfied

As per sec. 72A(3), in a case where above conditions are not complied with, the set off of loss or depreciation made in any previous year by the amalgamated company shall be deemed to be the income of the amalgamated company and chargeable to tax in the year in which such conditions are violated.

6. P, Q and R are partners in a firm sharing profits and losses in the ratio of 1:1:2, provide the following information. Find firm's net income assuming that salary and interest are not paid to partners:

(i) Net income of the firm in earlier year is (-) ₹ 1,20,000, out of which unadjusted depreciation is ₹ 40,000.

(ii) On 31.05.2019, R retires from the firm and the other partners carry on the same business.

(iii) The firm's income for the Assessment Year 2020-21 before adjusting the aforesaid loss and depreciation is ₹ 1,20,000.

Answer:

Where a change occurs in the constitution of firm, on account of retirement or death of a partner, the proportionate loss of the retired or deceased partner shall not be carried forward. However, this section shall not apply in case of unabsorbed depreciation. Accordingly,

Computation of Total Income for A.Y. 2020-21

Particulars	Details	Amount	Amount
Income before adjusting brought forward loss and depreciation			1,20,000
Less: Brought forward loss (excluding unabsorbed depreciation)	80,000		

Less: Loss which cannot be set off (Working)	30,000	50,000	
Less: Unabsorbed depreciation		40,000	90,000
Total Income			**30,000**

Working: Computation of share of R in brought forward loss and loss which cannot be set off

Particulars	Amount
Total unabsorbed brought forward loss	1,20,000
Less: Unabsorbed depreciation	40,000
Brought forward loss excluding depreciation	80,000
Share of R [(₹ 80,000 / 4) x 2]	40,000
Less: Share of R in current profit before adjusting brought forward loss & depreciation [(₹ 1,20,000 / 12 x 2) x 2 / 4]	10,000
Loss which cannot be set-off	30,000

7. X Co. Ltd. files its return for the assessment year 2020-21 on 10.01.2021, declaring a business loss of ₹ 12,00,000 and unabsorbed depreciation of ₹ 6,00,000. How much of loss and/or depreciation is eligible for carry forward?

Answer:

An assessee, other than few, is not compulsorily required to furnish return of loss. However, as per sec. 139(3), the following losses cannot be carried forward if the return of loss is not submitted within the time allowed u/s 139(1)-

a. Business loss (speculative or otherwise);

b. Capital loss;

c. Loss from the activity of owning and maintaining race horses

d. Loss from business specified u/s 35AD

Further, Unabsorbed depreciation u/s 32 and loss under the head "Income from house property" can be carried forward even if the loss return is filed after the due date u/s 139(1).

Since X Co. Ltd. has filed belated return of income for the assessment year 2020-21, hence business loss of ₹ 12 lakhs shall not be allowed to carry forward. However, unabsorbed depreciation of ₹ 6 lakh shall be allowed to carry forward.

8. "Loss can be carried forward only by the person, who has incurred the loss." Discuss.

Answer:

Following are the exception to the principle that loss of one person cannot be availed for set off or carry forward by another person under the provisions of I.T. Act, 1961:

(a) ***Amalgamation*:** Business losses and unabsorbed depreciation of an amalgamating company can be set-off against the income of the amalgamated company if the amalgamation is within the meaning of sec. 72A of the Income tax Act. (Discussed later in this chapter).

(b) ***Succession*:** Business losses and unabsorbed depreciation of a proprietary concern or a partnership firm or a specified company succeeded by a company or limited liability partnership as per sec. 47(xiii), (xiiib) and (xiv), can be carried forward by succeeded company or limited liability partnership.

(c) ***Inheritance*:** As per sec. 78(2), where the assessee acquires the business through inheritance, losses of such business may be carried forward for balance number of years.

(d) ***Demerger*:** In case of demerger, loss of demerged company shall be carried forward and set-off by resulting company. (Discussed later in this chapter).

Note: In following case losses cannot be carried forward

i. Business, of an HUF where the business of the HUF is taken over by the Karta of HUF;

ii. Proprietorship business taken over by a firm in which proprietor is one of the partner;

iii. A firm being succeeded by another firm;

iv. A firm where the business of the firm is taken over by one of the partner of the firm

9. Kailash furnishes the following particulars of income and losses for the assessment year 2020-21:

Short-term capital loss on sale of shares	**₹ 3,25,200**
Income from card games *(gross)*	**₹ 99,800**
Loss from betting	**₹ 1,02,500**
Income from lotteries *(gross)*	**₹ 3,87,500**
Expenses on lottery ticket purchased	**₹ 7,500**
Long-term capital gains	**₹ 97,800**
Long-term capital loss of assessment year 2018-19	**₹ 1,12,500**
Short-term capital loss of assessment year 2019-20	**₹ 97,800**

Set-off various losses from other income and compute gross total income. Find out the amount which can be carried forward.

Answer:

Computation of Gross Total Income of Mr. Kailash for the A.Y. 2020-21

Particulars	Details	Amount
Capital Gains		
Long term capital gains	97,800	
Less: Short term capital loss on sale of shares	97,800	Nil [1]
Income from Other Sources		
Income from card games	99,800	
Income from lotteries	3,87,500	4,87,300
Gross Total Income		**4,87,300**

Losses to be carried forward

1. Short term capital loss on sale of shares (A.Y. 2020-21) – ₹ 2,27,400
2. Long-term capital loss (A.Y. 2018-19) – ₹ 1,12,500
3. Short-term capital loss (A.Y. 2019-20) – ₹ 97,800

Note: Loss from betting shall not be carried forward.

Study Note – 12

DEDUCTIONS IN COMPUTING TOTAL INCOME

Learning Objective:

After studying this chapter, students should able to :

- ***understand the income arrived at, after claiming deductions from Gross Total Income.***
- ***understand taxable income in computing total income of an assessee.***

1. (a) Choose the correct alternative:

(i) Deduction allowed to an individual u/s 80QQB is restricted to –

(a) ₹ 5,000

(b) ₹ 1,50,000

(c) ₹ 3,00,000

(d) ₹ 2,00,000

(ii) Sum incurred by HUF on rehabilitation of a member of the joint family suffering from a permanent physical disability being severe disability for the assessment year 2020-21.

(a) Not allowed as deduction

(b) Allowed as deduction of sum of ₹ 40,000 or actual expenditure whichever is lower

(c) Allowed as deduction of sum of ₹ 50,000

(d) Allowed as deduction of sum of ₹ 1,25,000

(iii) Deduction under the section 80E is allowed in respect of –

(a) Donations to charitable institutions

(b) Medical treatment of handicapped person

(c) Payment of interest on loan taken for higher education

(d) Profits earned from exports

(iv) Deduction u/s 80GG is related to –

(a) Donation to Charitable Institutions

(b) Payment made to Educational Institutions

(c) Donation to Research Associations

(d) Payment of House Rent

(v) Deduction u/s. 80JJA is available if the assessee –

(a) Is engaged in scientific research

(b) Sets up an industrial unit in a backward area

(c) Is engaged in agriculture business

(d) Is engaged in the business of collecting and processing biodegradable waste.

(vi) On donation to whom of the following a 50% deduction is allowable u/s 80G of the Income Tax Act?

(a) National Defence Fund

(b) Prime Ministers National Relief Fund

(c) Rajiv Gandhi Foundation

(d) National foundation for Communal Harmony

(vii) Section 80QQB of the Income Tax Act, 1961, deals with –

(a) Interest on debentures of a govt. company

(b) Royalty Income of authors

(c) Royalties from patent

(d) Profits from export of computer software

(viii) The deduction available u/s 80E to a Hindu Undivided Family resident in India is –

(a) ₹ 1,000

(b) ₹ 2,000

(c) ₹ 3,000

(d) Nil

(ix) Deduction u/s 80GGB or 80GGC is available on donation to –

(a) Political Party or electoral trust

(b) Political Party

(c) Poor people provided donation must be given in cash.

(d) University

(x) Deduction under Chapter VIA are not available from –

(a) Long term Capital Gain

(b) Salary

(c) Short term Capital Gain on sale of land

(d) None of the above

Answer:

(i) (c) ₹ 3,00,000

(ii) (d) Allowed as deduction of sum of ₹ 1,25,000

(iii) (c) Payment of interest on loan taken for higher education

(iv) (d) Payment of House Rent

(v) (d) Is engaged in the business of collecting and processing biodegradable waste.

(vi) (c) Rajiv Gandhi Foundation

(vii) (b) Royalty Income of authors

(viii) (d) Nil

(ix) (a) Political Party or electoral trust

(x) (a) Long term Capital Gain

1. (b) Match the following:

(i) Deduction in respect of royalty on patents	**(a) ₹ 1,50,000**
(ii) Deduction u/s 80C	**(b) ₹ 50,000**
(iii) Deduction u/s 80U	**(c) Sec. 80RRB**
(iv) Contribution to NPS	**(d) ₹ 1,25,000**

Answer:

(i) Deduction in respect of royalty on patents	(a) Sec. 80RRB
(ii) Deduction u/s 80C	(b) ₹ 1,50,000
(iii) Deduction u/s 80U	(c) ₹ 1,25,000
(iv) Contribution to NPS	(d) ₹ 50,000

1. (c) Fill in the blanks:

(i) Medical insurance premium paid otherwise than in _____ is eligible for deduction under Section 80D of the Income-tax Act, 1961.

(ii) Deduction under section 80G for donation to National Children's Fund is ____ per cent.

(iii) Life Insurance premium paid in excess of ____ per cent of the actual capital sum assured is not deductible under section 80C, in respect of policies issued on or after 01.04.2013.

(iv) From out of his exempted income, X has paid interest of ₹ 10,000 on education loan taken from nationalized bank last year. Deduction available u/s 80E of the Income Tax Act, 1961 is ₹ _____.

