

# **DIRECT TAX**

## **MANUAL**

**CA INTERMEDIATE MAY/NOVEMBER 2019**  
**CS EXECUTIVE JUNE/DECEMBER 2019**

### **CONCEPT BOOK**

**QUESTIONs ON ALL CONCEPTS**

**FOR AY 2019-20**

**COLOUR  
EDITION**

**YOUR WORRIES FOR DIRECT TAX ENDS HERE !!**

**GROWTH AND COMFORT**

**DO NOT CO-EXIST**

**CA PRANAV PRAMODJI CHANDAK**

## **ACKNOWLEDGEMENT**

Writing a book is harder than I thought and more rewarding than I could have ever imagined.

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THANKING YOU ALL !!

**CA PRANAV PRAMODJI CHANDAK**

# COLOUR THEORY OF BOOK

 **DARK BLUE** - CHAPTER HEADING

 **DARK RED** - CONCEPT/SECTION HEADING

 **GREEN** - SUB-CONCEPT/SUB-SECTION HEADING

 **LIGHT BLUE** - 3<sup>rd</sup> HEADING/CLASSIFICATION

 **PINK** - POINTS TO REMEMBER/NOTES/HIGHLIGHTER

 **VIOLET** - IMPORTANT WORDS

 **ORANGE** - QUESTIONS/EXAMPLES

# INDEX & STUDY SCHEDULE

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12	Total Computation	Will be Covered in Question Bank.				

**PC Note:** Students should Revise the subject at least twice before the final Revision during exams.

## **DID YOU REVISE ????**

### **PLAN YOUR SCHEDULE TO COPE UP WITH THE VAST SYLLABUS**

SN	Name of the Chapter	Fill the Date of Completion			
		Class	Self Study	1 <sup>st</sup> Revision	2 <sup>nd</sup> Revision
1	Basic Concepts of Income Tax				
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6	Set off & Carry Forward of Losses				
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# 1. BASIC CONCEPTS OF INCOME TAX

## WHAT IS TAX ?

- Tax is “Compulsory Extortion of Money” by the government.
- It is the financial charge (fee) imposed by the Government on income, commodity or activity.

## WHY ARE TAXES LEVIED ?

- Taxes constitute the basic source of revenue to the Government which are utilized for meeting the expenses of Government like defence, provision of education, health-care, infrastructure facilities like roads, dams etc.

## TAXATION SYSTEM IN INDIA

- In India, Constitution (CoI) is the parent law. All other laws should be enacted (made) without exceeding the framework of CoI & subject to the norms (T&C) laid down in it.
- Article 265 of CoI provides that no tax shall be levied or collected except by authority of law. Further, the law imposing the tax must not violate any fundamental right.
- CoI empowers Central Government (CG) & State Government to levy & collect tax on Income.
- Parliament (Union) & SG are empowered to levy taxes by virtue of Article 246 of CoI.
- Entry 82 of Union List (List I to Seventh Schedule of CoI) gives power to Parliament to levy taxes on Income other than Agricultural Income.
- Seventh Schedule to Article 246 contains three lists which enumerate the matters under which the Union & SGs have the authority to make laws for the purpose of levy of taxes.

The following are the lists:

- (i) Union List: CG has exclusive power to make laws on the matters contained in Union List.
- (ii) State List: SG has exclusive power to make laws on matters contained in the State List.
- (iii) Concurrent List: Both CG & SG have power to make laws on matters contained in this list.

## TYPES OF TAXES

Particulars	Direct Tax	Indirect Tax
Levied on	▪ Income/wealth of the person.	▪ Price of Goods or Services
Shifting of burden	▪ There is No Shifting of burden. ▪ Direct Taxes are directly borne by the taxpayer	▪ Tax burden is shifted to subsequent buyer/user. ▪ Thus whole burden falls on final consumer.
Time of Collection	▪ Collected on yearly basis.	▪ Collected at the time of sale/purchase of goods or rendering of services.
Examples	▪ Income tax, Tax on undisclosed foreign Income or Assets.	▪ GST, Custom duty.

## COMPONENTS OF INCOME TAX LAWS

### A. INCOME TAX ACT, 1961

- It came into force on **1<sup>st</sup> April, 1962**. The act contains **298 sections** & **XIV schedules**.
- A section may have **sub-sections, clauses & sub-clauses**.
  - **Ex:** Clause (1A) of Section 2 defines “agricultural income”, Clause (1B) defines “amalgamation”.
  - Section 5 defining the scope of total income has two sub-sections (1) & (2).  
Sub-section (1) defines the scope of total income of a resident;  
Sub-section (2) defines the scope of total income of a non-resident.
- A Section may also have **Provisos & Explanations**.
  - **Proviso** gives the **exceptions to the provision** contained in the respective section, sub-section/clause. (Proviso gives the cases where the provision contained in the respective section/sub-section/clause **would not apply** or where the provision would **apply with certain modification**).
  - **Explanation** gives **clarification** relating to the provision contained in that section, sub-section/clause.
- The Act (since it is **Revenue-based Act**) undergo changes every year with additions & deletions brought by the **Annual Finance Act** passed by the parliament.

### B. ANNUAL FINANCE ACT

- Every year, **Finance Minister Introduces the Finance Bill** in Parliament’s Budget session.
  - **Part A** of budget speech contains the **proposed policies of government in fiscal area**.
  - **Part B** of budget speech contains the **detailed tax proposals**.
- When the **Finance Bill** is **passed** by **both the houses of the Parliament** & gets the **assent** of the **President**, it becomes the **Finance Act** which is incorporated in the Income-Tax Act.
- Amendments are made every year to the Act & other tax laws by the Finance Act.
- The **First Schedule** to the Finance Act contains four parts which **specify the rates of tax**.
  - **Part I: Rate of Tax** applicable for the current Assessment Year.
  - **Part II: Rate of TDS** for the current Financial Year.
  - **Part III: Rate of Advance Tax** & Rate of tax to be deducted from income u/h ‘Salaries’.
  - **Part IV: Rules for computing Net Agricultural Income**.

### C. INCOME TAX RULES

- The CBDT is empowered to make rules for **proper administration** of the ACT.
  - **Ex:** Sec 32 states that depreciation will be allowed as deduction but the rates for computation of depreciation are given by Rule 5.
- Rules also have **sub-rules, provisos and Explanations**.

### D. NOTIFICATIONS

- Notifications are **subordinate legislation issued by CG** to give effect to the provisions of the Act.
- The CBDT is also empowered to **make & amend rules by issuing notifications**.
- They are **binding on everyone**. [Assessee + Income Tax department]

## **E. CIRCULARS**

- Circulars are issued by the CBDT to deal with **certain specific problems & to clarify the doubts regarding the scope & meaning of the provisions** of the law.
- Circulars provide guidance to the Income Tax officers & Assesseees.
- These circulars are **binding on the department but not on the assessee**.
- However assessee can take advantage of beneficial circulars.

## **F. CASE LAWS (JUDICIAL DECISIONS)**

- It is not possible for the parliament to provide for all possible issues that may arise in the implementation of any act. Hence the judiciary will hear the disputes between the assesseees & the Income tax Department & give its decisions.
- **Supreme Court Decisions** becomes Judicial Precedent (Law) & are **binding on all the courts, Appellate Tribunal, Income Tax Authorities & on Assesseees**.
- High Court decisions are binding on the Assesseees & Income Tax Authorities which come under its jurisdiction unless it is overruled by a higher authority (Supreme Court).
- **Decision of a High Court cannot bind other High Court.**

## **SIGNIFICANCE OF SOME TERMS USED IN THE ACT [Not for Exams]**

### **1. MEANS**

- When a definition uses a word “means”, the definition is **self-explanatory, restrictive & exhaustive**.
- It implies that the **term defined is limited** only to the **extent specified** as & **nothing else**.
- There is **no scope of assumption** in such definition.

### **2. INCLUDES**

- When a definition uses a word “includes”, it provides an **illustrative meaning & not an exhaustive meaning**.
- It is used when an exhaustive definition cannot be given, or the government wants to keep the scope of the definition open.
- Such a definition does not confine the scope of income but leaves room for more inclusions within the ambit of the term.
- Such definition can include **“what is not specifically stated or mentioned in the definition” if the specified criteria are satisfied**.

### **3. MEANS & INCLUDES**

- When a legislature intends to define a term or expression to mean something & also intends to specify certain items to be included.
- Such a definition is **Exhaustive AND also illustrative** in specifying what is intended to be included.
- **Generally used to avoid ambiguity & with a view to provide clarity.**



## LEVY/CHARGE OF INCOME TAX [SECTION 4]

- Income-tax is a tax levied on the **total income of the Previous Year** of every person (Section 4).

**Procedure for computation of TI of the person for levy of Income tax is as follows:**

Step 1 - Determination of Residential Status.
Step 2 - Classification of Income under 5 different heads.
Step 3 - Computation of Income under each head.
Step 4 - Clubbing of income of spouse, minor child etc.
Step 5 - Set-off or carry forward and set-off of losses.
Step 6 - Computation of Gross Total Income [Net Result of Step 1 – 5].
Step 7 - Deductions from Gross Total Income. [Payment based/Income Based deductions].
Step 8 - Total income [GTI – Deductions under Step 7].
Step 9 - Application of Rates of Tax on the total income.
Step 10 - Surcharge / Rebate u/s 87A.
Step 11 - Health & Education Cess on Income Tax.
Step 12 - Advance tax & TDS.
Step 13 - Tax Payable/Tax Refundable.

**We will study all the above steps in details in the respective chapters.**

## SOME IMPORTANT DEFINITIONS

- ❖ **Terms defined in the Act:** Section 2 gives definitions of various terms used in the Act. If a particular definition is given in the Act itself, we will have to use that definition only.
- ❖ **Terms not defined under the Act:** If a particular definition is not given in the Act, reference is to be made to the General Clauses Act or dictionaries, day to day meanings.

### 1. INDIA [SECTION 2(25A)]

- The term 'India' means –

- **Territory of India** as per Article 1 of the Constitution,
- Territorial Waters of India (**TWI**), **seabed** and **subsoil** underlying such waters,
- **Continental Shelf**,
- **Exclusive Economic Zone**;
- Any other specified **maritime zone** & **air space above** its **territory & TWI**.

Specified maritime zone means the maritime zone as referred to in Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

## 2. ASSESSEE - [SECTION 2(7)]

- Any person by whom **any tax or any other sum of money is payable** under this Act.
- It includes –
  - (a) **Tax Payable:** Every Person by whom any **tax** or **any other sum** of money **is payable** under this Act **whether or not any proceeding** under this act has started against him.
  - (b) **Proceeding started:** Any Person in respect of whom any **proceeding** under the act has been **taken whether or not any tax**, interest or penalty is **payable** by him under this act.  
Proceeding may be taken for/of -
    - **Assessment of his income (or loss)** sustained by him;
    - **Income (or loss)** of **any other person** in **respect** of whom **he is assessable**;
    - **Refund** due to him or to such other person.
    - Assessment of **Fringe Benefits**.
  - (c) **Deemed Assessee:** Sometimes, a person becomes **assessable** in respect of the **income of some other persons**. In such a case, he may be deemed as an assessee.
  - (d) **Representative Assessee:** Sometimes a person may be assessed for **Income of another person**. Such person is known as representative assessee.  
**Ex: Legal Heir** is assessable for the income of deceased person.
  - (e) **Assessee in default:** Any person who does **not deduct tax at source** or after deducting tax, **fails to pay** deducted tax to the **government** or who **fails to pay advance tax** is deemed to be assessee in default u/s **[201(1)]/218**.

### Examples:

1. Income of X (Age: 35 years) is Rs. 2,50,000 for AY 2019-20. He does not file his ROI since his income is below BEL. No action/proceeding is initiated by IT Department. He is not assessee because no tax/any other sum is due from X.
2. Income of Y (Age: 38 years) is Rs. 2,55,000 for AY 2019-20. He does not file his ROI. Since he is supposed to pay tax by filing ROI, (income being more than BEL of Rs. 2,50,000), he is an “assessee”.
3. Income of Z (age: 51 years) is Rs. 75,000 for AY 2019-20. He files his ROI (even if his taxable income is < BEL). Assessment order is passed by AO without any adjustment. Z is an “assessee” since he files his ROI.
4. Income of A for AY 2019-20 is (Rs. 60,000). He files his ROI to carry forward such loss. He is an “assessee”.
5. Income of B (Age: 28 years) is < BEL for AY 2019-20. He files his ROI to claim refund of TDS by X Ltd. on interest paid to him. B is an “assessee”.
6. Income of C (Age: 30 Years) is < BEL for AY 2019-20. He does not file his ROI. During PY 2018-19, he has paid salary of Rs. 2,90,000 to an employee. Though he was supposed to deduct tax at source, yet due to ignorance of law, no tax is deducted by him. C is an assessee as he has failed to deduct tax at source. [Assessee in Default].

## 3. ASSESSMENT [SECTION 2(8)]

- This is the procedure by which the income of an assessee is determined by AO.
- It may be normal assessment or by way of reassessment of an income previously assessed.

**Note:** Students will study different types of Assessment in CA – FINAL.

#### 4. PERSON [SECTION 2(31)]

##### AN INDIVIDUAL

- Individual means **only A Natural Human Being** (Male/Female/Minor/Unsound Mind).

**Note:** Income of Minor & Person of unsound Mind → Assessed in hands of Manager/Guardian u/s 161(1).

In the case of Deceased person, assessment would be made on the legal representative.

##### HINDU UNDIVIDED FAMILY

- HUF is **not defined** under IT Act. However, it is treated as **separate entity** under IT Act.
- As per **Hindu Law**, it consists of **all males lineally descended** from a common ancestor & **includes their wives & unmarried daughters**.
- The Status in HUF is received **by birth** & **not by operation of law**.
- Even a **single male** member **can have HUF** (w.e.f 6/9/2005).
- Only **Co-parceners** have the **right to Partition**.
- **Coparceners** → HUF may contain many members, but only members within **4 degrees** including KARTA are called **co-parceners** (including daughters w.e.f 6/9/2005).

**Note:** wife/ daughter-in-law cannot be co-parceners; however they can be members.

- **Jain & Sikh undivided families** would also be assessed as a HUF under IT Act.

##### **DIFFERENT OPINIONS OF SCHOOLS OF HINDU LAWS**

<b>Dayabaga school of Hindu law</b>	<b>Mitakshara school of Hindu law</b>
<ul style="list-style-type: none"><li>▪ Prevalent in <b>West Bengal &amp; Assam</b></li></ul>	<ul style="list-style-type: none"><li>▪ Prevalent in the <b>Rest of India</b></li></ul>
<ul style="list-style-type: none"><li>▪ <b>Nobody acquires the right, share in the property by birth if karta is alive.</b></li><li>▪ Thus, the children do not acquire any right, share in the family property, if his father is alive &amp; children will acquire right/share in the property only after the death of his father.</li><li>▪ Hence, <b>father &amp; his brothers</b> would be the <b>coparceners</b> of the HUF.</li></ul>	<ul style="list-style-type: none"><li>▪ <b>One acquires the right to the family property by his birth &amp; not by succession irrespective of the fact that his elders are living.</b></li><li>▪ Thus, every child born in the family acquires a right/share in the family property.</li><li>▪ Hence, <b>every child</b> will also be <b>co-parcener of the HUF</b>.</li></ul>

##### COMPANY [SECTION 2(17)]

- 'Company' has a much wider meaning under Income Tax Act than Companies Act.

- It means:

- Any **Indian Company** defined in section 2(26);
- Any Body Corporate incorporated under the foreign laws [**Foreign company**];
- Any institution, association or body (incorporated/not) whether Indian or non-Indian, which is **declared** by general or special order of **CBDT to be a company**.

**\* Classes of Companies is explained in detail in later part of the chapter.**

### A FIRM [SECTION 2(23)]

- A firm includes a **partnership firm** (registered or not) & shall **include a LLP**.
- **“Partnership firm”** has same meanings as assigned to them in Indian Partnership Act.
- However, for IT purposes, a **minor** admitted to the benefits of existing partnership would also be **treated as partner**. This is specified u/s 2(23) of the Act.
- **Same Tax Treatment** would be applicable for both **General Partnerships & LLPs**.

### ASSOCIATION OF PERSONS (AOP)

- When two or more persons combine together for **promotion of joint enterprise**, they are assessable as an AOP **when they do not constitute a partnership legally**.
- **Conditions to form AOP:** Persons must join in a **common purpose, common action** & their object must be to **produce Income**, but they should not form a partnership.
- **Co-heirs, co-donees** joining together for common purpose would be chargeable as **AOP**.

### BODY OF INDIVIDUALS (BOI)

- Persons who merely **receive** the **income jointly** & who may be assessable in like manner & to the same extent as the beneficiaries individually. **(Ex: Executors/trustees)**.
- Co-Executors/Co-trustees are assessable as BOI since their title & interest are indivisible.

**Note:** Tax is **not** payable by the assessee on **share of Income received by him from BOI** on which the tax has already been paid by such BOI. **[To avoid Double Taxation]**

### LOCAL AUTHORITY

- Municipal committee, district board, Municipality, body of port commissioners etc. legally entitled/entrusted by Government with control & management of Municipal/local fund.

**Note:** Income of LA is **taxable** only if it is derived from the business of **supply** of commodity/service **(other than water & electricity)** **outside its own jurisdictional area**. Income arising from **supply of water & electricity even** outside its own jurisdictional areas → **Exempt**.

### EVERY OTHER ARTIFICIAL JURIDICAL PERSON (not falling within above categories)

- This is a **residuary clause**. If the assessee does not fall in any of the first six categories, he is assessed under this clause.
- **Ex:** An idol, or deity.

### **Q. What is the difference between AOP & BOI ?**

**Answer:** The difference between AOP & BOI is that whereas an association implies a voluntary getting together for a definite purpose, a body of individuals would be just a body without an intention to get-together. Moreover, members of BOI can be individuals only but members of AOP can be individual or non-individuals (i.e. artificial persons).

## 5. CLASSES OF COMPANIES

### DOMESTIC COMPANY [SECTION 2(22A)]

- An **Indian** company or
- **Any other company** which has made **prescribed arrangements** for **declaration & payment of dividends within India** payable out of the taxable Income in India.

### INDIAN COMPANY [SECTION 2(26)] - If the company satisfy the following conditions:

- Company should have been **formed & registered** under any law **in India &**
- Registered office or Principal office of the company should be **in India**.

**'Indian Company' includes the following if their registered/principal office is in India:**

- (i) A corporation established by or under a Central, State or Provincial Act.  
**Ex:** Financial Corporation/State Road Transport Corporation.
- (ii) Institution/association/body → Declared by CBDT to be a company u/s 2(17)(iv).
- (iii) For J&K → Company formed & registered under any law in force in J&K.
- (iv) For Union territories of Dadra & Nagar Haveli, Goa, Daman & Diu, & Pondicherry → Company formed & registered under any law in force in that territory.

### FOREIGN COMPANY [SEC 2(23A)] - A Company which is not a domestic company.

### COMPANY IN WHICH PUBLIC ARE SUBSTANTIALLY INTERESTED [SEC 2(18)]

1. Company owned by **Indian Government/RBI**.
2. Company in which **≥ 40% shares are held by Indian Government/RBI**.
3. Company which is **registered u/s 8** of the Companies Act, 2013.
4. Company having **NO Share capital** which is **declared by CBDT to be a company in which public is substantially interested for specified No. of AYs**.
5. Company which is not a private company & which fulfill any of the following conditions:
  - (a) Equity shares should have been **listed in RSE** in India as on last day of relevant PY or
  - (b) Equity shares carrying at least **50%** (40% in case of industrial companies) voting power should have been unconditionally allotted to or acquired by & should have been **beneficially held** throughout the relevant PY by -
    - Government or
    - Statutory Corporation or
    - Company in which public are substantially interested or
    - Any wholly owned subsidiary of company mentioned in (c).
    - One or more co-operative societies.
  - (c) Company which carries on its **principal business of accepting deposits** from its members & which is **declared by CG u/s 620A** of the Companies Act to be **Nidhi/Mutual Benefit Society**.

## 6. PERSON HAVING SUBSTANTIAL INTEREST IN THE COMPANY [Section 2(32)]

- Any person who is the **beneficial owner of shares** (not being shares entitled to fixed rate of dividend), whether participating in profit or not, **carrying at least 20% of total voting power**.

## 7. AVERAGE RATE OF TAX [SECTION 2(10)]

- Average Rate of Tax = 
$$\frac{\text{Amount of Income Tax calculated on Total Income using applicable slab rate}}{\text{Total Income}}$$

## 8. MAXIMUM MARGINAL RATE OF TAX [SECTION 2(29C)]

- Rate of Income Tax (including SC) applicable in relation to **Highest Slab of Income** specified in the Finance Act of the relevant Previous Year, in the case of  
(i) An Individual, or (ii) An AOP /BOI.

# INCOME & ITS CONSTITUENTS [SECTION 2(24)]

## 1. MEANING & DEFINITION OF INCOME

- Income is a **periodical monetary return** with some sort of **regularity**.
- Generally, the word 'Income' covers receipts in the shape of **money or money's worth** which arise with certain regularity.
- However, **all receipts do not form the basis of taxation** under the Act.

**Income for the purpose of Income Tax Act includes:**

**[Each of these will be covered in respective chapter]**

- 1) Profits & gains.
- 2) Dividends.
- 3) **Voluntary contributions received by charitable/religious trust** or institution or by certain research associations or universities & other educational institutions or hospitals & other medical institutions or an **electoral trust**.
- 4) Value of any perquisite or **profit in lieu of salary** taxable u/s 17.
- 5) **Any special allowance** or benefit other than the perquisite included above.
- 6) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
- 7) The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person & any sum paid by any such company in respect of any obligation which, but for such payment would have been payable by the director or other person aforesaid.
- 8) The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee or by any beneficiary or any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.
- 9) **Profits & gains of business or profession chargeable to tax u/s 28.**
- 10) **Deemed profits** chargeable to tax u/s 41 or u/s 59.
- 11) **Any capital gains chargeable u/s 45.**
- 12) Profits & gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society, computed in accordance with Section 44 or any surplus taken to be such profits & gains by virtue of provisions contained in first Schedule to the Act.



- 13) The profits & gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members.
- 14) Any winnings from lotteries, cross-word puzzles, races including horse races, card games & other games of any sort or from gambling, or betting of any form or nature whatsoever. For this purpose,
  - **“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”** & 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.
- 15) Any sum received by assessee from his employee as contributions to any PF/SAF/ESI.
- 16) Any sum received under a Keyman insurance policy including bonus on such policy.
- 17) Any sum referred to clause (va) of section 28. Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business or profession; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax u/h “PGBP”.
- 18) FMV of inventory which is converted into or treated as a capital asset [Section 28(iva)].
- 19) Any consideration received for issue of shares exceeding their FMV [Section 56(2)(viib)].
- 20) Any sum of money received as advance, if such sum is forfeited consequent to failure of negotiation for transfer of a capital asset [Section 56(2)(ix)].
- 21) Any sum of money or value of property received without consideration or for inadequate consideration by any person [Section 56(2)(x)]. **[Gift]**
- 22) Compensation or other payment, due to or received by any person, in connection with termination of his employment or modification of T & Cs relating thereto [Section 56(2)(xi)].
- 23) Assistance in the form of subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement by CG or SG or any authority or body in cash or kind.  
However, subsidy or grant or reimbursement which has been taken into account for determination of the actual cost of the depreciable asset in accordance with Explanation 10 to section 43(1) shall not be included in the definition of income.

## 2. REGULARITY OF INCOME

- Income means periodical monetary return coming from definite source with some sort of regularity.
- However, this does not mean that income which does not arise regularly will not be treated as income for tax purposes. **Ex:** Winnings from lotteries, card games, etc. which do not arise from definite source & do not have element of regularity are specifically included in Income under IT Act.
- Even a single transaction can constitute business. Repetition of such transactions is not necessary under Income Tax Act.

## 3. CASH/KIND

- The income received by the assessee need not be in the form of cash only.
- It may also be some other property or right which has monetary value.
- Wherever income is received in kind (like perquisites), then their value has to be found as per the prescribed rules & this value shall be taken to be the income.

## 4. ILLEGAL/ TAINTED INCOME

- Income is income, though tainted. Thus, **illegal Income is also taxed.**
- For purposes of Income-tax, there is no difference between legal & tainted income.

**Case Law:** If smuggling activity can be regarded as a business, confiscation of currency notes by customs authorities is a loss which is directly relatable to carrying of business & thus is permissible as deduction.

## 5. DISPUTED INCOME

- Any dispute regarding the title of the income cannot stop the assessment of the income in the hands of the recipient.
- Thus, disputed income is **taxable in the hands of recipient** though there may be rival claims to the income.

## 6. CONTINGENT INCOME

- **A contingent income is not income.** Until the contingency has happened, it cannot be assumed that income has accrued or has arisen to the assessee.

## 7. PERSONAL GIFTS

- Gifts of personal nature do not constitute income upto Rs. 50,000 received in cash.
- However **Gifts in kind** having **FMV > Rs. 50,000** is wholly taxable. **[To be studied in IFOS].**

## 8. COMPOSITE INCOME

- Income-tax is a tax on **all incomes** received by or arising to a taxpayer during a FY.

## 9. PIN MONEY

- Pin money received by a woman (Moneys given to a woman by her husband for running the expenses of the kitchen) **would not be income in the eyes of the law.**
- Any property acquired using such money/savings is a **Capital Asset** of the lady.

## 10. LUMP SUM RECEIPT

- Receipt in lumpsum or in instalments would not affect its taxability.  
Ex: If a person receives arrears of salary in a lumpsum amount, it would still be his income.

## 11. INCOME MUST COME FROM OUTSIDE

- **A person cannot earn income from himself.**
- In case of mutual activities, where some people contribute to the common fund & are entitled to participate in the fund & a surplus arises which are distributed to the contributors of the fund, such surplus cannot be called income.