Answer:

(i) cash ;

(ii) 100 ;

(iii) 10 ;

(iv) nil

2. Mrs. R Mukherjee furnished the following information for the previous year 2019-20:

Particulars	Amount
Donation to Prime Minster's National Relief Fund	**15,000**
Donation to Jawaharlal Nehru Memorial Fund	**10,000**
Donation to a notified temple	**30,000**
Donation of cloth worth ₹ 10,000 to Bharat Sevashram Sangha to be distributed among Ayla victims	
Donation to an approved University	**2,000**
Gross Total Income	**3,00,000**
Payment of life insurance premium on the life of her daughter ₹ 20,000 (Policy value ₹ 2,00,000)	

Compute total income

Answer:

Computation of Total Income of Mrs. R. Mukherjee for the A.Y. 2020-21

Particulars	Details	Amount
Gross Total Income		3,00,000
Less: Deduction under chapter VIA		
Sec. 80C [LIC Premium]	20,000	
Sec. 80G [Donation]	36,000$	56,000
Total Income		2,44,000

$ Statement showing amount of deduction u/s 80G:

Donation made to	Amount	Rate	Deduction
Donation to Prime Minster's National Relief Fund	15,000	100%	15,000
Donation to Jawaharlal Nehru Memorial Fund	10,000	50%	5,000
Donation to an approved University	2,000	100%	2,000
Donation of cloth (as given in kind)	-	-	-
Donation to a notified temple	28,000*	50%	14,000
Total amount of donation u/s 80G			36,000

* Calculation of Deduction for donation on which limit is applicable:

Computation of limit		
Adjusted GTI	GTI –Deductions other than deduction u/s 80G	₹ 3,00,000 – ₹ 20,000 = ₹ 28,0000
Limit	10% of Adj. GTI	10% of ₹ 2,80,000 = ₹ 28,000

3. Write a brief note on the deduction available under section 80U.

Answer:

Deduction u/s 80U in respect of person with disability

Applicable to

A resident individual (irrespective of citizenship of the individual)

Conditions to be satisfied

1. *Assessee is a disable-individual*: **Assessee, at any time during the previous year, is certified by the medical authority to be a person with disability.**
2. *Report*: **Assessee must furnish a copy of the certificate issued by the medical authority in the prescribed form along with the return of income, in respect of the assessment year for which the deduction has been claimed.**

Quantum of Deduction

Assessee is suffering from severe disability (i.e. disability to the extent of 80% or more)	*₹1,25,000*
Assessee is suffering from disability but not severe disability (i.e. disability to the extent of 40% or more but less than 80%)	₹ 75,000
Deduction under this section is irrespective of actual expenditure incurred i.e. deduction is statutory.	

Other points

Revision of medical certificate

Condition: Where the extent of disability requires reassessment after a period stipulated in the aforesaid certificate.

Treatment: After the expiry of previous certificate, deduction under this section shall be allowed only if a new certificate is obtained from the medical authority and a copy thereof is furnished along with the return of income.

4. Mr. Roy is a self-employed person. During the previous year 2019-20, his gross total income was ₹ 1,80,000. He lives in a rented house in Kolkata for which he pays ₹ 2,500 p.m. as rent. During the same period, he donates ₹ 5,000 to the Chief Minister's Relief Fund. You are required to compute the deduction in respect of rent paid for the assessment year 2020-21.

Answer:

Computation of Deduction u/s 80GG

Particulars	Amount	Amount
Gross Total Income		1,80,000
Less: Deduction		
U/s 80G	5,000	

U/s 80GG#	12,500	17,500
Total Income		1,62,500
# Computation of Deduction u/s 80GG		

Particulars	Working	Amount
Least of the following shall be deductible:		
1. ₹ 5,000 per month	₹ 5,000 x 12	60,000
2. 25% of Adjusted Gross total income	25% of ₹ 1,75,000#	43,750
3. Excess of rent paid over 10% of Adj. GTI	₹ 30,000 - (10% of ₹ 1,75,000#)	12,500
Deduction u/s 80GG		12,500
# Adjusted GTI = Gross total income – Long term capital gain – Short term capital gain covered u/s 111A - All deduction under 80's other than section 80GG – Income u/s 115A, u/s 115AB, u/s 115AC, u/s 115ACA, u/s 115AD = ₹ 1,75,000		

5. Write short notes on deduction under section 80TTA in respect of interest from banks.

Answer:

Deduction in respect of interest on deposits in savings account [Sec. 80TTA]

Applicable to

An individual (other than senior citizen covered u/s 80TTB) or a Hindu Undivided Family

Conditions to be satisfied

Gross total income of an assessee includes any income by way of interest on deposits (not being time deposits[1]) in a savings account with:

- a banking company;
- a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or
- a Post Office

[1] "*Time deposits*" means the deposits repayable on expiry of fixed periods.

Quantum of deduction

Minimum of the following

a. Interest on such deposits in saving account

b. ₹ 10,000

Other Points

- As per Notification No. 32/2011 dated 03-06-2011, interest on Post Office Saving Bank is exempt u/s 10(15(i) to the extent of the interest of ₹ 3,500 (in case of single account) and ₹ 7,000 (in case of joint account)
- Where such income is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

6. Mr. Malakar (45 years) pays medical insurance premium of ₹ 19,000, ₹ 18,000 and ₹ 52,000 on the health of himself, his wife (42 years) and his father (68 years) respectively during the previous year 2019-20. All the premiums are paid by cheque. Calculate the amount of deduction u/s 80D.

Answer:

Computation of Deduction u/s 80D available to Mr. Malakar

Person Insured	Amount	Amount
Himself		19,000
Mrs. Malakar		18,000
Qualifying amount		37,000
Deduction Available (subject to max. of ₹ 25,000)		25,000
Add: Additional deduction for parents		
Father (being senior citizen)	52,000	
Restricted to the maximum limit		50,000
Deduction u/s 80D		**75,000**

7. Mr. Srinivasan, aged 66 years, furnishes the following particulars for the year ending 31.3.2020:

(i) Life Insurance premium paid ₹ 40,000, actual capital sum of the policy assured for ₹ 1,50,000;

(ii) Contribution to Public Provident Fund ₹ 50,000 in the name of father;

(iii) Tuition fees payment ₹ 5,000 each for 3 sons pursuing full time graduation course in Mumbai; Tuition fee paid for daughter pursuing Ph.D,. in Melbourne University, Australia ₹ 3.50 lakhs;

(iv) Housing loan principal repayment ₹ 30,000 to HDFC Bank. This property is under construction at Bangalore as on 31.03.2020;

(v) Principal repayment of housing loan taken from a relative ₹ 60,000. The property is self-occupied and situated at Chennai;

(vi) Deposit under Senior Citizens Savings Scheme ₹ 15,000;

(vii) Five-year deposits in an account under Post Office Time Deposit Scheme ₹ 20,000;

(viii) Investment in National Saving Certificate ₹ 25,000;

(ix) Subscription to bonds issued by NABARD ₹ 30,000.

Compute the quantum of eligible deduction under Section 80C of the Income Tax Act, 1961 for A.Y.2020-21.

Answer:

Computation of Deduction u/s 80C

Particulars	Amount
Life Insurance premium (subject to max. of 10% of sum assured)	15,000
Contribution to Public Provident Fund (as not made in his own name)	Nil
Tuition fees paid in India for 2 children	10,000
Repayment of Housing loan principal (as property is not yet completed hence not chargeable to tax u/s 22)	Nil
Principal repayment of housing loan taken from a relative (as loan is not taken from employer / specified institution)	Nil
Deposit under Senior Citizens Savings Scheme	15,000
5 Years deposit in Post Office	20,000
Investment in National Saving Certificate	25,000
Subscription to bonds issued by NABARD	30,000
Total Deduction u/s 80C	**1,15,000**

8. Mr Desai, a resident individual of age 52 years, incurs ₹ 70,000 for medical treatment of his son suffering from specified disease. He receives mediclaim of ₹ 25,000 from the National Insurance Co. Compute the amount of deduction u/s 80DDB.

Answer:

Computation of deduction u/s 80DDB being lower of the following

[₹ 40,000 – (Amount reimbursed by the employer or mediclaim received)]	15,000
[(Actual expenditure incurred by assessee) – (Amount reimbursed by employer or medi-claim received)]	45,000
Deduction u/s 80DDB	**15,000**

9. Discuss the allowability or otherwise of the following in the hands of Rasikbhai, who is aged about 67 years:

a. He paid insurance premium of ₹ 18,000 (₹ 16,000 by cheque and ₹ 2,000 by cash) under mediclaim policy to New India Insurance Company covering himself and his wife.

b. He spent a sum of ₹ 55,000 during September, 2019 towards medical treatment of his wife who suffered from blindness

c. His younger brother who is fully dependent on him, suffered from chronic renal failure for which he spent a sum of ₹ 75,000 towards medical treatment.

Answer:

Shri Rasikbhai, a senior citizen, is eligible for the following deduction:

Sec.	Particulars	Amount
80D	Medical insurance paid by cheque	₹ 16,000
	Medical insurance paid by cash	Nil
80DD	Maintenance of dependent suffering severe disability	₹ 1,25,000
80DDB	Expenditure on medical treatment of dependent brother subject to maximum of ₹ 40,000	₹ 40,000
Total Deduction		**₹ 1,81,000**

10. Compute total income of Sri Bhandari from following information:

Taxable salary (Net)	**₹ 75,000**
Income from other sources	**₹ 20,000**
Agricultural income	**₹ 4,000**

He deposited in LIC annuity plan ₹ 18,000

He paid medical insurance premium by cheque for his dependent blind mother (certified as severe disable person), aged 68 years, ₹ 20,000.

Answer:

Computation of Total income of Sri Bhandari for the A.Y. 2020-21

Particulars	Details	Amount
Salaries		75,000
Income from Other Sources		20,000
Gross Total Income		95,000
Less: Deduction u/s		
80CCC (Paid in LIC annuity plan)	18,000	
80D (Medical insurance premium for mother being senior citizen)	20,000	
80DD (Dependent severe disable relative)	1,25,000	
(Subject to maximum of gross total income)		95,000
Total Income		**Nil**

Study Note – 13

RELIEFS

Learning Objective:

After studying this chapter, students should able to :

- ***understand the concept of relief received by anybody, who have received any portion of their salary in arrears or in advance, or they have received the family pension in arrears,***
- ***understand how to calculate Income Tax Relief under Section 89 of Income Tax Act.***

1. (a) Choose the correct alternative:

(i) Relief u/s 89 shall be computed as per method prescribed in Rule

(a) 21B

(b) 21A

(c) 21

(d) None of the above

(ii) Where past service does not extend over five years, while calculating relief for the receipt in the nature of gratuity, average rate of tax for following number of years shall be considered:

(a) 3 years

(b) 2 years

(c) Current year only

(d) Relief is not available

Answer:

(i) (b) 21A

(i) (d) Relief is not available

1. (c) Fill in the blanks:

(i) Where assessee claims exemption u/s 10(10C), relief u/s 89 is _____ available to the assessee for such compensation.

(ii) An assessee, who receives leave encashment during continuation of his service, ____ (can/cannot) also claim relief u/s 89.

Answer:

(i) not;

(ii) can;

2. Discuss the steps to calculate relief u/s 89 against receipt of taxable gratuity, where past service extend over a period of 15 years.

Answer:

Following steps are to be followed for calculating relief u/s 89:

	Particulars
1	Calculate total income and tax liability considering taxable gratuity of the relevant previous year.
2	Calculate total income and tax on total income in respect of each of the 3 previous years immediately preceding the relevant previous year, adding 1/3rd of the taxable gratuity in each of the 3 years.
3	Calculate average rate of tax for each year. Average rate of tax (in %) = $\frac{\text{Tax, surcharge and cess after rebate of respective year x 100}}{\text{Total Income}}$
4	Calculate average of "average rate of tax" of 3 previous years immediately preceding the relevant previous year.
5	Calculate tax on taxable gratuity by applying average rate of tax of the relevant previous year.
6	Calculate tax on taxable gratuity by applying average of average rate of tax (as computed in step 4)
7	Relief u/s 89 = Tax as per Step 5 – Tax as per Step 6

3. For what type of receipts, relief u/s 89 is available?

Answer:

Relief u/s 89 is available to an assessee, who is in receipt of –

(a) 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

(b) Profit in lieu of salary u/s 17(3) e.g. gratuity, commuted pension, etc.; or

(c) Family pension, being paid in arrears.