## 12. RELEVANCE OF METHOD OF ACCOUNTING FOLLOWED BY THE ASSESSEE

Heads	Relevant Method of Accounting
Salaries (15-17)	<ul style="list-style-type: none"><li>▪ Taxable <b>on due basis or on receipt basis</b> whichever is earlier.</li><li>▪ <b>Method of accounting</b> followed by the assessee is <b>irrelevant.</b></li></ul>
HP (22-27)	<ul style="list-style-type: none"><li>▪ Taxable <b>on Accrual basis.</b> Method of accounting of assessee is <b>irrelevant.</b></li></ul>
PGBP (28-44DB)	<ul style="list-style-type: none"><li>▪ PGBP Income is taxable as per method of accounting followed by assessee. If assessee follows Accrual basis of accounting → Income taxed on accrual basis. If assessee follows Cash basis of accounting → Income taxed on Cash basis.</li><li>▪ Certain payments are allowable only on Payment basis. [Refer PGBP]</li></ul>
Cap. Gain (45 – 55A)	<ul style="list-style-type: none"><li>▪ Taxable <b>in the PY</b> in which the capital asset is transferred.</li><li>▪ <b>Method of accounting</b> followed by the assessee is <b>irrelevant.</b></li></ul>
IFOS (56 – 59)	<ul style="list-style-type: none"><li>▪ Same as PGBP.</li></ul>



### 13. CAPITAL & REVENUE RECEIPTS

Particular	Capital Receipts	Revenue Receipts
Meaning	<ul style="list-style-type: none"> <li>Receipt referable to <b>fixed capital</b>.</li> <li>Receipts towards <b>substitution of source of income</b>.</li> <li>Amount received as compensation for <b>surrender of any right</b> of ownership.</li> </ul>	<ul style="list-style-type: none"> <li>Receipt referable to <b>circulating capital</b>.</li> <li>Any receipt toward <b>substitution of Income</b>.</li> <li>Any compensation received for the <b>Loss of future profit</b>.</li> </ul>
Tax Treatment	<ul style="list-style-type: none"> <li><b>Not Taxable</b> unless expressly provided.</li> </ul> <b>Ex:</b> Profit from <b>Sale of Capital Asset</b> is chargeable to tax u/h Capital Gains u/s 45.	<ul style="list-style-type: none"> <li><b>Taxable.</b></li> </ul> <b>Ex:</b> Profits arising from sale of Trading Asset is taxable as Business Income.

#### Q. How to determine whether a receipt is a Revenue receipt or Capital receipt?

- If the Income-generating activity is within the normal dealing of the Assessee → Revenue receipt.
- If the Income-generating activity is outside the normal dealing of the Assessee (although connected to business) → Capital receipt.

**Ex:** Profit on sale of shares & securities held by a bank as investments would be of Capital Nature.

But Profit on sale of shares & securities held by a stock broker as SIT would be of Revenue Nature.

**Note:** Where profits arise from transactions which are outside the normal dealing of the assessee, although connected with his business, taxability would depend upon the fact whether transactions constitute trading activity for the Assessee.

**CRUX:** Only Revenue Receipt is taxable. Capital Receipts are normally Exempt. **But certain capital receipts which have been specifically included in the definition of "Income u/s 2(24) are taxable.**

### 14. CAPITAL EXPENDITURE & REVENUE EXPENDITURE

Capital Expenditure	Revenue Expenditure
1. Cost of acquisition & installation charges of <b>Fixed Asset</b> .	1. Purchase price of a <b>current Asset</b> for <b>resale</b> or manufacture.
2. Incurred to <b>increase</b> operating capacity.	2. Incurred to <b>maintain</b> the asset.
3. Expenditure incurred to free oneself from a <b>Capital Liability</b>	3. Expenditure incurred to free oneself from a <b>Revenue liability</b>
4. Expenditure for acquisition of <b>source of Income</b>	4. Expenditure incurred for <b>earning income</b>

**Liquidated damages** → **Capital receipt**. Amount received towards compensation for sterilization of profit earning source is not in ordinary course of business.

**Compensation on Termination of Agency** → **Capital receipt**. Receipt of compensation on termination of the agency business **being the only source of income** by the assessee.

But if the assessee has several agencies and one of them is terminated & compensation is received, the receipt would be revenue receipt since taking agencies & exploiting the same for earning income is the ordinary course of business & loss of one agency would be made good by taking another.

**Compensation received from the employer** or from any person for **premature termination** of the service contract is a capital receipt but is taxable as profit in lieu of salary u/s 17(3) or IFOS u/s 56(2)(xi), respectively.

**Compensation received** or receivable in connection with **termination/modification of T & Cs of any contract** relating to its business shall be taxable as business income.

## 15. APPLICATION OF INCOME VS DIVERSION OF INCOME

Application of Income	Diversion of Income
<ul style="list-style-type: none"> <li>If assessee applies his income to <b>discharge his obligation</b></li> <li><b>after the income reaches</b> in the hands of the assessee,</li> <li>it would be an application (apportionment) of income &amp;</li> <li>this <b>would result in taxation of such income in the</b> hands of the assessee.</li> </ul>	<ul style="list-style-type: none"> <li>If there is an <b>overriding charge on the source</b> of such income which <b>diverts</b> the income, it is called diversion of Income.</li> <li>In case of diversion of income <b>before it reaches</b> in the hands of the assessee,</li> <li><b>it cannot be treated as an income</b> of the assessee &amp; thus <b>NO TAX</b>.</li> </ul>
<ul style="list-style-type: none"> <li><b>Conditions:</b> <ol style="list-style-type: none"> <li>Income accrues to the assessee</li> <li>Income reaches the assessee</li> <li>Income is applied to discharge obligation (Self-imposed/gratuitous)</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li><b>Conditions:</b> <ol style="list-style-type: none"> <li>An overriding charge/title on income &amp;</li> <li>Income is diverted at source.</li> <li>Charge is on sources of income &amp; not on the Receiver.</li> </ol> </li> </ul>

## CONCEPT OF FINANCIAL YEAR, PREVIOUS YEAR & ASSESSMENT YEAR

<b>FY</b>	<ul style="list-style-type: none"> <li>Financial year means a year <b>starting on 1st April &amp; ending on 31st March</b>.</li> </ul>
<b>PY</b> [Sec 3]	<ul style="list-style-type: none"> <li>FY in which the <b>income is earned</b> is called "Previous Year".</li> <li>PY means the Financial Year <b>immediately preceding the AY</b>.</li> </ul>
<b>AY</b> [Sec 2(9)]	<ul style="list-style-type: none"> <li>The year in which <b>income is assessed to tax</b> is called Assessment Year.</li> <li>AY 2019-20 will commence on 1.4.2019 &amp; will end on 31.3.2020.</li> <li>Thus Income earned during PY 2018-19 will be assessed/taxed in AY 2019-20.</li> </ul>

**CRUX:** PY → Year in which Income is earned; AY → Next year in which income is taxed is AY.

**Ex:** A is running a business from 2003 onwards. Determine PY for AY 2019-20. [Ans: PY = 1.4.2018 - 31.3.2019].

## DUAL ROLE OF A FINANCIAL YEAR

- Each financial year is both Previous Year as well as Assessment Year.
- It is PY for income earned during that FY & AY for the income earned during the preceding FY.

**Example:**

FY	PREVIOUS YEAR	ASSESSMENT YEAR
2018-19	FY 2018-19 is PY for income received/accrued during 1 April 2018 to 31 March 2019.	FY 2018-19 is AY for incomes earned in PY 2017-18.
2019-20	FY 2019-20 is PY for income received/accrued during April 1, 2019 to March 31, 2020.	FY 2019-20 is AY for incomes earned in PY 2018-19.

## FIRST PREVIOUS YEAR FOR NEWLY SET-UP BUSINESS/PROFESSION DURING FY

- First PY = The period beginning from the date of setting up of the business or from the date the new source came into existence & ending on the last day of that FY (31<sup>st</sup> March).
- Therefore, first PY of a newly set-up business/ profession or a new source of income will be either 12 months or less than 12 months. **It can never exceed a period of 12 months.**

**Note:** The same provision will be applicable for the “New Source of Income.”

### QUESTIONS

**CQ1.** Mr. PC set up a new business on 24.2.2018, what will be the first PY for that business?

**Answer:** From 24.02.2018 – 31.3.2018; PY 2017-18; AY 2018-19.

**CQ2.** What will be the 2<sup>nd</sup> PY for his business?

**Answer:** PY 2018-19; AY 2019-20.

## UNIFORM PREVIOUS YEAR

- All Assesseees are required to follow Financial year as Previous Year uniformly for every year. [From 1<sup>st</sup> April to 31<sup>st</sup> March]
- An Assessee may maintain books of account on calendar year basis but for Income Tax purpose, his previous year will be financial year & not the calendar year.

**Ex:** Mr. PC can maintain books of accounts on calendar year basis, but tax will be levied on the basis of financial year only.

A/cing year (CY)	Income as per books of A/c.	Splitting of Income as per FY		Taxable Income
		Jan – March	April – Dec	
2017	12 Lacs	3 Lacs	9 Lacs	PY 17-18 = 9L + 6L = 15L.
2018	24 Lacs	6 Lacs	18 Lacs	PY 18-19 = 18L + 9L = 27 L.
2019	36 Lacs	9 Lacs	27 Lacs	PY 19-20 = 27L + ___ = __ L

## CASES WHERE INCOME OF PREVIOUS YEAR IS ASSESSED IN SAME YEAR

- **General Rule:** Income earned during any PY is assessed to tax in immediately succeeding AY.
- However, in following circumstances, income is taxed in PY in which it is earned. **Thus AY & PY in these exceptional circumstances will be the same.**
- These exceptions have been made to protect the interests of revenue.

### **FOLLOWING ARE THE EXCEPTIONS:**

#### **1. SHIPPING BUSINESS OF NON-RESIDENTS [SECTION 172]**

- If a ship belonging to or chartered by **NR** carries passengers/livestock/mail/goods shipped **at a port in India**,
- Such Ship is **allowed to leave** the port only when **tax has been paid** or satisfactory arrangement has been made for payment thereof.
- **Income = 7.5% of the freight paid/payable** to the owner or his agent **whether in India or o/s India** for such carriage.
- Such income is charged to tax in the same year in which it is earned.

## 2. PERSONS LEAVING INDIA [SECTION 174]

- Where it appears to AO that any individual may leave India during the current AY or shortly after its expiry &
- He has **no present intention of returning to India**,
- Then Total Income of such individual for the period from the expiry of the respective PY up to the probable date of his departure from India is chargeable to tax in that AY.

**Ex:** Suppose Mr. X is leaving India for USA on 10.6.2018 & it appears to AO that he has no intention to return. Before leaving India, Mr. X will be required to pay tax on the income earned during PY 2017-18 as well as the total income earned during the period 1.4.2018 to 10.06.2018.

## 3. AOP/BOI/AJP FORMED FOR A PARTICULAR EVENT OR PURPOSE [SEC 174A]

- If AOP/BOI etc. is formed or established for a particular event or purpose &
- AO apprehends that AOP/BOI is **likely to be dissolved** in the same year or in next year,
- he can make assessment of the **income upto date of dissolution** as income of relevant AY.

## 4. PERSONS LIKELY TO TRANSFER PROPERTY TO AVOID TAX [SECTION 175]

- During the current AY, if it appears to AO that a person is likely to charge, sell, transfer, dispose any of his assets
- **to avoid payment of any liability** under this Act,
- Total income of such person for the period from the expiry of PY to the date when AO commences proceedings is chargeable to tax in that assessment year.

## 5. DISCONTINUED BUSINESS [SECTION 176]

- If any business or profession is discontinued in any AY,
- Income of the period from the expiry of the PY up to the date of such discontinuance may,
- **at the discretion of AO**
- may be charged to tax in that assessment year.

**Note:** Section 176 is a Discretionary power. The Assessing Officer has the discretion of applying it. AO may choose not to apply it & wait till the end of the Assessment Year.

## PREVIOUS YEAR FOR UNDISCLOSED SOURCES OF INCOME

### 1. CASH CREDITS [SECTION 68]

- Where any sum is found credited in books of the assessee & assessee offers **no explanation** about the **nature & source or explanation offered is not satisfactory**,
- Such Sum so credited may be charged as income of the assessee of that PY.

### 2. UNEXPLAINED INVESTMENTS [SECTION 69]

- If in any FY assessee has made **investments** which are **not recorded in books of account** & Assessee offers **no explanation** about **nature & source of investment** or explanation offered is **not satisfactory**,
- Value of investments are taxed as income of assessee of such FY.

### 3. UNEXPLAINED MONEY ETC. [SECTION 69A]

- Where in any FY, assessee is found to be **owner of any money, bullion, jewellery** etc. &
- Such asset is **not recorded** in books of account & the assessee offers **no explanation** about nature & source **or** explanation offered is not satisfactory,
- Money & Value of bullion etc. will be deemed to be income of the assessee for such FY.
- **Ownership is important & mere possession is not enough.** Thus if the assessee is in possession of the above-mentioned things but he is not the owner, then such other person who is the owner will be questioned about the source & will be assessed to tax.