4. Discuss the steps for calculating relief u/s 89 in respect of receipt of arrear salary.

Answer:

As per Rule 21A, where any portion of salary/family pension is received in arrears or in advance (hereinafter referred as additional salary), following steps are to be followed for calculating relief –

Step	Particulars
1	Calculate the tax payable for the previous year in which such additional salary is received, on: 1(a) Total income including additional salary 1(b) Total income excluding additional salary
2	Calculate the tax payable for the previous year to which such additional salary relates, on – 2(a) Total income including additional salary 2(b) Total income excluding additional salary
3	**a)** Add tax calculated on 1(a) and 2(b) = Tax on receipt basis **b)** Add tax calculated on 1(b) and 2(a) = Tax on accrual basis
4	Relief u/s 89 = Tax on receipt basis – Tax on accrual basis

Study Note – 14

ASSESSMENT OF VARIOUS PERSONS

Learning Objective:

After studying this chapter, students should able to :

- ***understand various types of Assessment under Income Tax Act, 1961.***
- ***Understand that every Person, who is earning, which is chargeable to tax, has to furnish his return of income to the Income Tax Department.***
- ***understand tax exemption to political party, income of electoral trust and also the concept of computation of AOP/BOI.***

1. (a) Choose the correct alternative:

(i) Under the Income-tax Act, 1961, which of the following can claim deduction for any sum contributed during the previous year to political party or electoral trust —

(a) Local authority

(b) Individual

(c) Artificial juridical person

(d) None of the above

(ii) The voluntary contributions received by an electoral trust during the year is not included in its income—

(a) When 85% of contribution is distributed in the year

(b) When 95% of contribution is distributed in the year

(c) To the extent of ₹ 10 lakh

(d) To the extent of 50% of contribution or ₹ 100 lakh whichever is less.

(iii) When a non-domestic company is a member in an AOP and its share of profit is indeterminate, the tax on total income of the AOP is charged at the —

(a) Nominal rate

(b) Maximum marginal rate

(c) Rate applicable to the company

(d) Least of the above three rates.

(iv) A registered trade union earned ₹ 1,00,000 by way of interest on bank deposits and ₹ 1,80,000 by way of rent from let-out of its premises. Total income of trade union chargeable to tax would be —

(a) ₹ 2,24,000

(b) ₹ 2,80,000

(c) ₹ 1,80,000

(d) Nil

(v) An association of persons (AOP) has paid tax at the maximum marginal rate. Yash, a member of AOP received ₹ 1 lakh as his share income. Such income is chargeable to tax his assessment @ —

(a) 10%

(b) Nil

(c) 30%

(d) 20%

Answer:

(i) (b) Individual

(ii) (b) When 95% of contribution is distributed in the year

(iii) (c) Rate applicable to the company

(iv) (d) Nil

(v) (b) Nil

1. (b) Match the following:

(i) Political Party	**(a) Sec. 86**
(ii) Electoral Trust	**(b) Sec. 80PA**
(iii) Co-operative society	**(c) Sec. 13A**
(iv) AOP	**(d) Sec. 13B**
(v) Deduction in respect of producer company	**(e) Sec. 80P**

Answer:

(i) Political Party	(a) Sec. 13A
(ii) Electoral Trust	(b) Sec. 13B
(iii) Co-operative society	(c) Sec. 80P
(iv) AOP	(d) Sec. 86
(v) Deduction in respect of producer company	(e) Sec. 80PA

1. (c) Fill in the blanks:

(i) Political party means a political party registered u/s ___ of the Representation of the People Act, 1951.

(ii) Electoral trust means a trust so approved by the Board in accordance with the scheme made in this regard by the _____.

(iii) Urban consumers' co-operative society means a society for the benefit of the _____ within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.

Answer:

(i) 29A;

(ii) Central Government;

(iii) consumers

2. What are the types of income of a political party exempt from income-tax under Section 13A?

Answer:

As per sec. 13A, the following categories of income derived by a political party are not included in computing its total income subject to certain conditions:

(a) Any income which is chargeable under the heads "Income from house property", "Income from other sources" and "Capital gains".

(b) Any income by way of voluntary contributions.

3. Discuss whether there is any exemption for voluntary contributions received by electoral trusts. Can an assessee giving such donation claim the same as deduction.

Answer:

Exemption to Electoral Trust [Sec. 13B]

Any voluntary contributions received by an electoral trust shall be exempted u/s 13B, subject to following conditions:

a. Such trust must be approved by the Central Board of Direct Taxes.

b. Such trust distributes 95% of the aggregate donations received by it during the previous year along with the surplus, if any, brought forward from any earlier previous year to any political party, registered u/s 29A of the Representation of the People Act, 1951.

c. Such electoral trust functions in accordance with the rules made by the Central Government.

Further, contribution or donation to approved electoral trust is eligible for 100% deduction u/s 80GGB and 80GGC.

4. Mr. Ram, the karta of a Hindu Undivided Family (HUF) invested family funds of ₹ 5 lakhs in the shares of H Couriers Pvt. Ltd. He was appointed as the Managing Director of the company and was paid a remuneration of ₹ 3.6 lakhs for the year ended 31.3.2020. Discuss whether the said remuneration will be assessed in the individual hand of Mr. Ram or in the hands of the HUF, for the assessment year 2020-21.

Answer:

Mr. Ram did not become the managing director of the company for the mere reason that his family had purchased considerable shares in the firm. He was elected as a managing director by the board of directors. He has received his salary for his personal services. It is not material to hold that he was elected managing director on behalf of the family. He was not appointed as managing director as a result of any outlay or expenditure of or detriment to the family property. Further, the managing directorship was an employment of personal responsibility and ability. Hence, such remuneration shall be considered as his personal income. The same view was upheld by the Apex Court in the case of *Raj Kumar Singh Hukam Chandji –vs.– CIT*.

5. The Hyderabad Co-operative society has the following sources of income during the financial year 2019-20:

Income from processing with the aid of power	**₹ 8,000**
Income from collective disposal of labour of its member	**₹ 15,000**
Interest from another cooperative society	**₹ 25,000**
Chargeable income from house property	**₹ 60,000**
Income from other business	**₹ 55,000**

Find its total income, showing the computation under proper heads of income, and the tax payable, as per the provisions of the income-tax Act, 1961.

Answer:

Computation of Total Income of Hyderabad Co-operative Society for the A.Y. 2020-21

Particulars	Amount	Amount
Income from house property		60,000
Profit and gains from business or profession		
- Processing with the aid of power	8,000	
- Collective disposal of labour of its member	15,000	
- Other business	55,000	78,000
Income from other sources		
Interest from another cooperative society		25,000
Gross Total Income		1,63,000
Less: Deduction u/s 80P		
Income from collective disposal of labour of its member	15,000	
Interest from another cooperative society	25,000	
Income from other business (Maximum limit)	50,000	90,000
Total income		**73,000**
Tax liability (including cess) (Rounded off) [104% of (₹ 10,000 x 10% + ₹ 10,000 x 20% + ₹ 53,000 x 30%)]		**19,660**

6. Discuss the provision of sec. 167B in respect of taxation of an AOP where share of member is known.

Answer:

Taxation of AOP where share of member is known [Sec. 167B(2)]

Case	Tax Rate
Long term capital gains	10% / 20%
Short term capital gain covered u/s 111A	15%
Income from lotteries, crossword, puzzles, etc.	30%
Any other income	
• When none of the member has taxable income excluding share from AOP/BOI	At which an individual is taxable (i.e. slab rate)

• When any member has taxable income excluding share from AOP/BOI	At maximum marginal rate of tax (Note)
• When any of the member is charged to tax at a rate higher than the maximum marginal tax rate for e.g. foreign company	Share of that member At the rate at which such member is taxable Balance income At maximum marginal rate of tax

Note: *Maximum marginal rate* means the rate of income-tax (including surcharge and education cess) applicable in relation to the highest slab of income in the case of an individual, association of persons or, as the case may be, body of individuals as specified in the Finance Act of the relevant year [Sec. 2(29C)]

7. How could you calculate rebate u/s 86?

Answer:

Rebate u/s 86 is calculated by applying the following steps –

Step 1	Calculate total income of member including share from AOP
Step 2	Calculate tax and cess
Step 3	Calculate average rate of tax, i.e. Average rate of tax = $\frac{\text{Tax, surcharge and cess after rebate} * 100}{\text{Total income}}$
Step 4	Rebate u/s 86 = Share from AOP * Average rate of tax

8. The books of account maintained by a National Political Party registered with Election Commission for the year ending 31-3-2020 disclose the following receipts:

Rent of property let out to a departmental store at Chennai	**₹ 6,00,000**
Interest on deposits other than banks	**₹ 5,00,000**
Contribution from 100 person (The political party submitted a report to the Election Commission) of ₹ 21,000 each (received through an account payee cheque)	**₹ 21,00,000**
Net profit of cafeteria run in the premises at Delhi	**₹ 3,00,000**

Compute total income of the political party for the previous year 2019-20.

Answer:

Computation of total income of National Political party for the Assessment year 2020-21

Particulars	Working	Amount
Income from house property		
Rent of property let out to a departmental store at Chennai	Exempted u/s 13A	Nil
Profits and gains of business or profession		
Net profit of cafeteria run in the premises at Delhi		3,00,000
Income from other sources		
Interest on deposits other than banks	Exempted u/s 13A	Nil
Contribution exceeding ₹ 20,000	Exempted u/s 13A	Nil
Total income		**3,00,000**

9. Write a brief note on Alternate Minimum Tax u/s 115JC

Answer:

Alternate Minimum Tax (AMT) [Sec. 115JC]

Applicable to

All assessee (other than company) who has claimed any deduction under:

- Sec. 80H to Sec. 80RRB (other than sec. 80P); or
- Sec.10AA
- Sec.35AD

Exception:

The provisions shall not apply to an individual or a HUF or an AOP or a BOI, whether incorporated or not, or an artificial juridical person, if the adjusted total income of such person does not exceed ₹ 20 lakh.

Taxpoint: The exception is not applicable in case of Firm and Limited Liability Partnership. That means, AMT is applicable on LLP / Firm (claiming deduction under aforesaid section) even though adjusted total income does not exceed ₹ 20 lakh.