### 4. AMOUNT OF INVESTMENTS NOT FULLY DISCLOSED IN BOOKS [SECTION 69B]

- Where in any FY, assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article &
- AO finds that **Amount spent** on making such investments **exceeds the amount recorded in books of account** of the assessee & assessee **offers no explanation** for the **difference** or explanation offered is **unsatisfactory**,
- Such excess may be deemed to be the income of the assessee for such FY.

**Ex:** If Assessee is found to be the owner of 100 gms of gold (market value = Rs. 3,00,000) during FY ending 31.3.2019 but he has recorded to have spent Rs. 1,50,000 in acquiring it, AO can add Rs. 1,50,000 as the income of the assessee, if the assessee offers no satisfactory explanation thereof.

### 5. UNEXPLAINED EXPENDITURE [SECTION 69C]

- Where in any FY, Assessee has incurred any expenditure & he offers no explanation about the source of such expenditure or the explanation offered is unsatisfactory,
- AO may treat such unexplained expenditure as the income of the assessee for such FY.
- **Such unexplained expenditure which is deemed to be income of the assessee shall not be allowed as deduction under any head of income.**

### 6. AMOUNT BORROWED OR REPAID ON HUNDI [SECTION 69D]

- Where any amount is **borrowed** on hundi or is **repaid** (thereon) **OTHER THAN THROUGH AN ACCOUNT-PAYEE CHEQUE**,
- Amount so **borrowed or repaid** shall be deemed to be the income of the person borrowing or repaying for the FY in which the amount was borrowed or repaid.
- **Amount repaid shall include interest paid on the amount borrowed.**
- But if any amount borrowed on hundi has been taxed as income of the person, he will not be again liable to be assessed in respect of such amount on **repayment** of such amount.

**Ex:** Mr. PC has borrowed Rs. 5 Lacs on Hundi from Mr. AC in cash. Since the amount is borrowed by the mode other than account payee cheque, Rs. 5 Lacs will be deemed to be the income of Mr. PC in the year of borrowing. Now when PC will repay the amount to Mr. AC (even if repaid in cash), it cannot be taxed again to PC on repayment basis.

### RATE OF TAX FOR THE DEEMED INCOME U/S 68 & 69 [SECTION 115BBE]

- Such Deemed Incomes are taxed **@ 60% + surcharge @ 25% of tax.** Thus, Effective rate of tax (including SC @ 25% of tax & cess @ 4% of Tax & SC) is **78%**. [Section 115BBE]
- Neither BEL nor any allowance nor set off of any loss shall be allowable against such income.

## CHARGE OF INCOME TAX & RATE OF TAX [SECTION 4]

- Tax rates are fixed by the Annual Finance Act & not by the Income Tax Act.
- For the purpose of A, B, C, D, E, F below, Total income means total income from all sources after All Permissible Deduction **Except Incomes Taxable at Specified Rates.**

### A. INDIVIDUAL/ HUF/ AOP/ BOI/ AJP [Resident or Non- Resident]

Total Income	Rate of Tax
Upto Rs. 2,50,000 [Basic Exemption Limit]	Nil
From Rs. 2,50,001 to Rs. 5,00,000	5%
From Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

### B. Resident Senior Citizen (60 years or more but < 80 years at any time during PY)

Total Income	Rate of Tax
Upto Rs. 3,00,000	Nil
From Rs. 3,00,001 to Rs. 5,00,000	5%
From Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

### C. For Resident Super Senior Citizen (80 years or above at any time during PY)

Total Income	Rate of Tax
Upto Rs. 5,00,000	Nil
From Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

**Clarification regarding attaining prescribed age of 60 years/80 years on 31<sup>st</sup> March itself, in case of senior/very senior citizens whose date of birth falls on 1<sup>st</sup> April**

CBDT has clarified that a person born on 1st April would be considered to have attained a particular age on 31<sup>st</sup> March, the day before his birthday. Therefore, a resident individual whose 60th birthday falls on 1<sup>st</sup> April, 2019, would be treated as having attained the age of 60 years in the PY 2018-19, & would be eligible for higher BEL of Rs. 3 lacs in computing his tax liability for AY 2019-20.

**D. Firms/ LLP/ Local Authority:** Whole Income is taxable @ **Flat 30%** without any BEL.

### E. CO-OPERATIVE SOCIETIES

Total Income	Rate of Tax
Upto Rs. 10,000	10%
From Rs. 10,001 to Rs. 20,000	20%
Above Rs. 20,000	30%

### F. COMPANY

Nature of Company		Rate of Tax
<b>Domestic</b>	If Total Turnover/Gross Receipt in PY 2016-17 ≤ Rs. 250 Cr.	25%
	In other case	30%
<b>Foreign (Companies other than Domestic Company)</b>		40%

**Note:** Rate of Tax for **Foreign companies is 50%** in case of certain **Specific Incomes.**

Specified royalties & fees for rendering technical services (FTS) received from Government or an Indian concern in pursuance of an approved agreement made by the company with the Government or Indian concern between 1.4.1961 & 31.3.1976 (in case of royalties) & between 1.3.1964 & 31.3.1976 (in case of FTS) would be chargeable to tax @ **50%.**



## INCOMES WHICH ARE CHARGEABLE @ FLAT RATES

Section	Income	Rate
112	Long term capital gains (other than LTCG u/s 112A)	20%
112A	LTCG on transfer of (i) Equity share (ii) Units of EOMF/Business trust. <b>Note:</b> LTCG upto Rs. 1 lac is exempt. LTCG > Rs. 1 lac is taxable @10%.	10% if > 1 Lacs.
111A	STCG u/s 111A [STT Paid]	15%
115BB	(i) Winning from Lotteries (ii) Crossword puzzles (iii) Race including horse races (iv) Card game & other game of any sort Gambling or betting	30%
115BBDA	Income by way of dividend exceeding Rs. 10 Lacs in aggregate	10%
115BBE	Income u/s 68/69/69A/69B/69C/69D.	60%

## SURCHARGE

- Surcharge is an **additional tax** payable over & above the income-tax.
- Surcharge is **levied as a percentage of income-tax.**
- **Rate of Surcharge is given below in the table:**

Assessee	Rate of Surcharge if Total Income ↓		
	> 50 Lacs but ≤ 1 Cr	>1 Cr but ≤ 10 Cr	> 10 Cr
1. Individual/HUF/AOP/BOI/AJP	10 % of IT	15 % of IT	15 % of IT
2. Firms/LLP/Co-operative society/LA	-	12 % of IT	12 % of IT
3. Domestic Companies	-	7 % of IT	12 % of IT
4. Foreign Companies	-	2 % of IT	5 % of IT

## MARGINAL RELIEF (SECTION 89)

- If surcharge is applicable on Total Income, Marginal relief is available to **ALL Assesseees.**

### Steps to calculate Marginal Relief:

[\[Refer Q1 & Q2 for better understanding\]](#)

- Calculate Tax (including surcharge) on Total Income of the Assessee.
- Calculate Tax payable on Rs. 50 Lacs/1 Cr/10 Cr as the case may be.
- Calculate **“Extra Tax Payable”** because of Income above Rs. 50 Lacs/1 Cr/10 Cr. **[Step 1 - 2]**
- Marginal Relief = Extra Tax Payable – Income above Rs. 50 Lacs/1 Crore/10 Crores.

**CRUX:** If Extra Tax > Extra Income, Difference between them is Marginal Relief.

## REBATE U/S 87A

Eligible Assessee	Resident Individuals whose Total Income ≤ Rs. 3,50,000.
Rebate	Lower of (i) Income Tax payable on Total Income OR (ii) Rs. 2,500.

**Note:** Rebate u/s 87A shall be before adding 4% of Health & Education Cess.

**Note:** Rebate u/s 87A is not available in respect of tax payable @ 10% on LTCG u/s 112A.

## HEALTH & EDUCATION CESS

- Health & Education cess @ 4% is levied on **Total Income tax + SC - Rebate u/s 87A.**

## ROUNDING OF OF INCOME & TAX PAYABLE [SECTION 288A/B]

- Total income/Tax shall be rounded off to the **nearest multiple of 10 Rupees.**

## QUESTION BANK

**Q1.** Compute the tax liability of Mr. PC (Age 24), having total income of Rs. 51 Lacs for AY 2019-20.

**Solution:**

**Computation of tax liability of Mr. PC for AY 2019-20**

1. Tax payable including surcharge on Total Income of Rs. 51,00,000	Rs 14,76,750.
2. Tax Payable on total income of Rs. 50 Lacs	Rs. 13,12,500.
3. Excess tax payable = [(1)-(2)] = Rs. 14,76,750 – Rs. 13,12,500	Rs. 1,64,250.
4. Marginal Relief = [(Rs. 1,64,250- Rs. 1,00,000) Income in excess of Rs. 50,00,000]	Rs. 64,250.

**Tax Payable** = Rs. 14,76,750 – Rs. 64,250 = Rs. 14,12,500 + 4% HEC = 14,69,000.

**Q2.** Compute the tax liability of Mr. A (aged 42), having total income of Rs. 1,01,00,000 for AY 2019-20.

**Solution:**

**Computation of tax liability of Mr. A for AY 2019-20.**

1. Tax payable including surcharge on total income of Rs. 1,01,00,000	Rs. 32,68,875.
2. Tax Payable on total income of Rs. 1 crore	Rs. 30,93,750.
3. Excess tax payable = [(1)-(2)] = Rs. 32,68,875 - Rs. 30,93,750	Rs. 1,75,125.
4. Marginal Relief = [(Rs. 1,75,125 - Rs. 1,00,000) Income in excess of Rs. 50,00,000]	Rs. 75,125.

**Tax Payable** = Rs. 32,68,875 – Rs. 75,125 = Rs. 31,93,750 + 4% HEC = 33,21,500.

**Q3.** Total income of Mr. X aged 35 years resident in India is Rs. 3,35,000. Compute tax liability for AY 2019-20.

**Solution:** Since Mr. X is a resident having Total Income < Rs. 3,50,000, rebate u/s 87A is available.

First Rs. 2,50,000	Nil
Next Rs. 85,000 @ 5%	Rs. 4,250
Total	Rs. 4,250
Rebate u/s 87A = Lower of (i) Tax payable or (ii) Rs. 2,500	(Rs. 2,500)
Tax after rebate	Rs. 1,750
Add: 4% HEC	Rs. 70
Tax rounded off	<b>Rs. 1,820</b>

**Q4.** Total income of Mr. Jon aged 35 years (**NR**) in India is Rs. 3,35,000. Compute tax liability for AY 2019-20.

**Solution:** Since Mr. X is a Non- Resident, rebate u/s 87A is **Not** available.

First Rs. 2,50,000	Nil
Next Rs. 85,000 @ 5%	Rs. 4,250
Total	Rs. 4,250
Add: 4% HEC	Rs. 170
Tax rounded off	<b>Rs. 4,420</b>

**Q5.** Compute tax liability of Mr. X aged 44 years NR in India, whose total income for AY 2019-20 is Rs. 10,00,000.

**Solution:**

First Rs. 2,50,000	Nil
Next Rs. 2,50,000 @ 5%	Rs. 12,500
Balance Rs. 5,00,000 @ 20%	Rs. 1,00,000
Total	Rs. 1,12,500
Add: 4% HEC	Rs. 4,500
Tax rounded off	<b>Rs. 1,17,000</b>

**Q6.** Total income of **Mrs. X** aged 44 years resident in India, for AY 2019-20 is Rs. 10,00,000. Compute tax liability.

**Solution:** BEL is same for male & female Assessee. Thus Mrs. X will get the same BEL of Rs. 2,50,000.

First Rs. 2,50,000	Nil
Next Rs. 2,50,000 @ 5%	Rs. 12,500



Balance Rs. 5,00,000 @ 20%	Rs. 1,00,000
Total	Rs. 1,12,500
Add: 4% HEC	Rs. 4,500
Tax rounded off	<b>Rs. 1,17,000</b>

**Q7.** Total income of Mr. Joe aged 70 Non-resident in India for PY 2018-19 is Rs. 10 lacs. Compute his tax liability.

**Solution:** Since increased BEL of Rs. 3 lacs is available only to resident person, Mr. Joe is not eligible. Thus he will be eligible for BEL of Rs. 2,50,000 only.

First Rs. 2,50,000	Nil
Next Rs. 2,50,000 @ 5%	Rs. 12,500
Balance Rs. 5,00,000 @ 20%	Rs. 1,00,000
Total	Rs. 1,12,500
Add: 4% HEC	Rs. 4,500
Tax rounded off	<b>Rs. 1,17,000</b>

**Q8.** Total income of Mr. X aged 83 is Rs. 15,00,0000. Compute his tax liability for AY 2019-20.

**Solution:** Since Mr. X is a super-senior citizen, he will get the BEL of Rs. 5 lacs & remaining slabs will be same.

First Rs. 500,000	Nil
Next Rs. 5,00,000 @ 20%	Rs. 1,00,000
Balance Rs. 5,00,000 @ 30%	Rs. 1,50,000
Total	Rs. 2,50,000
Add: 4% HEC	Rs. 10,000
Tax rounded off	<b>Rs. 2,60,000</b>

## THEORY QUESTION BANK

**Q1.** Write short note on "Income accruing" & "Income due".

Can an income which has been taxed on accrual basis be assessed again on receipt basis?