Scheme of Alternate Minimum Tax (AMT)

Step 1	Compute regular income tax liability (before Cess) of the assessee covered under these provisions		**A**	****
Step 2	Compute Adjusted Total income of the assessee i.e.			*****
	Total income of the assessee	****	**B**	
	Add:			
	• Deduction claimed u/s 80H to sec. 80RRB (other than sec. 80P)	***	**C**	
	• Deduction claimed u/s 35AD *less* Depreciation u/s 32	***	**D**	
	• Deduction u/s 10AA	***	**E**	
	Adjusted Total Income	****	**F**	
	Note: **(i)** If 'C', 'D' and 'E' is zero, then these provisions are not applicable to any assessee. **(ii)** if 'F' does not exceed Rs.20 lakh, then these provisions are not applicable in case of an Individual / HUF / AOP / BOI / Artificial juridical person. However, the provision is applicable on LLP / Firm.			
Step 3	Compute Alternate Minimum Tax (AMT) [Being 18.5% of Adjusted Total Income]		**G = F * 18.5%**	****
Step 4	Income Tax liability		**Higher of A & G**	****
	Add: Health & Education Cess			**
	Tax liability after Cess			****

Study Note – 15

TAX DEDUCTED AT SOURCE

Learning Objective:

After studying this chapter, students should able to :

- ***understand the concept of TDS; which stands for tax deducted at source.***
- ***Understand whether any tax is required to be deducted at source by a company or person making a payment.***

1. (a) Choose the correct alternative:

(i) The maximum amount which can be paid without deduction of tax at source from winnings from horse races is ____.

(a) ₹ 40,000

(b) ₹ 20,000

(c) ₹ 30,000

(d) ₹ 10,000

(ii) The maximum amount of rent payment where deduction of tax at source is not required in a financial year is —

(a) ₹ 1,20,000

(b) ₹ 2,40,000

(c) ₹ 2,00,000

(d) None of the above

(iii) For the purposes of section 194-I, income from letting out of which of the following is not included in definition of 'rent'?

(a) Plant

(b) Furniture

(c) Equipment

(d) Franchisee

(iv) Which of the following contracts are not covered under section 194C?

(a) Contracts for labour

(b) Contracts for sale

(c) Contracts for transport

(d) Contracts on advertising

(v) Every deductor of tax at source is required to issue TDS Certificate. Such certificate should be issued to the resident deductee(in case of employee-deductee) in –

(a) Form 16A

(b) Form 16

(c) Form 27A

(d) Form 26Q

(vi) Where resident-payee fails to provide his PAN, tax is required to be deducted @ –

(a) 20% or rate prescribed under respective section, whichever is higher

(b) 20% or rate prescribed under respective section, whichever is lower

(c) 20%

(d) None of the above

(vii) Where tax is deducted on 30th March of the previous year, such tax is required to be deposited to the credit of the Central Government within –

(a) forthcoming 30th April

(b) forthcoming 7th April

(c) forthcoming 31st May

(d) 31st March of the previous year

(viii) As per section 194J, tax is to be deducted in respect of _____.

(a) Fees for professional/technical services paid to resident

(b) Interest other than interest on securities paid to resident

(c) Insurance commission paid to resident

(d) Payment made to resident contractors

(ix) Section _____ deals with the provisions relating to deduction of tax at source on interest other than interest on securities paid to a resident.

(a) 194A

(b) 193

(c) 192

(d) 195

(x) A person required to deduct tax under section _____ can use PAN in place of TAN as such person is not required to obtain TAN.

(a) 194-A

(b) 192

(c) 193

(d) 194-IA

Answer:

(i) (d) ₹ 10,000

(ii) (b) ₹ 2,40,000

(iii) (d) Franchisee

(iv) (b) Contracts for sale

(v) (b) Form 16

(vi) (a) 20% or rate prescribed under respective section, whichever is higher

(vii) (a) forthcoming 30th April

(viii) (a) Fees for professional/technical services paid to resident

(ix) (a) 194A

(x) (d) 194-IA

1. (b) Match the following:

(i) Joint Development Agreement	**(a) Sec. 194H**
(ii) Fees for professional or technical services	**(b) Sec. 194A**
(iii) Interest other than interest on securities	**(c) Sec. 194-IC**
(iv) Brokerage	**(d) Sec. 194J**

Answer:

(i) Joint Development Agreement	(a) Sec. 194-IC
(ii) Fees for professional or technical services	(b) Sec. 194J
(iii) Interest other than interest on securities	(c) Sec. 194A
(iv) Brokerage	(d) Sec. 194H

1. (c) Fill in the blanks:

(i) Tax shall not be deducted u/s 194D, if the aggregate amounts of remuneration or reward credited or paid during the financial year to the payee *does not exceed* _____.

(ii) Rate of TDS on payment to non-resident sportsman or sports associations u/s 194E is _____

(iii) As per sec. 194-IB, rent means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of _____

(iv) Tax shall not be deducted u/s 194J, if the aggregate amounts of fee credited or paid during the financial year to the payee *does not exceed* _____.

Answer:

(i) ₹ 15,000;

(ii) 20%;

(iii) any land or building or both;

(iv) ₹ 30,000;

2. Every person is required to deduct tax at source on payments made to contractors. Comment

Answer:

As per sec. 194C, following specified person responsible for paying any sum to any *resident*-contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall deduct tax at source:

a. The Central Government or any State Government; or

b. Any local authority; or

c. Any corporation established by or under a Central, State or Provincial Act; or

d. Any company; or

e. Any co-operative society;

f. Any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

g. Any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

h. Any trust; or

i. Any University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University u/s 3 of the University Grants Commission Act, 1956; or

j. Any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

k. Any firm; or

l. Individual or a HUF or an association of persons or a body of individuals (if not covered by aforesaid cases), whose books of account are required to audited u/s 44AB (*due to turnover or gross receipt criteria*) during the financial year immediately preceding the financial year in which such sum is credited or paid.

Note: However, no individual or a HUF shall be liable to deduct income-tax where amount is credited or paid exclusively for personal purposes of such individual or any member of HUF.

3. When and how tax is to be deducted at source in respect of life insurance policy u/s 194DA of the Income Tax Act, 1961.

Answer:

TDS on Payment in respect of Life Insurance Policy [194DA]

Who is responsible to deduct tax: Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy other than the amount not includible in the total income u/s 10(10D).

- TDS is not required to be deducted on any payment which is exempt u/s 10(10D).
- *Tax shall not be deducted if the aggregate amounts of payments to the payee during the financial year is* ***less than ₹ 1,00,000****.*

When tax shall be deducted: At the time of payment

Rate of TDS*:*

Rate of TDS*:*

- Till 31-08-2019: 1% (No surcharge, health and education cess) on entire payment
- On or after 01-09-2019: 5% (No surcharge, health and education cess) on the income comprised therein.

4. Discuss the liability to deduct tax at sources on the following payments :

(i) Sikkim Government pays a sum of ₹ 50,000 as commission to its agent on sale of lottery tickets.

(ii) A turf club gives a prize of ₹ 2,00,000 to the owner of a winning horse.

(iii) Bank of India is the tenant of a building owned by the Central Government. It pays a sum of ₹ 75,000 per month by way of rent.

(iv) Evershine Ltd. pays a sum of ₹ 2,500 per month as retainer fee to its counsel.

(v) Dividend of ₹ 25,000 is paid on preference shares on 15th November, 2019 by an Indian Company.

(vi) ₹ 1,00,000 paid to Govind being amount of 1st prize in the lottery conducted by the Nagaland Government.

Answer:

(i) As per the section 194G of the Income-tax Act, tax has to be deducted @ 5% from the commission paid to the agent on the sale of lottery tickets as the commission exceeds ₹ 15,000.

(ii) As per the section 194BB of the Income-tax Act, tax has to be deducted @ 30% as the prize money exceeds ₹ 10,000.

(iii) As the payee is Central Government, there is no need to deducted tax at sources [Sec. 196].

(iv) As per the section 194J of the Income-tax Act, no tax has to be deducted on the amount pay to the professional, as the total fee does not exceed ₹ 30,000.

(v) TDS shall not be made on dividend covered by sec. 115-O, therefore no deduction.

(vi) As per the section 194B of the Income-tax Act, tax has to be deducted @ 30% as the prize money exceeds ₹10,000.

5. What is the time-limit for deposit of 'tax deducted at source' (TDS) to the credit of the Central Government?

Answer:

Deposit of TDS within Time-Limit [Sec. 200 read with Rule 30]

Tax deducted by the deductor shall be deposited electronically through internet banking facility to the credit of the Central Government within following time limit –

TDS	Time limit
a) Tax is deducted on behalf of the Government	
• Where the tax is paid without production of an income-tax challan	On the same day
• Where the tax is paid with production of an income-tax challan	On or before 7 days from the end of the month in which tax is deducted

b) When the Assessing Officer (after obtaining prior approval from Joint Commissioner) permits quarterly payment of tax:	
• Where deduction is made u/s 192, 194A, 194D or 194H	Within July 7 (for Quarter ending on June 30), October 7 (for Quarter ending on September 30), January 7 (for Quarter ending on December 31) & April 30 (for Quarter ending on March 31)
c) In any other case	
• For the month of March	Within forthcoming 30th April
• For the months other than month of March	Within 7 days from the *end of the month* in which tax is deducted at source.
Exception: Where tax is deducted u/s 194-IA or 194-IB, tax shall be paid to the credit of the Central Government within a period of 30 days from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QB (for sec. 194-IA) / 26QC (for sec. 194-IB)	

6. Strong Ltd. has taken a machinery on rent. The rent is payable in advance on the first day of each month @ ₹ 12,000 per month. Explain in brief whether the rent for the financial year 2019-20 is subject to tax deduction at source or not under Section 194-I of the income-tax Act, 1961.

Answer:

As per section 194-I, rent on machinery is subject to tax deduction at source if the aggregate amounts of rent credited or paid during the financial year to the payee exceed ₹ 2,40,000.

Rate of TDS

Nature of Assets	Nature of Payee	Rate
Machinery or plant or equipment	Any	2%

Since in given case, the amount paid during the financial year 2019-20 is ₹ 1,44,000 (which is not more than ₹2,40,000) so no tax is required to be deducted at source.

7. Write a short note on Tax deduction account number

Answer:

Tax deduction and collection account number [Sec. 203A]

Every person, deducting tax or collecting tax, who has not been allotted a tax-deduction account number or tax-collection account number, shall within specified time, apply to the Assessing Officer for the allotment of a

"tax-deduction and collection-account number" in Form 49B. Where such number has been allotted to a person, such person shall quote such number—

a. in all challans for the payment of tax deducted or collected;

b. in all certificates furnished u/s 203 or sec. 206C(5);

c. in all the statements prepared and delivered u/s 200(3) or 206C(3);

d. in all the returns delivered u/s 206 or 206C(5A) or (5B) to any income-tax authority; and

e. in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.