**Q2.** An employee instructs his employer to pay a certain portion of his salary to a charity & claims it as exempt as it is diverted by overriding charge / title. Comment.

**Answer:** In the instant case, it is an application of income & in the nature of foregoing of salary. According to the Supreme Court judgment in CIT v. L.W. Russel (1964) 52 ITR 91, the salary which has been foregone after its accrual in the hands of the employee is taxable. Hence, the amount paid by the employer to a charity as per the employee's directions is taxable in the hands of the employee.

**Q3.** Describe 'Average rate of tax' & 'Maximum marginal rate' u/s 2(10) & 2(29C) of the IT Act, 1961.

**Q4.** Who is an "Assessee"? Explain with suitable examples.

**Q5.** Who is a "Deemed Assessee"? Explain with suitable examples.

**Q6.** Who is an "Assessee in Default"? Explain with suitable examples.

**Q7.** State the instances where the income of the PY is assessable in the PY itself instead of the AY.

**Q8.** List out the capital receipts which are taxable under the Income Tax Act, 1961.

**Q9.** Explain the term "Company" & "Person" under the Income Tax Act, 1961.

**Q10.** Explain the concept of 'Marginal Relief'.

**Q11.** Write a short note on Surcharge.

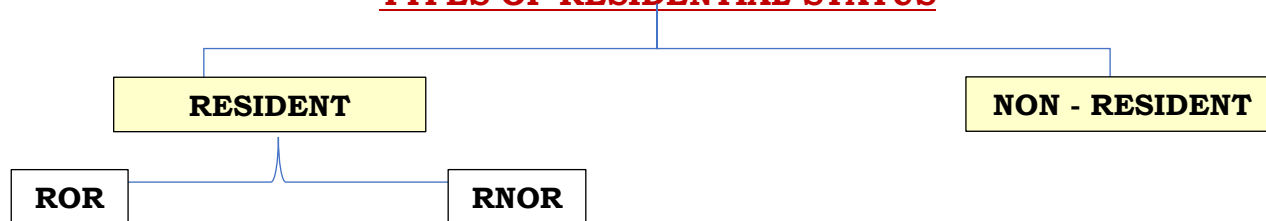
**Q12.** Explain the provisions relating to Rebate u/s 87A.

## 2. RESIDENTIAL STATUS & SCOPE OF TOTAL INCOME

- The **Incidence of Tax** of any Assessee **depends** upon his **residential status** under the Act.
- Taxability of Income would depend not only on its Nature & Place of its Accrual/Receipt but also upon the Assessee's Residential Status.
- **Residential status** of the assessee must be **determined separately** for **each Previous Year**.

To determine whether a particular Income is taxable in the hands of Assessee or not, we have to determine the residential status of the assessee.

### TYPES OF RESIDENTIAL STATUS



#### Point to Remember:

- ❖ **Only Individuals & HUF** can be resident & ordinarily resident (**ROR**).
- ❖ All **other classes of assessee**s can be either a **Resident or Non-Resident**.

### **DETERMINATION OF RESIDENTIAL STATUS OF DIFFERENT ASSESSEES**

1. INDIVIDUAL	
<b>BASIC CONDITIONS</b>	<p>An Individual is <b>Resident</b> in India if he <b>satisfies ANY ONE</b> of the following Basic Conditions:</p> <p>(a) He has been in India for <b>total period of 182 days</b> or more during PY <b>OR</b></p> <p>(b) <b>(i)</b> He has been in India for <b>at least 60 days</b> in the relevant PY <b>AND</b>  <b>(ii)</b> He has been in India for <b>at least 365 days</b> during <b>Last 4 PYs</b>.</p> <p><b>CRUX:</b>          → Individual satisfy <b>ANY 1</b> Condition → <b>Resident ✓</b> [Additional Conditions].          → If <b>Both</b> conditions are <b>NOT</b> satisfied → <b>Non-Resident ✓</b>.</p>
<b>EXCEPTIONS</b>	<p>Following Individuals will be Resident only if Period of Stay during PY is 182 days or more. [2<sup>nd</sup> Condition → NA in the following cases]</p> <p>(i) <b>Indian Citizen</b> who <b>leaves India during PY</b> as a <b>Member of Crew of Indian ship</b> or for <b>employment outside</b> India;</p> <p>(ii) <b>Indian Citizen</b> or <b>Person of Indian Origin</b> who comes on <b>visit to India</b> in PY. [Such Person must be engaged in <b>employment/business o/s India</b>]</p>
<b>ADDITIONAL CONDITION</b>	<p><b>Resident Individual can be ROR or RNOR:</b> To determine whether Individual is ROR/RNOR, we need to check <b>2 Additional conditions</b>.</p> <p>(i) His <b>Total Stay</b> in India in <b>Last 7 years is 730 days</b> or more <b>AND</b></p> <p>(ii) He is a <b>Resident</b> in <b>Any 2 out of Last 10 years</b></p> <p><b>CRUX:</b> If an Individual Satisfy:          → <b>Both</b> Additional conditions → He is <b>ROR</b>.          → <b>None or one</b> of the Additional conditions → He is <b>RNOR</b>.</p>

**Person of Indian Origin:** If the person or his parents or his grandparents were born in **UNDIVIDED INDIA**. Grandparents include both maternal & paternal grandparents.

### Points to Remember:

- ❖ Stay in India → Includes **Stay in TWI**.
- ❖ **Continuous Stay** in India → **Not Necessary**.
- ❖ **Date of Arrival & Departure** → **Considered** to be **in India** for counting days stayed in India.
- ❖ **Individual can be resident in more than 1 country, but he can be citizen in ONLY ONE Country.**

### SOME CONCEPTUAL QUESTIONS

**CQ1.** Mr. B, a Canadian citizen, comes to India for the first time during PY 2014-15. During FYs 2014-15, 2015-16, 2016-17, 2017-18 & 2018-19, he was in India for 55 days, 60 days, 90 days, 150 days & 70 days, respectively. Determine his residential status for the AY 2019-20.

**Solution:** During PY 2018-19, Mr. B was in India for 70 days & during Last 4 years, he was in India for 355 days (i.e. 55 + 60 + 90 + 150 days). Thus, he does not ANY of the basic condition. Thus he is a NR.

**CQ2.** Mr. D, an Indian citizen, leaves India on 22.9.2018 for the first time, to work as an officer of a company in France. Determine his residential status for the AY 2019-20.

**Solution:** During PY 2018-19, Mr. D was in India for 175 days (30+31+30+31+31+22 days). He does not satisfy the minimum criteria of 182 days. *Also, since he is an Indian citizen leaving India for the purposes of employment, the second basic condition is not applicable to him.* Therefore, Mr. D is NR.

**CQ3.** R was born in Dhaka in 1945. He has been staying in Canada since 1974. He comes to visit India on 13.10.2018 & returns on 29.3.2019. Determine his residential status for AY 2019-20.

**Solution:** His stay in India during the PY 2017-18 is 168 days. He does not satisfy 1<sup>st</sup> Basic condition & 2<sup>nd</sup> Basic condition is NA as he is a person of Indian origin. Thus he is non-resident in India for PY 2018-19.

**CQ4.** X is a citizen of Nepal. His grandfather was born near Multan (Now in Pakistan) in 1945. He came to India for the first time since 1986 on 2.10.2018 for a visit of 294 days. Find his residential status for AY 2019-20.

**Solution:** X's stay in India during PY 2018-19 is 181 days. Thus he does not satisfy 1<sup>st</sup> Basic Condition. He is a person of Indian origin because his grandfather was born in undivided India & thus 2<sup>nd</sup> basic condition is not applicable in his case. Therefore He is NR.

**CQ5.** R is a foreign national. During PY 2018-19, he comes to India for 91 days. Determine his residential status for AY 2019-20 if during PY 2005-2006 to PY 2017-18, he was present in India as follows:

2005-06	315 days	2008-09	72 days	2011-12	22 days	2014-15	307 days	2017-18	134 days
2006-07	16 days	2009-10	179 days	2012-13	359 days	2015-16	67 days		
2007-08	40 days	2010-11	362 days	2013-14	180 days	2016-17	12 days		

**Solution:** During PY 2018-19, R is in India for 91 days & during Last 4 years, he is in India for 520 days (134+12+67+307 days). Thus, he satisfies 2<sup>nd</sup> basic condition & **thus he is Resident**.

**Additional conditions:**

PY	Stay in India	
2017-18	134 (566 days in last 4 PYs)	Resident
2016-17	12 (866 days in last 4 PYs)	Non-resident
2015-16	67 (868 days in last 4 PYs)	<b>Resident (for 2<sup>nd</sup> time)</b>
2014-15	307	Not necessary to determine further as resident for 2 years
2013-14	180	
2012-13	359	
2011-12	22	

**Total stay in 7 preceding PY is 1081 days. Thus R satisfies both the additional conditions.**

R satisfies one of the basic conditions & two additional conditions. Thus he is ROR in India for AY 2019-20.

**CQ6.** R comes to India, for first time on 14.4.2016. During his stay in India up to 3.10.2018, he stays at Mumbai up to 8.4.2017 & then stays in Delhi till his departure from India. Determine his residential status for AY 2019-20.

**Solution:** During PY 2018-19, R was in India for 186 days (1.4.2018 to 3.10.2018). Since, he satisfies 1<sup>st</sup> basic condition, he is a Resident. To determine whether he is ROR/RNOR, we need to check additional conditions.

(1) R is resident in India for PYs 2016-17 & PY 2017-18 since his stay was more than 182 days.

(2) R is in India from 14.4.2016 to 31.3.2018 (i.e. 717 days).

R satisfies one of the basic conditions & only one of the two additional conditions. Thus R is RNOR.

**RULE 126:** Clarification regarding **FOREIGN BOUND SHIPS** where destination of the voyage is outside India [Explanation 2 to Section 6(1)]

- In case of Individual being **Citizen of India & Member of Crew** of Foreign Bound ship leaving India, period of stay in India **shall not include following period** in respect of an eligible voyage:

Period Commencing from	Ending on
Date entered into CDC for joining the ship	Date entered into the CDC for signing off.

**Continuous Discharge Certificate (CDC):** It has the meaning assigned in Merchant Shipping (CDS-cum Seafarer's Identity Document) Rules, 2001 made under Merchant Shipping Act, 1958.

**Eligible voyage:** A voyage by a ship engaged in carriage of passengers/freight in international traffic:

- (a) For voyage having originated from any port in India → Destination should be any port o/s India.  
 (b) For voyage having originated from any port o/s India → Destination should be any port in India.

**CQ7.** Mr. Raja is an Indian citizen & a member of the crew of a Singapore bound Indian ship engaged in carriage of passengers in international traffic departing from Chennai port on 6<sup>th</sup> June 2018. From the following details for PY 2018-19, determine the residential status of Mr. Raja for AY 2019-20, assuming that his stay in India in last 4 PYs is 400 days & last 7 PYs is 750 days:

Date entered into CDC in respect of joining the ship by Mr. Raja	6 <sup>th</sup> June 2018
Date entered into CDC in respect of signing off the ship by Mr. Raja	9 <sup>th</sup> Dec 2018

**Solution:** Voyage is undertaken by Indian ship engaged in carriage of passenger in international traffic originating from port in India (Chennai) & having its destination at port o/s India (Singapore). Hence it is an eligible voyage. Therefore, period beginning from 6<sup>th</sup> June 2018 & ending on 9<sup>th</sup> Dec 2018, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from period of his stay in India. Thus Mr. Raja's period of stay in India during PY 17-18 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during PY 2018-19 is less than 182 days, **he is a NR for AY 2019-20.**

<b>2. HUF</b>	<p>➤ Residential Status of HUF depends on the place where C&amp;M of HUF is situated.</p> <table border="1"> <tr> <td>If Control &amp; Management is situated <b>wholly/partly</b> in India</td><td><b>Resident</b></td></tr> <tr> <td>If Control &amp; Management is situated <b>wholly outside</b> India</td><td><b>NR</b></td></tr> </table> <p style="text-align: center;"><b>DETERMINATION OF ROR/RNOR</b></p> <p>➤ <b>Status of KARTA</b> will determine whether <b>HUF</b> is <b>ROR/RNOR</b>.</p> <ul style="list-style-type: none"> <li>☞ If KARTA is ROR → HUF is ROR &amp;</li> <li>☞ If KARTA is RNOR → HUF is RNOR.</li> </ul>	If Control & Management is situated <b>wholly/partly</b> in India	<b>Resident</b>	If Control & Management is situated <b>wholly outside</b> India	<b>NR</b>
If Control & Management is situated <b>wholly/partly</b> in India	<b>Resident</b>				
If Control & Management is situated <b>wholly outside</b> India	<b>NR</b>				
<b>3. FIRMS/ AOP/LA/AJP</b>	<table border="1"> <tr> <td>If Control &amp; Management is situated <b>wholly/partly</b> in India</td><td><b>Resident</b></td></tr> <tr> <td>If Control &amp; Management is situated <b>wholly outside</b> India</td><td><b>NR</b></td></tr> </table>	If Control & Management is situated <b>wholly/partly</b> in India	<b>Resident</b>	If Control & Management is situated <b>wholly outside</b> India	<b>NR</b>
If Control & Management is situated <b>wholly/partly</b> in India	<b>Resident</b>				
If Control & Management is situated <b>wholly outside</b> India	<b>NR</b>				
<b>4. COMPANY</b>	<p>➤ A Company shall be Resident in India if:</p> <ol style="list-style-type: none"> <li>1. It is an <b>Indian company</b>;</li> <li>2. <b>POEM is in India</b> in that PY (Other than Indian Company).</li> </ol> <p><b>Note:</b> Indian Company is Always RESIDENT even if its POEM is in India/not. Thus criterion of POEM is relevant for Foreign Company only.</p> <p><b>POEM:</b> A Place where key management &amp; commercial decisions necessary for the conduct of the business of entity as a whole are substantially made.</p>				

**Meaning of Control & Management (C&M)**

- C&M refers to **Central C&M** & not day-to-day business activities. Business may be done from outside India & yet its C&M may be within India. **C&M is situated at a place where “head & brain” is situated.**
- **Place of Control** → May **differ** from **usual place** of running **business & registered office**. This is because C&M need not be necessarily done from the place of business/from registered office.
- C&M → Place where ‘Controlling & Directing power’ works (with some permanence).

## 2B. SCOPE OF TOTAL INCOME - SECTION 5

- The scope (taxability) of total income of an assessee depends upon the following factors:
- Residential Status** of the assessee.
  - Place** of **Accrual/Receipt** of Income.
  - Point of time** at which income had accrued/received by the assessee or his agent.

To understand the scope of Total Income, we must first understand some terms:

<b>INDIAN INCOME</b>	1. Income <b>Received</b> or deemed to be received <b>in India</b> <b>OR</b> 2. Income <b>Accrued</b> or deemed to be accrued <b>in India</b> .
<b>FOREIGN INCOME</b>	Income which is <b>NEITHER Received</b> in India <b>NOR Accrued</b> in India.

### SCOPE OF TOTAL INCOME

#### (I) INDIVIDUAL/HUF

Nature of Income	Tax Treatment		
	ROR	RNOR	NR
<b>Indian Income</b>	Taxable	Taxable	Taxable
<b>Foreign Income</b>	Taxable	<b>Only 2 types of Foreign Incomes are taxable**</b> Others foreign incomes are not taxable in India.	Not Taxable

**\*\* Following Foreign Incomes are taxable in the hands of RNOR:**

- Business Income** which is **controlled** wholly/partly **from India**.
- Income from **Profession set up in India**.

Above 2 Incomes must be included in TI of RNOR even if they accrues/arises outside India.

**Note:** No other foreign Income (Salary, Rent, Interest etc.) is taxable in India to RNOR.

#### (II) Other than INDIVIDUAL/HUF

Nature of Income	Tax Treatment	
	ROR	NR
<b>Indian Income</b>	Taxable	Taxable
<b>Foreign Income</b>	Taxable	Not Taxable

#### Points to Remember:

- ❖ **Indian Income** → Taxable to **EVERYONE** (R/NR).
- ❖ **ROR** → **Every Income** (Indian/Foreign) is Taxable.

**Circular:** Clarification regarding liability to Tax in India of **NR Seafarer receiving Remuneration in NRE (Non-Resident External) A/c** maintained with an Indian Bank

Income by way of salary, received by non-resident seafarers, for services rendered **outside India** on a foreign going ship (with Indian flag or foreign flag) & received into NRE bank A/c maintained with an Indian bank shall **not be included** in the total income.

## MEANING OF SOME IMPORTANT TERMS

### I. RECEIPT OF INCOME

<b>Income Received in India</b>	<ul style="list-style-type: none"><li>➤ Receipt → First occasion(time) when the recipient gets money under his control.</li><li>➤ Any <b>Further Remittance/Transmission</b> of the received amount to another place/person <b>does not result in “Receipt”</b> in the hands of subsequent recipient.</li></ul>
<b>Income Deemed to be Received in India</b>	<ul style="list-style-type: none"><li>(i) Employer's Contribution to RPF in excess of 12% of salary.</li><li>(ii) Interest credited to RPF of the Employee in excess of 9.5% p.a.</li><li>(iii) Amount transferred from URPF to RPF (Employer's contribution &amp; its interest).</li><li>(iv) Contribution made by CG/ other employer in PY under Pension scheme [80CCD] to the account of employee.</li><li>(v) Any Tax deducted at source.</li></ul>

**CQ8.** Discuss the taxability of the following items of receipt in the case of RNOR:

- (i) Rs. 1,00,000 was earned from a business in the USA but the profit have been remitted to India. The assessee used to attend to the business only when he was in the USA.
- (ii) Remuneration of Rs. 20,000 due to him for services rendered in Russia was credited to his bank account in Russia & immediately thereafter remitted to India.

**Solution:**

- (i) Remittance of profit to India does not mean that business is controlled in India.

For RNOR, income accruing outside India is taxable only when it is from a business controlled from India or from a profession set up in India. Thus, income of Rs. 1,00,000 is not taxable in India.

- (ii) Salary accrues where services are rendered. In the present case services were rendered in Russia & income received there, it is income accruing outside India & received outside India. Hence it is not taxable in India.

### II. ACCRUAL OF INCOME

- **Accrue** means the **right to receive income**.
- **Due** means the **right to enforce payment** of the accrued income.

**Examples:**

1. Salary for work done in December will accrue throughout the month, day to day, but will become due on the salary bill being passed on 31<sup>st</sup> Dec or 1<sup>st</sup> Jan.
2. Interest on Government securities payable on specified dates arise during the period of holding but will become due for payment on specified dates.

**Explanation 1 to Section 5:** Income accruing/arising outside India shall not be deemed to be received in India merely because it is taken into account in Balance Sheet prepared in India.

**Class Note:**

**Explanation 2 to Section 5:** Income taxed on Accrual basis cannot be assessed again on Receipt basis, as it will amount to double taxation.



## INCOMES DEEMED TO ACCRUE OR ARISE IN INDIA [SECTION 9]

- Some Incomes are **deemed** to accrue/arise in India even though they actually accrue o/s India.

### 1. INCOME FROM BUSINESS CONNECTION IN INDIA

- **Conditions for Taxability of Income from Business Connection:**
- (a) Assessed has a **“Business Connection”** in India.
  - (b) Income arises **outside India** by virtue of such Business Connection to the assessee.
- **Meaning of Business Connection:** Business connection includes **any Business Activity** carried out **through** a person acting on behalf of NR.

Person Acting on behalf of NR (Agent) must satisfy the following conditions:

- ☞ Agent of NR must have **Authority to conclude contracts on behalf of NR**. Such contract
- Should be in the **name of NR**.
  - Should be **for Provision of Services** by that NR.
  - Should be **for the transfer of ownership of Property** owned by that NR.
  - Should be **for granting of Right to use** Property owned by that NR/under control of NR.
- ☞ If agent does not have the above Authorities but **he habitually maintains stock of goods/merchandise** from which he regularly deliver goods/merchandise in India **on behalf of NR**.
- ☞ **Where he habitually secures orders in India for NR.**
- **Examples of Business Connection:**
- (a) Branch office in India or Agent of a NR in India or An organization/factory of a NR in India.
  - (b) Appointing an agent in India for systematic & regular purchase of Raw Material or for sale of NR's goods for other business purpose.
  - (c) Formation of subsidiary company in India to carry on business of NR parent company.
  - (d) Any profit of NR which can be reasonably attributable to such part of operations carried out in India through business connections in India are deemed to be earned in India.

**NOTE:** If agent's authority is limited to purchase of goods or merchandise for the non-resident, there will be NO business connection.

- There may be situations when a person acting on behalf of NR **secures order for another NR too**.  
In such situation, business connection for other NR is established if:
- (a) such other NR controls the NR or
  - (b) such other NR is controlled by the NR or
  - (c) such other NR is subject to same control as that of NR.

In all 3 situations above, business connection is established where a person habitually secures orders in India, mainly or wholly for such non-residents.

- **Independent Agent:** Agent who do not work mainly or wholly for the NR.  
Where NR carries on business through broker/commission agent, there will be NO business connection if such a person is acting in ordinary course of his business.

➤ **Significant Economic Presence of NR in India Constitute Business Connection [Amd]**  
[Explanation 2A to section 9(1)(i)]

**Significant Economic Presence means:**

(a) Transaction in respect of any goods, services or property carried out by NR in India including provision of download of data or software in India	Aggregate of payments arising from such transactions during PY exceeds prescribed amount.
(b) Systematic & continuous soliciting of business activities or engaging in interaction with users in India through digital means	Prescribed number of users

Above transactions shall constitute significant economic presence in India, whether or not

- (i) Agreement for such transactions or activities is entered in India;
- (ii) NR has a residence or place of business in India; or
- (iii) NR renders services in India.

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

**Note:** This provision has been inserted to cover digitalized businesses, which do not require physical presence of itself or any agent in India within the scope of section 9(1)(i).

**FOLLOWING SHALL NOT BE TREATED AS BUSINESS CONNECTION IN INDIA**

(a) Business whose All operations are not carried out in India	<ul style="list-style-type: none"> <li>▪ Part of Income attributable to the operations carried out in India shall be deemed to accrue or arise in India.</li> <li>▪ Income which cannot be attributed to the operations in India shall not be deemed to accrue/arise in India.</li> </ul>
(b) Purchase of Goods in India for Export by NR	<ul style="list-style-type: none"> <li>▪ No Income shall be deemed to accrue in India from operations which are confined to purchase of goods in India for Export by NR.</li> </ul>
(c) Collection of News & Views in India for transmission out of India by NR	<ul style="list-style-type: none"> <li>▪ If a person engaged in business of News agency etc, Income from activities which are confined to the collection of news &amp; views in India for transmission out of India is not deemed to accrue in India.</li> </ul>
(d) Shooting of Cinematograph films in India by NR	<ul style="list-style-type: none"> <li>▪ Income from operations confined to shooting of any cinematograph film in India, if such NR is: <ul style="list-style-type: none"> <li>(a) Individual, who is not a citizen of India or</li> <li>(b) Firm which does not have any partner who is a Citizen of India or who is Resident in India;</li> <li>(c) Company which does not have any Shareholder who is a Citizen of India or who is Resident in India.</li> </ul> </li> </ul>
(e) Display of Rough Diamonds in SNZ by Foreign Company	<ul style="list-style-type: none"> <li>▪ Income from the activities carried out by <b>Foreign Company</b> which are confined to display of uncut &amp; unassorted diamonds (without any sorting or Sale) in any SNZ notified by CG.</li> </ul>

**2. INCOME FROM PROPERTY OR ASSET OR SOURCE OF INCOME IN INDIA**

➤ Income from Property/Asset situated in India → Deemed to accrue in India.

**Ex: (1)** Rent paid o/s India for use of machinery/buildings situated in India is deemed to accrue in India.

**(2)** Deposits with an Indian company for which interest is received o/s India.



### 3. CAPITAL GAIN ON TRANSFER OF A CAPITAL ASSET SITUATED IN INDIA

- Capital Gain on Transfer of Capital Asset situated in India is deemed to accrue in India even if:
  - Place of Registration of Document of Transfer is in India or **outside India**; &
  - Place of Payment of consideration for transfer is in India or **outside India**.
- Capital asset (being any Share/Interest in company registered/incorporated o/s India) shall be deemed to be situated in India, **if Share/Interest derives its value substantially from the assets located in India.**
- **Declaration of Dividend by a foreign company outside India** does not have the effect of transfer of any underlying assets located in India. Thus Dividends declared & paid by Foreign Company outside India in respect of shares which derive their value substantially from assets situated in India would **NOT be deemed to be income accruing in India.**

### 4. DIVIDEND INCOME FROM INDIAN COMPANY

- Dividends paid by Indian company outside India → Deemed to Accrue in India.
- Watch out for Section 10(34) & Section 115BBDA.

### 5. INCOME FROM SALARIES

- Salary is deemed to accrue/arise at the place where the **services are rendered.**
- If the services are rendered in India, salary shall be deemed to accrue in India.
- Salaries payable by **Government to a citizen of India** for services rendered **outside India** would be **deemed to accrue India** (even if services are rendered outside India).  
However, Allowances & Perquisites paid outside India by Government are Exempt u/s 10(7).
- **Exception u/s 9(2):** Pension payable **outside India** by the Government to its officials & judges who permanently reside outside India shall **not be deemed to accrue or arise in India.**

### 6. INTEREST, ROYALTY, FEES FOR TECHNICAL SERVICES PAID TO NON-RESIDENT

- Interest, royalty, FTS is deemed to accrue/arise in India if it is:

#### (i) Payable by Government of India (CG/SG)

#### (ii) Payable by Resident

**Exceptions:** [In following cases, income is not deemed to accrue in India]

- (a) If the borrowed money is used by the payer of Interest for a business/profession carried on outside India or for earning any income from the source outside India.
- (b) Payment of Royalty or Technical fees related to a Business/profession carried on by the payer outside India or for earning any income outside India.