Note: The section is not applicable to the person deducting tax u/s 194-IA or 194-IB

8. X Limited has taken a 3,000 sq. ft. flat on rent from Y Limited to set up its Branch Office. The rent payable to Y Limited for the flat is ₹ 60,000 per month plus applicable GST. X Limited wishes to know whether tax is required to be deducted at source u/s 194-I from gross amount of rent including GST. Give your advice.

Answer:

As per Circular No. 23/2017, wherever in terms of the agreement/contract between the payer and the payee, the GST component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without considering such GST component.

It is to be noted that GST paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for Government for collection of GST.

Study Note – 16

TAX COLLECTION AT SOURCE

Learning Objective:

After studying this chapter, students should able to :

- ***gain the knowledge about Tax Collected at Source (TCS)***
- ***know the goods on which the seller has to collect tax from the purchasers.***

1. (a) Choose the correct alternative:

(i) One of the following is specified goods u/s 206C

(a) Timber

(b) Scrap

(c) Tendu leaves

(d) All of the above

(ii) Rate of TCS in case of scrap is

(a) 1%

(b) 5%

(c) 2%

(d) 2.5%

(iii) The provision of TCS is applicable in case of grant of licence of:

(a) parking lot

(b) toll plaza

(c) mine or quarry excluding mines or quarrying of mineral oil

(d) All of the above

(iv) Any person paying any sum, on which tax is collectible at source shall furnish his PAN to the person responsible for collecting such tax, failing which tax shall be collected at following rates:

(a) Higher of (i) twice of the specified TCS rate; or (ii) 20%

(b) Higher of (i) twice of the specified TCS rate; or (ii) 10%

(c) Higher of (i) twice of the specified TCS rate; or (ii) 5%

(d) 20%

Answer:

(i) (d) All of the above

(ii) (a) 1%

(iii) (d) All of the above

(iv) (c) Higher of (i) twice of the specified TCS rate; or (ii) 5%

1. (c) Fill in the blanks:

(i) Any person paying any sum, on which tax is collectible at source shall furnish his PAN to the person responsible for collecting such tax, failing which tax shall be collected at the higher rates. However, this provision is not applicable in case of _____

(ii) "Scrap" means waste and scrap from the manufacture or mechanical working of materials which is definitely _____ as such because of breakage, cutting up, wear and other reasons.

Answer:

(i) a non-resident who does not have permanent establishment in India;

(ii) not usable;

2. Who is responsible to collect tax at source? When tax has to be collected at source?

Answer:

1. Every seller, shall collect tax from the buyer of any specified goods, at the time of -
   - Debiting the amount payable by the buyer to the account of the buyer; or
   - Receipt of such amount from the buyer,

   - whichever is earlier.

2. Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in -
   - any parking lot; or
   - toll plaza; or
   - mine or quarry excluding mines or quarrying of mineral oil (mineral oil includes Petroleum and Natural gas),

   to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall collect tax from the licensee or lessee at the time of:
   - Debiting the amount payable by the licensee or lessee to the account of the licensee or lessee; or
   - Receipt of such amount from the licensee or lessee,

   - whichever is earlier.

3. In the context of sec. 206C, what do you mean by seller and specified goods?

Answer:

1. **"*Seller*"** means -
   a) The Central Government; or
   b) State Government; or
   c) Local authority; or
   d) Statutory corporation; or
   e) Authority established by or under a Central, State or Provincial Act; or
   f) Company; or
   g) Firm; or
   h) Co-operative society; or
   i) An individual or HUF, whose books of account are required to be audited u/s 44AB during the financial year immediately preceding the financial year in which such goods are sold.
2. **"*Specified goods*"** includes:
   (i) Alcoholic Liquor for human consumption
   (ii) Tendu leaves;
   (iii) Timber;
   (iv) Any forest-produce;
   (v) Scrap.
   (vi) Specified minerals i.e., coal, lignite and iron-ore
   (vii) Motor car value of which exceeds ₹ 10 lakhs

4. Describe the various rate of TCS.

Answer:

Rate of TCS are as under:

Particulars	Rate as a % of the amount payable by the buyer or licensee or lessee*
1. Alcoholic liquor for human consumption	1%
2. Tendu leaves	5%
3. Timber obtained under a forest lease	2.5%
4. Timber obtained by any mode other than under a forest lease	2.5%
5. Any other forest produce (not being timber or tendu leaves)	2.5%
6. Scrap	1%
7. Specified minerals	1%
8. Motor car value of which exceeds ₹ 10 lakh	1%
9. Parking lot, toll plaza, mining and quarrying	2%

* However, where the purchaser or licensee or lessee is a non-resident non-corporate assessee or a non-domestic company, then surcharge (if any applicable), health and education cess is also required to be deducted alongwith aforesaid rates.

Study Note – 17

ADVANCE TAX

Learning Objective:

After studying this chapter, students should able to :

- ***understand the concept on Advance Tax Payment.***
- ***calculate the advance tax instalments, its time limits etc.***

1. (a) Choose the correct alternative:

(i) As per provisions of Section 208, advance tax shall be payable where tax payable by an asseessee is –

(a) ₹ 5,000 or more

(b) ₹ 10,000 or more

(c) ₹ 12,500 or more

(d) ₹ 15,000 or more

(ii) The amount of advance tax payable by an assessee in the financial year shall be reduced by –

(a) Self assessment tax

(b) Tax deducted at source

(c) Tax on regular assessment

(d) Tax paid for preceding previous year

(iii) Advance tax _____ is payable on or before 15th December of the relevant previous year.

(a) upto 15 per cent of advance tax payable

(b) upto 30 per cent of advance tax payable

(c) upto 75 per cent of advance tax payable

(d) upto 36 per cent of advance tax payable

(iv) An assessee is required to pay 45% of its advance tax liability by –

(a) 15th March of the relevant previous year

(b) 15th December of the relevant previous year

(c) 15th September of the relevant previous year

(d) 15th June of the relevant previous year

(v) An individual need to pay ₹ 1,00,000 as advance tax. By 15th of June, how much amount must be paid by the individual?

(a) ₹ 30,000

(b) ₹ 15,000

(c) ₹ 75,000

(d) ₹ 1,00,000

(vi) What maximum amount of penalty can be imposed for failure to pay advance tax?

(a) ₹ 1,000

(b) ₹ 10,000

(c) ₹ 20,000

(d) No penalty

Answer:

(i) (a) ₹ 10,000 or more

(ii) (b) Tax deducted at source

(iii) (c) upto 75 per cent of advance tax payable

(iv) (c) 15th September of the relevant previous year

(v) (b) ₹ 15,000

(vi) (d) No penalty

1. (c) Fill in the blanks:

(i) Any amount paid u/s 211 on or before 31st March of the previous year, shall be treated as _____ paid during the financial year.

(ii) While calculating advance tax, net agricultural income _____ also be taken into consideration for computing tax liability.

(iii) If any assessee does not pay any installment of advance tax within due date he shall be deemed to be an _____ in respect of such installment.

Answer:

(i) advance tax;

(ii) shall;

(iii) assessee in default

2. Who is liable to pay advance tax? State the due dates for payment of advance tax by an individual.

Answer:

Applicable to

All assessee irrespective of his residential status and citizenship

Scheme of Advance tax [Sec.208]

Where the advance tax liability# of the assessee is ₹ 10,000 or more, the assessee should pay such tax in the previous year itself within the due date.

Due date for payment of advance tax [Sec. 211]

Assessee	*Due date of installment* **(of previous year)**	*Minimum amount payable*
An eligible assessee in respect of an eligible business referred to in sec. 44AD or 44ADA	On or before March 15	100% of advance tax liability
Other Assessee	On or before June 15	Upto 15% of advance tax liability
	On or before September 15	Upto 45% of advance tax liability
	On or before December 15	Upto 75% of advance tax liability
	On or before March 15	Upto 100% of advance tax liability

3. Find out the amount of advance tax payable by ABC Ltd. (turnover for the previous year 2017-18 was ₹ 150 crore) on specified dates for the F.Y. 2019-20:

Business income	**₹ 1,75,000**
Long term capital gain on 31-7-2019	**₹ 2,50,000**
Bank interest	**₹ 10,000**
TDS on business income	**₹ 20,100**

Answer:

Computation of total income of ABC Ltd. for the previous year 2019-20

Particulars	Amount
Profits and gains of business or profession	1,75,000
Capital gains: Long term capital gains	2,50,000
Income from other sources: Bank Interest	10,000
Total Income	**4,35,000**

Computation of tax liability of ABC Ltd. for the previous year 2019-20

Particulars	Long term capital gain	Other income
Income	2,50,000	1,85,000
Tax rate	20%	25%
Tax on above	50,000	46,250
Add: Surcharge	Nil	Nil
Tax and surcharge payable	50,000	46,250
Add: Health & Education cess	2,000	1,850
Tax and cess payable	52,000	48,100
Less: TDS	-	20,100
Advance tax payable	**52,000**	**28,000**

Advance tax to be paid on specified dates

Date	Advance tax on LTCG		Advance tax on income other than LTCG		Total (a + b)
	Working	Amount (a)	Working	Amount (b)	
15-06-2019	As LTCG occurred on 31/7/2018	Nil	15% of ₹ 28,000	4,200	4,200
15-09-2019	45% of ₹ 52,000	23,400	30% of ₹ 28,000	8,400	31,800
15-12-2019	30% of ₹ 52,000	15,600	30% of ₹ 28,000	8,400	24,000
15-03-2020	25% of ₹ 52,000	13,000	25% of ₹ 28,000	7,000	20,000
Total		52,000		28,000	80,000

4. Compute the amount of advance tax payable by Kamal & Sons (HUF) for the financial year 2019-20 (Mention the relevant dates):

	₹
Income from Business	**3,05,000**
Long term capital gain	**30,000**
Income from other sources	**10,000**
Tax deducted at source	**4,000**

Answer:

Computation of Total Income of Kamal & Sons (HUF) for the previous year 2019-20

Particulars	Amount
Profits & Gains of Business or Profession	3,05,000
Long term capital gain	30,000
Income from Other Sources	10,000
Gross Total Income	**3,45,000**
Less: Deduction under Chapter VIA	Nil
Total Income	**3,45,000**

Computation of Tax Liability of Kamal & Sons (HUF) for the previous year 2019-20

Income	Tax
Long term capital gain (₹ 30,000 @ 20%)	6,000
Balance income (₹ 3,45,000 – ₹ 30,000 = ₹ 3,15,000)	3,250
Tax liability	9,250
Less: Rebate u/s 87A	NA
	9,250
Add: Health & Education cess (4% of ₹ 9,250)	370
Tax and cess liability	9,620
Less: Tax Deducted at Source	4,000
Advance tax to be paid	**5,620**

Since amount of advance tax payable is less than ₹ 10,000, assessee is not liable to pay advance tax.

5. How is the liability to advance tax computed as per provisions of Section 210?

Answer:

Procedure to pay Advance Tax

A. *On assessee's own motion [Sec. 210(1)]*

Procedure for 1st installment

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.