#### (iii) Payable by Non- Resident

- (a) If borrowed money is used by the payer of Interest for a business/profession carried on in India or for earning any income in India.
- (b) Payment of Royalty or FTS related to a Business/profession carried on by the payer in India or for earning any income in India.

**Exception:** Interest on money borrowed **by NR** for any purpose **other than business or profession in India** will **NOT** be deemed to accrue or arise in India.

**Ex:** If a NR 'A' borrows money from a non-resident 'B' & invests the same in shares of an Indian company, interest payable by 'A' to 'B' will not be deemed to accrue or arise in India.

**Note:** Income by way of Interest, Royalty, FTS from services utilized in India would be deemed to accrue in India in case of a NR & be included in his total income, whether or not such services were rendered in India & whether or not NR has a residence or place of business or business connection in India.

**CQ9.** G, a national of Iraq received the following fees for technical services during PY 2018-19.

1	From Government of India	1,00,000
2	From Government of Iraq	4,00,000
3	From S, a ROI, services have been utilised for earning income in India	40,000
4	From V, a ROI, services have been utilised for earning income outside India	80,000
5	From J, a NR for services for a business carried on in India	70,000

Compute taxable income of G for AY 2019-20 assuming G has come for first time in India during PY 2018-19 & stayed for 181 days.

**Solution:** Since G does not satisfy any of the two basic conditions, he is a NR for AY 2019-20.

For NR, only Indian Incomes are taxable.

Fees for technical services received from:

1	Government of India [taxable u/s 9(vii)(a)]	1,00,000
2	Government of Iraq [not taxable since paid by foreign government to NR]	-
3	S [Paid by Resident & services has been used for earning Income in India]	40,000
4	V [Paid by Resident & services has been used for earning Income outside India]	-
5	J [Paid by one NR to another NR but services has been given for business in India]	70,000
	<b>Total Income</b>	<b>2,10,000</b>

**CQ10.** What if in the above question, G came to India on 15.6.2018 & stayed upto. 31.12.2018, will his taxable income in India change?

**Answer:** If G stays in India from 15.6.2018 to 31.12.2018, his stay in India = 200 days. Thus he will be Resident in India. However, he shall be "RNOR" as he does not satisfy both the additional conditions.

For RNOR, income earned & received o/s India is taxable only when it is from a business or profession controlled or set up in India.

Assuming that this condition is not satisfied, fees for technical services received from Government of Iraq as well as from V will still be exempt from tax in India. Hence Total Income of G will remain at Rs. 2,10,000.

## TABULAR SUMMARY OF SCOPE OF TOTAL INCOME

SCOPE OF TOTAL INCOME	ROR	RNOR	NR
Income Received or Deemed to be Received in India during PY	Taxable	Taxable	Taxable
Income Accrued or Deemed to be Accrued in India during PY	Taxable	Taxable	Taxable
Income Accrued outside India during PY	Taxable, even if Received outside India	Taxable in 2 Exceptional cases only.	Not Taxable

## MASTER QUESTION ON RESIDENTIAL STATUS

**MQ.** Compute total income of Mr. PC assuming him (i) ROR (ii) RNOR (iii) NR for AY 2019-20.

Particulars	Amt
1. Interest on UK Development Bonds, (50% of interest received in India)	10,000
2. Interest for debentures in an Indian company (received in London)	10,000
3. Income from a business in Chennai managed from London (50% is received in India)	20,000
4. Profits on sale of shares of Indian company (received in London)	20,000
5. Dividend from British Company (received in London)	5,000
6. Profits on Sale of Plant at Germany (50% of profits are received in India)	40,000
7. Business income in Germany which is controlled from Delhi (40,000 is received in India)	70,000
8. Profits from a business in Delhi but managed entirely from London	15,000
9. Income from House in London deposited in Indian Bank at London, brought to India (computed)	50,000
10. Royalty/Fees for technical services rendered in India (received in London)	8,000
11. Pension for services rendered in India (received in Burma)	4,000
12. Income from property situated in Pakistan received there	16,000
13. Past foreign untaxed Income brought to India during the PY	5,000
14. Income from agricultural land in Nepal received there and then brought to India	18,000
15. Income from profession in Kenya which was set up in India, received there but spent in India	5,000
16. Gift received on the occasion of his wedding	20,000
17. Income from a business in Russia, controlled from Russia	20,000
18. Dividend from Reliance Petroleum Limited, an Indian company	5,000
19. Honorarium received from Government of India (Rs. 15,000 was paid for travelling expenses)	20,000
20. Income from Business connection in India, received in London	10,000
21. Speculation profit earned & received outside India on 15.4.2018	20,000
22. Salary drawn for 2 months for working in Indian Embassy's Office in Australia & received there	80,000

**Solution:**

### Computation of Total Income for AY 2019-20

Particular	ROR	RNOR	NR
1. Interest on UK Development Bonds.	10,000	5,000	5,000
It is foreign Income. But 50% of interest received in India is Indian Income.			
2. Interest for debentures in an Indian company	10,000	10,000	10,000
Since Interest is paid on debentures by Indian company, it is an Indian Income. Thus, taxable to Everyone.			
3. Income from a business in Chennai (50% is received in India)	20,000	20,000	20,000
Since business is situated in India, 100% is Indian Income irrespective of the place where it is Managed from.			
4. Profits on sale of shares of Indian company received in London	20,000	20,000	20,000
5. Dividend from British company received in London [Foreign Income]	5,000	-	-
6. Profits on sale of plant at Germany [50% Foreign & 50% Indian Income]	40,000	20,000	20,000
7. Income earned from business in Germany which is controlled from Delhi	70,000	70,000	40,000
Since the business has been controlled from India, such foreign income is taxable to RNOR also.			
8. Profits from business in Delhi [Indian Income & thus taxable to everyone]	15,000	15,000	15,000
9. Income from property in London deposited in London, later on remitted to India [Foreign Income & thus taxable to ROR]; No tax on Remittance	50,000	-	-
10. Royalty/FTS rendered in India; Indian Income & thus taxable to everyone	8,000	8,000	8,000
11. Pension for services rendered in India & [Thus Indian Income]	4,000	4,000	4,000
12. Income from property situated in Pakistan [Foreign Income; tax – ROR]	16,000	-	-
13. Past foreign untaxed income brought to India during the PY	-	-	-
Since income relates to past year, it is assumed that it must have been taxed in that PY. Thus, it is not taxable in this PY.			
14. Income from Agricultural land in Nepal received there [Foreign Income]	18,000	-	-
15. Income from profession in Kenya which was set up in India [Refer Pt. 7]	5,000	5,000	-
16. Gift received on the occasion of his wedding [not taxable]	-	-	-
17. Income from business in Russia, controlled from Russia [Foreign Income]	20,000	-	-
18. Dividend from Reliance Limited, Indian Company [Exempt u/s 10(34)]	-	-	-
19. Honorarium received from Government of India [Indian Income]. But Allowance are exempt u/s 10(7). Thus, travelling expenses are not taxable.	5,000	5,000	5,000
20. Income from Business connection in India, received in London	10,000	10,000	10,000
21. Speculation profit earned & received outside India [Foreign Income]	20,000	-	-
22. Salary for working in Indian Embassy's Office in Australia & received there. [Deemed to accrue in India & thus Indian Income]	80,000	80,000	80,000

## 3A. INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

### DIFFERENCE B/W “EXEMPT INCOME” & “DEDUCTIONS FROM TOTAL INCOME”

- **EXEMPT INCOME:** Income which are **not included** in **total income** of the assessee are called Exempt Income. Such exempt Income will **not enter** the **computation** of total Income.  
**Ex:** Incomes which are exempt u/s 10 will not be included in GTI (computation of TI).
- **DEDUCTION:** Certain Incomes are **first included** in Gross Total Income of the assessee & **then** the **prescribed amount of deductions** is allowed as stated in the relevant section, such incomes are called Deductible Income.  
**Ex:** Incomes from which deductions are allowable under Chapter VI-A will first be included in GTI & then the deductions will be allowed from GTI.

### DIFFERENCE B/W “GROSS TOTAL INCOME” & “TOTAL (TAXABLE) INCOME”

- **GROSS TOTAL INCOME:** GTI means **Aggregate of Incomes** under **all heads** of Income **before claiming deduction** under chapter VI-A (Sec 80C- 80U).
- **TOTAL (TAXABLE) INCOME:** Total income means gross total income after allowing deductions under Chapter VI-A. Thus, **Total Income = GTI – Chapter VI-A Deductions.**

### RESTRICTION ON ALLOWABILITY OF EXPENDITURE INCURRED FOR EARNING EXEMPT(NON-TAXABLE) INCOME [SECTION 14A]

- **Expenditure incurred to earn Exempt Income shall not be allowed as deduction** while computing income under any head since the exempt income is not taxable.

#### Method for determining amount of expenditure incurred to earn Exempt Income - Rule 8D

- If AO, having regard to the accounts of the assessee, is **not satisfied** with -
  - (a) **Correctness** of the claim of the **expenditure** incurred by the assessee; or
  - (b) Assessee has claimed that **no expenditure** has been **incurred to earn exempt income** in the PY,he shall determine amount of expenditure incurred to earn exempt income in following manner:

#### Expenditure incurred to earn Exempt Income = (i) + (ii)

- (i) Amount of Expenditure incurred directly to earn Exempt Income.
- (ii) **1% of Annual Average of Monthly Averages of Opening & Closing balances of value of investment,** income from which is Exempt.

**However (i) + (ii) shall not exceed total expenditure claimed as deduction in PY.**

**Note:** Section 14A r/w Rule 8D states that expenditure incurred to earn exempt income shall be disallowed even if assessee has not earned any exempt income in a particular year.

**PC Note:** All the Exemptions u/s 10 will not be discussed in this chapter. Some Exemptions u/s 10 are discussed in some of the chapters to be discussed later.

**So, in this chapter we will discuss only those exemptions which will not be discussed in other chapters.**

## LIST OF EXEMPTIONS DISCUSSED IN RESPECTIVE CHAPTERS

<b>Income u/h "Salaries"</b>	<ul style="list-style-type: none"> <li>▪ LTC &amp; HRA.</li> <li>▪ Allowance payable outside India by GOI to a Citizen of India [Foreign Diplomats].</li> <li>▪ Gratuity/Commutated Pension/Leave Encashment (Salary).</li> <li>▪ Retrenchment Compensation.</li> <li>▪ Voluntary Retirement Receipts.</li> <li>▪ Income-tax paid by employer on behalf of Employee.</li> <li>▪ Payment from Provident Funds/Superannuation Fund.</li> <li>▪ Special Allowance to meet expenses relating to duties or personal expenses.</li> <li>▪ Specified Allowances &amp; Perquisites paid to Chairman/Retired Chairman/Member of UPSC.</li> </ul>
<b>Deductions from GTI</b>	<ul style="list-style-type: none"> <li>▪ Receipts from LIC.</li> <li>▪ Payment from NPS Trust to an employee on Closure of his Account/Opting out of Pension Scheme/Partial Withdrawal.</li> </ul>
<b>IFOS</b>	<ul style="list-style-type: none"> <li>▪ Interest Income arising to Certain Persons.</li> <li>▪ Family Pension received by Widow/Nominated heirs of Armed Forces Members.</li> <li>▪ Dividends referred to in Section 115-O.</li> </ul>
<b>Clubbing</b>	<ul style="list-style-type: none"> <li>▪ Exemption (Rs. 1,500) in respect of Minor's Income included in the hands of Parent.</li> </ul>
<b>Capital Gains</b>	<ul style="list-style-type: none"> <li>▪ Capital Gain on transfer of a units of Unit Scheme. [US64]</li> <li>▪ Income received on buy-back of Unlisted Shares of Domestic Company.</li> <li>▪ Capital Gain on Compulsory Acquisition of Urban Agricultural Land.</li> <li>▪ Income received in Transaction of Reverse Mortgage.</li> </ul>

## EXEMPT INCOMES: SUCH INCOME DO NOT FORM PART OF TOTAL INCOME

Section	Particulars
10(1)	Agricultural Income.
10(2)	Share received by the member from the Income of HUF.
10(2A)	Share of profit of a partner in the Income of a firm.
10(4)	(i) Interest on Notified Securities & Bonds held by a NR. (ii) Interest on NR (External) Account in any bank in India as per the rules of FEMA. (B) Interest on Saving Certificate to NR.
10(6)	Remuneration to certain Individuals who are not Citizens of India.
10(7)	Allowances/Perqs paid o/s India to Indian Citizen for services rendered o/s India.
10(10BB)	Payment under Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.
10(10BC)	Compensation received or receivable on account of any disaster.
10(10CC)	Tax on non-monetary perquisites paid by employer.
10(10D)	Amount received under a Life Insurance Policy.
10(11)	Withdrawal of Accumulated balance from Provident Fund.
10(11A)	Interest & withdrawals from Sukanya Samriddhi Account
10(12)/(13)	Payments from RPF/ Any payment from Approved SAF.
10(15)	Interest, premium or bonus on specified investments issued by CG/SG.
10(16)	Scholarships granted to meet the Cost of Education
10(17)	Daily & constituency allowance, etc, received by MPs & MLAs
10(17A)	Award or Reward
10(18)	Pension received by certain awardees/any member of their families
10(22D)	Income of notified Mutual Funds
10(26)	Income of a member of Scheduled Tribe residing in certain specified areas
10(26AAA)	Income of a Sikkemese Individual.
10(30)/(31)	Tea board Subsidy & Other Subsidies.
10(34)/(35)	Dividend from shares/units of MF to be exempt in the hands of the shareholders
10(34A)	Income arising to a shareholder on account of buy back of unlisted shares.
10(37)	CG on compensation on compulsory acquisition of urban agricultural land.
10(43)	Amount received by Individual as Loan under Reverse Mortgage.
10(45)	Notified Allowance or Perquisite paid to Chairman/Member of UPSC.