   Note: 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).
4. Add Health and Education cess.
5. Deduct tax deducted or collected at source.
6. The amount so derived is the advance tax payable.

Where the advance tax payable is ₹ 10,000 or more, an appropriate percentage thereof should be deposited.

Procedure for subsequent installments

1. Check if estimate of income made earlier requires revision.
2. If not, deposit appropriate amount of second, third or fourth installment of advance tax.

3. If estimate of income needs revision then make a revised estimate and compute tax liability thereon.
4. Determine advance tax payable in subsequent installments after deducting amount paid in earlier installments.
5. Deposit such advance tax.

B. *On receipt of order from the Assessing Officer [Sec. 210(3) or (4)]*

The A.O. may pass an order and issue a notice of demand u/s 156 requiring the assessee to pay advance tax.

Conditions to be satisfied for issuing such order

- The assessee has already been assessed by way of a regular assessment in any previous year.
- The Assessing Officer is of opinion that such person is liable to pay advance tax.
- Such order can be passed at any time during the financial year but not after last day of February.
- Such order must be made in writing.
- Such order also specifies the amount of advance tax and the installments thereof to be paid by the assessee.

Note: Such order can be issued even if assessee has paid any installment of advance tax during the year, which is, in the opinion of the Assessing Officer, not as per provision of sec. 211.

Determination of advance tax by the Assessing Officer

The amount determined by the Assessing Officer shall be the higher of the following –

- Tax on latest assessed income as per regular assessment; or
- 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 of current income to the Assessing Officer (in Form 28A)

Note: As per sec. 210(4), Assessing Officer can revise his order to pay advance tax at any time before 1st March of the relevant previous year.

Study Note – 18

RETURN & PAN

Learning Objective:

After studying this chapter, students should able to :

- ***understand the filings of different types of returns, their time limits, late filings etc.***
- ***gain knowledge about Permanent Account Number or PAN.***

1. (a) Choose the correct alternative:

(i) One of the following cannot act as a Tax Return Preparer for an assessee –

(a) Chartered Accountant

(b) Advocate

(c) Any officer of a scheduled bank cannot be the TRP of the assessee who maintains a Current account or has other regular dealing with such bank

(d) All of the above

(ii) For applying Tax Deduction and Collection Account Number, a person needs to file application in Form –

(a) 49A

(b) 49B

(c) Plain Paper

(d) TAN Application Form

(iii) The last date of filing return of income u/s 139(1) in case of an individual having business income and not liable to any audit for assessment year 2020-21 is –

(a) last day of the 8th months from the end of the relevant previous year

(b) last day of the 6th months from the end of the relevant previous year

(c) last day of the 12th months from the end of the relevant previous year

(d) last day of the 24th months from the end of the relevant previous year

(iv) Every individual/HUF/AOP/BOI/artificial juridical person has to file the return of income if his total income (including income of any other person in respect of which he is assessable) without giving effect to the provisions of Chapter VIA (i.e., deduction under section 80C to 80U), exceeds _____.

(a) The maximum amount not chargeable to tax

(b) ₹ 2,00,000

(c) ₹ 5,00,000

(d) ₹ 3,00,000

(v) What is the due date of filing the return of income in case of a person who is required to furnish a report in Form No. 3CEB under section 92E?

(a) November 30 of the assessment the year

(b) June 30 of relevant assessment the year

(c) July 31 of the assessment year

(d) September 30 of the assessment year

(vi) Permanent Account Number (PAN) is a _____digit unique alphanumeric number issued by the Income Tax Department.

(a) Ten

(b) Twenty

(c) Fifteen

(d) Five

(vii) Belated Return can be filed within _____

(a) four years from the end of the relevant assessment year.

(b) three years from the end of the relevant assessment year.

(c) two years from the end of the relevant assessment year.

(d) one year from the end of the relevant assessment year.

(viii) Where the karta of a HUF is absent from India, the return of income can be verified by:

(a) any member of the family

(b) any male member of the family

(c) any other adult member of the family

(d) any member holding power of attorney

(ix) Where assessment has not been completed, revised return for the assessment year 2020-21 can be filed upto

(a) 31.03.2021

(b) 31.01.2020

(c) 31.03.2020

(d) 31.12.2021

(x) Following form number is to be used for filing the return of income by a resident individual having business income under presumptive scheme?

(a) ITR 1

(b) ITR 2

(c) ITR 4

(d) ITR 5

Answer:

(i) (d) All of the above

(ii) (b) 49B

(iii) (a) last day of the 8th months from the end of the relevant previous year

(iv) (a) The maximum amount not chargeable to tax

(v) (a) November 30 of the assessment the year

(vi) (a) Ten

(vii) (d) one year from the end of the relevant assessment year.

(viii) (c) any other adult member of the family

(ix) (a) 31.03.2021

(x) (c) ITR 4

1. (b) Match the following:

(i) Belated Return	**(a) Permanent Account Number**
(ii) Revised Return	**(b) Profits and gains of business or profession**
(iii) ITR 3	**(c) Before the end of the relevant assessment year**
(iv) 49A	**(d) Sec. 139(5)**

Answer:

(i) Belated Return	(a) Before the end of the relevant assessment year
(ii) Revised Return	(b) Sec. 139(5)
(iii) ITR 3	(c) Profits and gains of business or profession
(iv) 49A	(d) Permanent Account Number

1. (c) Fill in the blanks:

(i) For the assessment year 2020-21, the due date for filling return of income by an individual who is a non-working partner in a firm whose accounts are audited under Section 44AB of the Income-tax Act, 1961 is _____.

(ii) Sec. 139(1) applies to all persons whether they are _____ or _____.

Answer:

(i) 30.11.2020

(ii) resident or non-resident

2. Write notes on Submission of income-tax returns through Tax Return Preparer

Answer:

Scheme for submission of return through Tax Return Preparers (TRP) [Sec. 139B]

A TRP is an individual who has been authorized to enable any specified class(es) of person[1] to prepare and furnish their returns of income. The scheme framed under the above provision shall specify:

- The manner in which the TRP shall assist the person furnishing the return of income
- The educational and other qualifications to be possessed,
- The training and other conditions required to be fulfilled, by a person to act as a TRP,
- The code of conduct for the TRP,
- Duties and obligation of the TRP
- The manner in which authorization may be withdrawn; and
- Any other matter.

Note: The TRP shall also affix his signature on such return.

[1] *Specified class(es)of person means resident individual and resident HUF other than person whose accounts are required to be audited.*

Person not eligible to become TRP

- *Chartered Accountant*
- *Any legal practitioner who is entitled to practice in any civil court in India.*
- *Any officer of a scheduled bank cannot be the TRP of the assessee who maintains a Current account or has other regular dealing with such bank.*

Educational Qualification of TRP

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

3. M/s. Kunal & Co., a partnership firm, whose turnover is ₹ 62,00,000 filed its return of income on 29-07-2020, showing a loss of ₹ 2,40,000. On 09-12-2020, it is seen that certain expenses to the extent of ₹ 80,000 have been omitted to be claimed. Can a revised return be filed in December, 2020? Will your answer be different if the original return had been filed on 03-01-2021?

Answer:

If an assessee discovers any omission or wrong statement (bonafide in nature) in return originally filed, he can revise his return u/s 139(5), before the end of relevant assessment year or before completion of regular assessment, whichever is earlier. Thus, the assessee can revise its return on or before 31-03-2021 (assuming no assessment is completed). Further, a belated return or loss return can also be revised.

4. What are the due dates for filing the return of income as envisaged by Section 139(1) of the Income Tax Act, 1961?

Answer:

Time limit for filing return of income [Explanation 2 to Sec. 139(1)]

A return should be filed on or before the following due date (of respective assessment year):

Assessee	Due date	
	Earlier	**New**
• Where the assessee is required to furnish in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November	30th November
• Where the assessee is a company not having international transaction(s)	30th September	31st October

• *Any other assessee*		
– Where accounts of the assessee are required to be audited under any law	30th September	31st October
– Where the assessee is a *working partner* (from A.Y. 2020-21, all partner) in a firm and the accounts of the firm are required to be audited under any law	30th September	31st October
– In any other case	31st July	31st July

Impact of Covid 19

Due date in all cases is 30th November 2020.

5. Is e-filling of income-tax return mandatory for all assessees? Also state the assessees for whom the same is mandatory.

Answer:

No, e-filling of income-tax return is not mandatory for all assesses.

1. *Compulsory E-Return*:

Person	Condition	Mode
Company	-	Electronically with digital sign
Political Party	-	
Firm or LLP or Individual or HUF	Audit u/s 44AB required	
Individual or HUF	Where total income assessable during the previous year of a person: a. being an individual of the age of 80 years or more at any time during the previous year; or b. whose income does not exceed ₹ 5 lakh and no refund is claimed in the return of income, and who furnishes the return in Form No. ITR-1 or Form No. ITR-4	Any of the given mode
Any other person		Any mode other than paper mode

2. A resident Individual (other than not-ordinarily resident) or a resident HUF (other than not-ordinarily resident) must file the return of income electronically (with or without digital sign) if he/it has:
   (a) assets (including financial interest in any entity) located outside India; or
   (b) signing authority in any account located outside India.
3. Further, any person who has claimed any relief u/s 90 or 90A or 91, is required to file return electronically.

6. State ten instance /transactions where Permanent Account Number (PAN) or Aadhar Number has to be compulsorily quoted.

Answer:

PAN or Aadhar Number must be quoted in documents pertaining to certain prescribed transactions [Sec. 139A(5)(c) & Rule 114B]

Every person shall quote its PAN in all documents pertaining to following transactions entered into by him –

1. *Transactions relating to sale or purchase of a motor vehicle (other than two wheeled vehicles), which requires registration.
2. *Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank
3. Making application for issue of a credit card or debit card.
4. *Opening of a demat account
5. Payment in cash exceeding ₹ 50,000 to a hotel or restaurant against a bill or bills at any one time
6. Payment in cash exceeding ₹ 50,000 in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time
7. *Payment exceeding ₹ 50,000 to any mutual fund for purchase of its units.
8. *Payment exceeding ₹ 50,000 to a company or an institution for acquiring debentures or bonds issued by it
9. Payment exceeding ₹ 50,000 to RBI for acquiring bonds issued by it.
10. *Deposit in cash exceeding ₹ 50,000 during any one day with a banking company or a co-operative bank
11. Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank in cash for an amount exceeding ₹ 50,000 during any one day
12. *A time deposit of an amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year with: (i) a banking company or a co-operative bank; or (ii) a Post Office; or (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or (iv) a non-banking financial company
13. 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 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 u/s 18 of the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank
14. *Payment aggregating to more than ₹ 50,000 in a financial year as life insurance premium to an insurer
15. *A contract for sale or purchase of securities (other than shares) where transaction value exceeds ₹ 1 lakh
16. *Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange where transaction value exceeds ₹ 1 lakh

17. *Sale or purchase of any immovable property where amount exceeds ₹ 10 lakh or stamp value exceeds ₹ 10 lakh
18. Sale or purchase, by any person, of goods or services of any nature other than those specified above where transaction value exceeds ₹ 2 lakh

Note:

i) Where a person, entering into any of the aforesaid transaction, is a minor and who does not have any income chargeable to tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction

ii) Any person who does not have a PAN and who enters into any of the aforesaid transaction, he shall make a declaration in Form No.60 giving therein the particulars of such transaction.

iii) The provisions of this rule shall not apply to the following class or classes of persons, namely:

- the Central Government, the State Governments and the Consular Offices;
- the non-residents in respect of the transactions other than a transaction referred above with *****.

7. State the due dates for filing of return of income under section 139(1) of Income-tax Act, 1961 in the following cases, for the assessment year 2020-21:

(i) By a non-working partner of LLP, whose accounts are required to be audited under section 44AB;

(ii) By a company which has entered into international transactions with a non-resident and is required to file audit report in this regard;

(iii) By a University whose gross free receipts are ₹ 3 crores.

Answer:

(i) 30-11-2020

(ii) 30-11-2020

(iii) 30-11-2020

8. Is there any fee levied for filing belated return?

Answer:

Fee for default in furnishing return of income [Sec. 234F]

Where a person required to furnish a return of income u/s 139, fails to do so within the due date, he shall pay fee of:

Case	Fee
Total income does not exceed ₹ 5 lakh	₹ 1,000
Total income exceeds ₹ 5 laks	
If the return is furnished on or before 31st December of the assessment year	₹ 5,000
In any other case	₹ 10,000

9. State the time allowed u/s 139(4) to submit a belated return for the P.Y. 2019-20 in the following cases -

a) No assessment is made u/s 144.

b) Assessee failed to respond to notice u/s 142(1), served on 5/11/2020 (time allowed in such notice to submit return is 5/12/2020) but no assessment is made u/s 144.

c) Assessee failed to respond to notice u/s 142(1), served on 5/11/2020 (time allowed in such notice to submit return is 5/12/2020) and assessment u/s 144 is completed on 7/3/2021.

d) Assessee failed to respond to notice u/s 142(1), served on 5/11/2020 (time allowed in such notice to submit return is 5/12/2020) and assessment u/s 144 is completed on 7/3/2021. However, assessee has received the assessment order on 5/4/2021.

Answer:

(a) 31/3/2021

(b) 31/3/2021

(c) 7/3/2021

(d) 7/3/2021

10. Compulsory filing of return by a person, other than not ordinarily resident

Answer:

A person, being resident other than not ordinarily resident, shall furnish, a return, within due date, in respect of his income or loss for the previous year irrespective of the fact that his total income does not exceed basic exemption limit or does not have any taxable income, if he:

(i) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(ii) is a beneficiary of any asset (including any financial interest in any entity) located outside India.

***Exception*:** An individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred above in accordance with the provisions of this Act.

- "Beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.
- "Beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

Mandatory furnishing of return in case of high value transactions [7th proviso to sec. 139(1)]

A person (other than firm and company), who is not required to furnish a return as per aforesaid provision, and who during the previous year:

(a) has deposited an aggregate amount exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or

(b) has incurred expenditure of an aggregate amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or

(c) has incurred expenditure of an aggregate amount exceeding ₹ 1 lakh towards consumption of electricity; or

(d) fulfils such other conditions as may be prescribed,

shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be prescribed.

Study Note – 19

ASSESSMENT PROCEDURE

Learning Objective:

After studying this chapter, students should able to :

- ***understand the different aspects of Assessment***

1. (a) Choose the correct alternative:

(i) Where an application for rectification is made by an assessee, order u/s 154 can be made within –

(a) 4 years from the end of the financial year in which the order sought to be amended was passed

(b) 4 years from the date of the order sought to be amended was passed

(c) 12 months from the end of the financial year in which the order sought to be amended was passed

(d) 6 months from the end of the month in which the application is received by the authority

(ii) Assessment is required to be completed within specified time frame. However, while computing such time following period shall be excluded –

(a) Time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to sec. 129

(b) Period during which the assessment proceeding is stayed by an order or injunction of a court

(c) Both (a) and (b)

(d) None of the above as time limit for assessment cannot be increased in any circumstances

(iii) In one of the following cases, assessment u/s 144 shall be made:

(a) Where person fails to file the return u/s 139(1), 139(4) or 139(5)

(b) Where person fails to comply with the directions u/s 142(2A)

(c) Where person fails to comply with the terms of notice u/s 143(2)

(d) All of the above

(iv) Regular assessment means assessment made under section —

(a) 143 (3)

(b) 147

(c) Both (A) and (B) above

(d) None of the above

(v) If there is an apparent error in the intimation dated 11th June, 2020, issued under section 143(1), the time-limit for filing application for rectification under section 154 is available up to —

(a) 31st March, 2024

(b) 31st March, 2025

(c) 31st March, 2021

(d) 31st October, 2020

Answer:

(i) (d) 6 months from the end of the month in which the application is received by the authority

(ii) (c) Both (a) and (b)

(iii) (d) All of the above

(iv) (a) 143 (3)

(v) (b) 31st March, 2025

1. (b) Match the following:

(i) Best Judgment Assessment	**(a) Sec. 140A**
(ii) Scrutiny Assessment	**(b) Sec. 154**
(iii) Self Assessment	**(c) Sec. 144**
(iv) Rectification of Mistake	**(d) Sec. 143(3)**

Answer:

(i) Best Judgment Assessment	(a) Sec. 144
(ii) Scrutiny Assessment	(b) Sec. 143(3)
(iii) Self Assessment	(c) Sec. 140A
(iv) Rectification of Mistake	(d) Sec. 154

1. (c) Fill in the blanks:

(i) Assessment u/s 144 should be completed within _____ from the end of relevant assessment year

(ii) No notice u/s 143(2) shall be served on the assessee after the expiry of _____ from the end of the financial year in which the return is furnished.

Answer:

(ii) 12 months;

(ii) 6 months

2. Briefly discuss the provisions of section 142(2A) of the Income-tax Act, 1961 relating to special audit.

Answer:

Giving direction to get books of account audited [Sec. 142(2A) to (2D)]

The Assessing Officer (after giving reasonable opportunity to the assessee) may direct the assessee to get his accounts audited if he is of the opinion that it is necessary to do so having regard to the -

- nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee; and
- interest of revenue.

Such direction can be issued even if the accounts of the assessee have already been audited u/s 44AB or any other law for the time being in force

Notes:

a. Such direction can be issued only with the prior approval of the Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner.

b. The Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner nominates such auditor.

c. Such order can be issued at any stage of the proceedings before the Assessing Officer. However, no such order shall be issued after the completion of assessment/reassessment.

Time Limit for audit report: The audit report shall be furnished by the assessee within the period specified by the Assessing Officer. The Assessing Officer has power to extend such period on an application made by the assessee or *suomotu*. However, the aggregate period (fixed originally and extended) shall not exceed 180 days from the date on which such direction is received by the assessee.

Form of audit report: The chartered accountant shall submit the report in Form 6B to the assessee. Thereafter such report is to be submitted by the assessee to the Assessing Officer within such period as allowed by the Assessing Officer.

Audit fees: The audit fees and audit expenditure shall be determined by the Principle Chief Commissioner / Principle Commissioner / Chief Commissioner / Commissioner (which shall be final) and paid by the Central Government.

Consequences of failure to get books of account audited: In case assessee fails to get books of account audited, it -

- will be liable to Best Judgment Assessment u/s 144; and
- attracts penalty and prosecution.

Note: Penalty etc. are attracted only if there is a default by the assessee. If accountant nominated by the Commissioner refuses to audit the accounts, the assessee cannot be held responsible

3. Discuss the power of Joint Commissioner u/s 144A

Answer:

Power of Joint Commissioner to issue directions in certain cases [Sec. 144A]

Joint Commissioner may (on his own motion or on a reference being made to him by the Assessing Officer or on the application of an assessee) -

a) Call for and examine the record of any proceeding in which an assessment is pending; and

b) Having regard to the nature of the case or the amount involved or for any other reason,

- issue such directions as he thinks fit for the guidance of the Assessing Officer to enable him to complete the assessment and such directions shall be binding on the Assessing Officer.

Note: Directions, which are prejudicial to the assessee, shall not be issued without giving the assessee an opportunity of being heard. However, direction of investigation shall not be deemed to be a direction prejudicial to the assessee.

4. State the time limit prescribed for passing the following order the Income Tax Act:

(i) An order of assessment by the Assessing Officer u/s 143(3);

(ii) An order of assessment by the Assessing Officer u/s 144;

(iii) A suo-moto rectification order by the Assessing Officer u/s 154;

Answer:

(i) 12 months from the end of relevant assessment year.

(ii) 12 months from the end of relevant assessment year.

(iii) 4 years from the end of the financial year in which the order sought to be amended was passed

5. Distinguish between: 'Tax audit under section 44AB' and 'special audit under section 142(2A)'

Answer:

The difference between tax audit u/s 44AB and audit u/s 142(2A) are as under:

Point of difference	Tax Audit u/s 44AB	Special Audit u/s 142(2A)
Requirement	The tax audit is mandatory in nature and is required to be done in all applicable case.	The special audit is at the direction of the Assessing Office
Appointment of auditor	Auditor is appointed by the assessee	Auditor is appointed is appointed by the Assessing Officer with the prior approval of the Chief Commissioner or commissioner.
Completion of Audit	The tax audit report should be furnished one month prior to the due date of submission of return of income u/s 139(1). Hence, tax audit report should be furnished by 30th Sept of the relevant assessment year. For assessment year 2020-21, such report is required to be furnish by 31-10-2020.	The audit report shall be furnished by the assessee within the period specified by the Assessing Officer. The Assessing Officer has power to extend such period on an application made by the assessee or *suomotu*. However, the aggregate period (fixed originally and extended) shall not exceed 180 days from the date on which such direction is received by the assessee.
Form	Form 3CA (or Form 3CB) with Form 3CD	Form 6B
Fees	Fees to the auditor is required to be paid by the assessee	Fees to the auditor shall be paid by the Central Government.
Penalty	Failure to complete and furnish tax audit report within prescribed time attracts penalty u/s 271B. The quantum of penalty is lower of the following: **a.** ½% of turnover; or **b.** ₹ 1,50,000	Failure to comply with direction issued u/s 142(2A) attracts penalty of ₹ 10,000 u/s 271(1)(b).

6. Explain briefly the provision related to assessment u/s 143(3).

Answer:

Scrutiny Assessment u/s 143(3)

Where the Assessing Officer or the prescribed income-tax authority (here-in-after collectively referred to as 'Assessing Officer') considers it necessary to ensure that the assessee has not -

- understated his income; or
- declared excessive loss; or
- under paid the tax,

he can make a scrutiny in this regard and gather such information and evidence as he deems fit. And on the basis of such information and evidence so collected, he shall pass an assessment order. Such order shall be treated as regular assessment order.

Conditions for scrutiny assessment

- A return has been furnished u/s 139 or in response to a notice u/s 142(1); and
- Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated his income, declared excessive loss or under-paid the tax.

Procedure

Notice for scrutiny [Sec. 143(2)]

Assessing Officer shall serve on the assessee a notice requiring the assessee, on a date specified in the notice, to produce, or cause to be produced, any evidence on which assessee may rely, in support of the return.

Time limit of notice

No notice shall be served on the assessee after the expiry of 6 months from the end of the financial year in which the return is furnished.

Order

After collecting such information and hearing such evidence as the assessee produces in response to the notice u/s 143(2) and after taking into account all relevant materials, which the Assessing Officer has gathered;

The Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

Time limit for completion of scrutiny assessment

Assessment u/s 143(3) should be completed within 12 months from the end of the relevant assessment year.

7. What is 'Self-assessment'? What are the consequences of non-payment of tax on self-assessment

Answer:

Self-Assessment [Sec. 140A]

In self-assessment, assessee itself is responsible to determine its taxable income, tax liability and to pay tax accordingly. Provision of sec. 140A is as follows -

(a) Where any tax is payable (after deducting relief, rebate, advance payment of tax or tax deducted or collected at source or MAT or AMT credit, if any) on the basis of return furnished the assessee is required to pay such tax before filing the return.

Taxpoint: A return furnished without paying self-assessment tax & interest, if any, shall be treated as defective return.

(b) If any interest is payable for delayed filing of return (u/s 234A) or default in payment of advance tax (u/s 234B) or for deferment of advance tax (u/s 234C) or fee (u/s 234F) is payable for filing return after due date, then such interest or fee should be paid along with self-assessment tax.

Note: While calculating above interest for the purpose of self-assessment, tax on the total income declared in the return shall be considered.

(c) Where the amount paid by the assessee falls short of the aggregate of tax, interest and fee, the amount so paid shall first be adjusted towards fee and thereafter towards interest payable and the balance, if any, shall be adjusted towards tax payable.

(d) After assessment, any amount paid under this section shall be deemed to have been paid towards such assessment.

(e) If an assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of sec. 140A, he shall be deemed to be an *assessee in default*.

8. 'Compulsory best judgment assessment' and 'discretionary best judgment assessment'. Discuss

Answer:

In the following situations, best judgment assessment shall be compulsorily made under section 144 after issuing show cause notice (in some cases without issuing such notice) to the assessee -

a. If the person fails to file the return u/s 139(1), 139(4) or 139(5); or

b. If the person fails to comply with the terms of notice u/s 142(1); or

c. If the person fails to comply with the directions u/s 142(2A) requiring him to get his accounts audited; or

d. If the person fails to comply with the terms of notice u/s 143(2), requiring his presence or production of evidence and documents.

Non-maintenance of proper accounts: As per sec. 145(3), if the Assessing Officer is not satisfied with the correctness or the completeness of the accounts of the assessee or if no regular method of accountancy or accounting standards [as notified by the Central Government u/s 145(2)] is followed by the assessee, the Assessing Officer may make an assessment in the manner provided u/s 144.

Study Note – 20

INCOME COMPUTATION AND DISCLOSURE STANDARDS

Learning Objective:

After studying this chapter, students should able to :

- ***gain knowledge about Income Computation and Disclosure Standards (ICDS).***

1. (a) Choose the correct alternative:

(i) ICDS ____ deals with Tangible Fixed Assets

(a) VI

(b) V

(c) VIII

(d) X

(ii) One of the following is not fundamental accounting assumption as specified in ICDS I

(a) Accrual Basis

(b) Going Concern

(c) Consistency

(d) Matching Concept

(iii) ICDS IV deals with _____

(a) revenue recognition

(b) construction contracts

(c) government grants

(d) none of the above

(iv) The comparative Accounting Standard with ICDS III is

(a) AS 7

(b) AS 9

(c) AS 2

(d) AS 10

(v) *Borrowing costs* are interest and other costs incurred by a person in connection with the borrowing of funds and include:

(a) commitment charges on borrowings;

(b) amortised amount of discounts or premiums relating to borrowings;

(c) amortised amount of ancillary costs incurred in connection with the arrangement of borrowings;

(d) All of the above

Answer:

(i) (b) V

(ii) (d) Matching Concept

(iii) (a) revenue recognition

(iv) (a) AS 7

(v) (d) All of the above

1. (b) Match the following:

(i) ICDS III	**(a) Effects of change in Foreign Exchange Rates**
(ii) ICDS VI	**(b) Borrowing Costs**
(iii) ICDS II	**(c) Construction Contracts**
(iv) ICDS IX	**(d) Valuation of Inventories**

Answer:

(i) ICDS III	(a) Construction Contracts
(ii) ICDS VI	(b) Effects of change in Foreign Exchange Rates
(iii) ICDS II	(c) Valuation of Inventories
(iv) ICDS IX	(d) Borrowing Costs

1. (c) Fill in the blanks:

(i) In case of conflict between the provision of the Income-tax Act and the provision of the ICDS, the provision of _____ shall prevail to that extent.

(ii) As per ICDS III, fixed price contract is a construction contract in which the contractor agrees to a fixed contract price, or a fixed rate per unit of output, which may be subject to _____

Answer:

(i) the Income-tax Act;

(ii) cost escalation clauses

2. Write a brief note in respect of ICDS VIII

Answer:

ICDS VIII: Securities

Scope

- This part of the Standard deals with securities held as stock-in-trade. However, this part of the Standard does not deal with:
  a. the bases for recognition of interest and dividends on securities;
  b. securities held by a person engaged in the business of insurance;
  c. securities held by mutual funds, venture capital funds, banks and public financial institutions formed under a Central or a State Act or so declared under the Companies Act, 1956 or the Companies Act, 2013
- *Securities* shall have the meaning assigned to it in sec. 2(h) of the Securities Contracts (Regulation) Act, 1956 and shall include share of a company in which public are not substantially interested but shall not include derivatives.

Recognition and Initial Measurement of Securities

- A security on acquisition shall be recognised at actual cost i.e., its purchase price + acquisition charges such as brokerage, fees, tax, duty or cess.
- Where a security is acquired in exchange for other securities or other asset, the fair value of the security so acquired shall be its actual cost.
- *Fair value* is the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.

- Where unpaid interest has accrued before the acquisition of an interest-bearing security and is included in the price paid for the security, the subsequent receipt of interest is allocated between pre-acquisition and post-acquisition periods; the pre-acquisition portion of the interest is deducted from the actual cost.

Subsequent Measurement of Securities

- At the end of any previous year, securities held as stock-in-trade shall be valued at actual cost initially recognised or net realisable value at the end of that previous year, whichever is lower.
- The comparison of actual cost initially recognised and net realisable value shall be done categorywise (viz., shares; debt securities; convertible securities; and any other securities) and not for each individual security.
- Securities not listed on a recognised stock exchange or listed but not quoted on a recognised stock exchange shall be valued at actual cost initially recognised.

3. Preamble of ICDS-I states that this ICDS is applicable for computation of income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" and not for the purposes of maintenance of books of accounts. However, Para 1 of ICDS I states that it deals with significant accounting policies. Accounting policies are applied for maintenance of books of accounts and preparing financial statements. What is the interplay between ICDS-I and maintenance of books of accounts?

Answer:

As stated in the Preamble, ICDS is not meant for maintenance of books of accounts or preparing financial statements. Persons are required to maintain books of accounts and prepare financial statements as per accounting policies applicable to them. For example, companies are required to maintain books of account and prepare financial statements as per requirements of Companies Act 2013. The accounting policies mentioned in ICDS-I being fundamental in nature shall be applicable for computing income under the heads "Profits and gains of business or profession" or "Income from other sources".

4. What is required to be disclose in respect of ICDS III: Construction Contracts

Answer:

Disclosure requirement as per ICDS III: Construction Contracts

- A person shall disclose:
  a. the amount of contract revenue recognised as revenue in the period; and
  b. the methods used to determine the stage of completion of contracts in progress.
- A person shall disclose the following for contracts in progress at the reporting date:
  a. amount of costs incurred and recognised profits (less recognised losses) upto the reporting date;
  b. the amount of advances received; and
  c. the amount of retentions.

5. Discuss the scope of ICDS IV: Revenue Recognition

Answer:

ICDS IV: Revenue Recognition deals with the bases for recognition of revenue arising in the course of the ordinary activities of a person from:

a) the sale of goods;

b) the rendering of services;

c) the use by others of the person's resources yielding interest, royalties or dividends.

- *Revenue* is the gross inflow of cash, receivables or other consideration arising in the course of the ordinary activities of a person from the sale of goods, from the rendering of services, or from the use by others of the person's resources yielding interest, royalties or dividends. In an agency relationship, the revenue is the amount of commission and not the gross inflow of cash, receivables or other consideration.
- The Standard does not deal with the aspects of revenue recognition which are dealt with by other ICDS.

6. Discuss the treatment of government grants as specified in ICDS VII

Answer:

As per ICDS VII, government grants shall be treated as under:

Grant Relates to	Treatment
Depreciable fixed asset	The grant shall be deducted from the actual cost of the asset or from the written down value of block of assets
Non-depreciable asset requiring fulfillment of certain obligations	The grant shall be recognised as income over the same period over which the cost of meeting such obligations is charged to income
Not directly relatable to the asset acquired	Proportionate amount shall be deducted from the actual cost of the assets or shall be reduced from the written down value of block of assets to which the assets belonged to.
Receivable as compensation for expenses or losses incurred in a previous financial year or for the purpose of giving immediate financial support to the person with no further related costs	The grant shall be recognised as income of the period in which it is receivable
In other case	Grants shall be recognised as income over the periods necessary to match them with the related costs which they are intended to compensate

- The Government grants in the form of non-monetary assets, given at a concessional rate, shall be accounted for on the basis of their acquisition cost.

7. What do you mean by borrowing cost?

Answer:

As per ICDS IX, borrowing costs are interest and other costs incurred by a person in connection with the borrowing of funds and include:

(a) commitment charges on borrowings;

(b) amortised amount of discounts or premiums relating to borrowings;

(c) amortised amount of ancillary costs incurred in connection with the arrangement of borrowings;

(d) finance charges in respect of assets acquired under finance leases or under other similar arrangements.

8. What is required to be disclosed relating to provisions.

Answer:

As per ICDS X, following disclosure shall be made in respect of each class of provision:

(a) a brief description of the nature of the obligation;

(b) the carrying amount at the beginning and end of the previous year;

(c) additional provisions made during the previous year, including increases to existing provisions;

(d) amounts used, that is incurred and charged against the provision, during the previous year;

(e) unused amounts reversed during the previous year; and

(f) the amount of any expected reimbursement, stating the amount of any asset that has been recognised for that expected reimbursement.

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