## SHARE OF HUF INCOME RECEIVED BY A MEMBER FROM HUF [SECTION 10(2)]

- Since HUF is a 'person' & thus income earned by the HUF is assessable in its own hands.
- Any sum received by an Individual as a member of HUF either out of the family income or out of the impartible estate belonging to the family shall be **exempt** in the hands of the member even if such income is exempt in the hands of HUF.

**CQ1.** Mr. A, member of HUF, received 10,000 as his share from income of HUF. Discuss Tax Treatment.

**Answer:** Such income is not includible in Mr. A's chargeable income since section 10(2) exempts any sum received by an individual as a member of a HUF where such sum has been paid out of the income of the family.

## SHARE OF PROFIT OF A PARTNER FROM A FIRM [SECTION 10(2A)]

- Share of the Partner in total income of the firm shall be exempt from tax in the hands of partner even if taxable income becomes nil in the hands of firm due to any exemptions or deductions.

## INTEREST ON NON-RESIDENT (EXTERNAL) A/C - (only for Individual) - [SEC 10(4)]

- **Interest** received on moneys in **Non-Resident (External) A/c** in any bank in **India** → **Exempt**.

### Points to Remember:

- ❖ **Exemption** is **available** only if such **NR** person is **permitted** by **RBI** to **maintain** such account.
- ❖ Joint holders of NRE A/c do not constitute an AOP by merely having these accounts in joint names.
- ❖ Exemption u/s 10(4)(ii) will be available to such joint account holders, subject to fulfillment of other conditions contained in that section by each of the individual joint account holders.

## INTEREST ON SAVINGS CERTIFICATES TO NON-RESIDENTS [SECTION 10(4B)]

- An Individual NR (being citizen of India/Person of Indian origin) shall be entitled for exemption in respect of interest on such saving certificates issued before 1.6.2002 by CG & notified in OG.
- To claim such exemption, individual should have **subscribed** to such certificates in **convertible foreign exchange** remitted from a country outside India in accordance with FEMA, 1999.

## REMUNERATION RECEIVED BY INDIVIDUAL WHO ARE NOT CITIZEN [SEC 10(6)]

Sec	Exemptions & Conditions for claiming Exemptions
(ii)	<p><b>Remuneration of Foreign Diplomats in India:</b></p> <p><b>Conditions for Claiming Exemption:</b></p> <ol style="list-style-type: none"><li>1. Remuneration received by Indian official in such foreign countries should be Exempt.</li><li>2. Foreign officer is not engaged in any other business/profession/employment in India.</li></ol>



(vi)	<b>Remuneration of Employees of a Foreign Enterprise for services rendered in India:</b> <u>Conditions for claiming Exemption:</u> <ol style="list-style-type: none"> <li>1. Employees' Stay in India ≤ 90 days in PY.</li> <li>2. Remuneration paid to such employee is not deductible from employer's income &amp;</li> <li>3. Employer is not engaged in any Business/Trade in India.</li> </ol>
(viii)	<b>Salary received by NR Non-citizen of India as a crew Member of Foreign Ship:</b> <u>Conditions for claiming Exemption:</u> <ol style="list-style-type: none"> <li>1. His stay in India ≤ 90 days in a PY.</li> </ol>
(xi)	<b>Remuneration received by Foreign Government Employees from foreign government for specified training in India.</b> <u>Training should be in any establishment or office of or in any undertaking owned by</u> <ol style="list-style-type: none"> <li>(a) Government; or</li> <li>(b) Any company wholly owned by CG/SG/Jointly by CG/SG or</li> <li>(c) Subsidiary company of a company referred to in (b) above; or</li> <li>(d) Any Statutory corporation; or</li> <li>(e) Any registered society which is wholly financed by CG/SG/Jointly by CG/SG.</li> </ol>

### **ROYALTY INCOME/FEES FOR TECHNICAL SERVICES RECEIVED FROM NATIONAL TECHNICAL RESEARCH ORGANISATION (NTRO) [SEC 10(6D)] [AY 19-20]**

- Income arising to non-corporate NR & foreign companies, by way of Royalty/FTS rendered in or outside India to National Technical Research Organisation (NTRO) is Exempt.

### **ALLOWANCES OR PERQUISITES O/S INDIA TO A CITIZEN OF INDIA [SEC 10(7)]**

- Paid outside India by Government of India for rendering services o/s India are Exempt.

### **PAYMENT TO BHOPAL GAS VICTIMS - [SEC 10(10BB)]**

- Any payment made to a victim of Bhopal Gas Leak Disaster will be fully exempt.
- However exemption is not allowable in respect of amount that has been allowed as deduction.

### **COMPENSATION RECEIVED ON ACCOUNT OF ANY DISASTER [SEC 10(10BC)]**

- **Any amount** received by an **Individual** or his **legal heir** from **CG/SG/LA** by way of compensation on account of **any disaster** shall be exempt.
- However, Exemption is not allowable in respect of amount that has been allowed as deduction.

**CQ2.** Compensation on account of disaster received from LA by an individual or his/her legal heir is taxable.

**Answer: Incorrect.** As per section 10(10BC), any amount received or receivable as compensation by an individual or his/her legal heir on account of any disaster from CG/SG/LA is exempt from tax. However exemption is not available for the loss which has already been allowed a deduction such individual or legal heir.

**Following Receipts will also be Exempt:**

<b>10(10CC)</b>	Tax on <b>Non-Monetary Perquisites</b> paid by the Employer.
<b>10(11)</b>	Any Payment from PF/PPF set up by CG.
<b>10(11A)</b>	Interest & Withdrawals from <b>Sukanya Samriddhi A/c.*</b>
<b>10(12)</b>	Payment from Accumulated Balance of RPF to the employee.
<b>10(12A)</b>	Any payment from NPS trust to an employee on closure/opting out of scheme u/s 80CCD is exempt <b>upto 40% of total amount payable to him.</b>
<b>10(12B)</b>	Any payment from NPS trust to an employee on <b>partial withdrawals</b> out of his account from NPS referred u/s 80CCD is exempt <b>upto 25% of contributions made by him.</b>
<b>10(13)</b>	Any Payment from <b>Approved</b> Superannuation Fund.
<b>10(15)</b>	(i) Interest on <b>Gold Deposit Bonds</b> (ii) Interest on bonds issued by LA.
<b>10(16)</b>	<b>Scholarships</b> granted to meet the Cost of Education.
<b>10(17)</b>	<b>Daily &amp; Constituency allowance</b> received by <b>MPs &amp; MLAs.</b>
<b>10(17A)</b>	<b>Awards</b> or Rewards given by <b>CG/SG</b> (in cash/kind).
<b>10(19)</b>	<b>Family Pension</b> received by Family Members of <b>Armed Forces</b> who died on duty.
<b>10(19A)</b>	Annual value of one palace of the <b>ex-ruler</b>
<b>10(21)</b>	<b>Income of an approved research association</b>
<b>10(22B)</b>	<b>Income of specified news agency</b> set-up in India solely for collection & distribution of news if such news agency does not distribute its income to the member.
<b>10(23C)</b>	Income of certain funds of National Importance set up by CG: (i) <b>Swachh Bharat Kosh</b> (ii) <b>Clean Ganga Fund</b> or such other specified funds. (iii) <b>University/Educational institution</b> formed solely for educational purpose & not for profit. (iv) <b>Hospital/medical institution</b> formed solely for philanthropic purpose & not for profit.
<b>10(23D)</b>	<b>Income of Notified Mutual Funds</b>

**PENSION RECEIVED BY RECIPIENT OF GALLANTRY AWARDS - SEC 10(18)**

- Pension received by Individual who was employee of CG/SG & who has been awarded Param Vir Chakra/Maha Vir Chakra/Vir Chakra → Exempt.
- In **case of Death of Awardee**: Family pension received by the member of his family is exempt.

**INCOME OF MEMBER OF SCHEDULED TRIBE IN SPECIFIED AREAS [SEC 10(26)]**

- Specified Area means:
  - (a) Area specified in the Constitution of India; (North Cachar Hills District, Karbi Anglong District, Bodoland Territorial Areas District, Khasi Hills District, Jaintia Hills District or Garo Hills District)
  - (b) Manipur, Mizoram, Tripura, Nagaland, Arunachal Pradesh &
  - (c) Ladakh in J&K.
- Following Incomes are Exempt:
  - (a) Income from Any source in the specified areas or States.
  - (b) Dividend or Interest on securities.



## INCOME OF A SIKKIMESE INDIVIDUAL - [SEC 10(26AAA)]

### ➤ Exempt Incomes:

- (a) Income from **any source** in the State of Sikkim; or
- (b) Income by way of **Dividend or Interest on securities**.

➤ **Above Exemption is not available** → Sikkimese woman who marry Non-Sikkimese man on/after 1.4.2008.

**CQ3.** Exemption is available to Sikkimese individual, only in respect of income from any source in Sikkim.

**Answer: Incorrect.** Exemption u/s 10(26AAA) is available to a Sikkimese individual not only in respect of the said income, but also in respect of income by way of dividend or interest on securities.

### FOLLOWING INCOMES RECEIVED BY WAY OF SUBSIDY ARE EXEMPT

<b>TEA BOARD SUBSIDY – Sec 10(30)</b>	<ol style="list-style-type: none"> <li>1. Assessee must be engaged in business of growing &amp; manufacturing tea in India.</li> <li>2. Subsidy is received for replantation/replacement/rejuvenation or consolidation of areas used for cultivation of tea.</li> <li>3. Assessee should furnish a certificate from Tea Board to AO along with his ROI.</li> </ol>
<b>SPECIFIED CROP BOARD - Sec 10(31)</b>	<ol style="list-style-type: none"> <li>1. Assessee must be engaged in business of growing &amp; manufacturing rubber, coffee, cardamom or other specified commodity in India.</li> <li>2. Subsidy is received for replantation/replacement/rejuvenation or consolidation of areas used for cultivation of specified crops.</li> <li>3. Assessee should furnish a certificate from the Board to AO along with his ROI.</li> </ol>

**Note:** Income on transfer of such units is not exempt.

### Following Receipts will also be Exempt:

<b>10(32)</b>	<b>Income of minor clubbed in the hands of a parent upto Rs. 1500.</b>
<b>10(34)</b>	Dividend received by shareholder of Domestic Company → <b>Exempt</b> (Check 115BBDA)
<b>10(34A)</b>	Income arising to Shareholder on buyback of <b>Unlisted shares</b> u/s 115QA → <b>Exempt</b> . <b>Note:</b> Income arising on buyback of <b>listed shares</b> is <b>taxed</b> u/h capital gain <b>u/s 46A</b> .
<b>10(35)</b>	Income from units of UTI/MF notified u/s 10(23D) → Exempt. <b>Note:</b> Income on transfer of units of UTI/MF is not Exempt.
<b>10(37)</b>	CG arising on transfer of urban agricultural land by way of compulsory acquisition to Individual/HUF is exempt if compensation is received on/after 1.4.2004. <b>Note:</b> Rural Agricultural land is not a capital asset & thus CG will arise in such case.
<b>10(39)</b>	Specified Income from International Sporting Event held in India.
<b>10(43)</b>	Amount received by Individual as loan under Reverse Mortgage Scheme → Exempt
<b>10(44)</b>	Income of NPS Trust is Exempt.
<b>10(45)</b>	Notified Allowance/Perquisite paid to Chairman/Member of UPSC.

## MATURITY AMOUNT OF A LIFE INSURANCE POLICY - [SEC 10(10D)]

Nature of Policy	Tax treatment
Any sum received from a policy u/s 80DD(3)	Taxable.
Any sum received under a Keyman Insurance Policy	Taxable.
<b>Any other policy</b> (sum received on death of Person)	<b>Exempt</b>
<b>Any other policy</b> (not received on death of Person) <ul style="list-style-type: none"> <li>(i) Issued before 1.4.2003</li> <li>(ii) Issued on/after 1.4.2003 but before 1.4.2012</li> <li>(iii) Issued during 2012-2013</li> <li>(iv) Issued on or after 1.4.2013 (for Disabled persons)</li> </ul>	Fully Exempt Exempt if Premium ≤ 20% of sum assured. Exempt if Premium ≤ 10% of sum assured. Exempt if Premium ≤ 15% of sum assured.

**PC Note:** Question for this section is given in the topic “TDS”. Students are advised to read the provisions of this section after completing “TDS”.

## TAX HOLIDAY FOR NEWLY ESTABLISHED UNITS IN SEZ [SEC 10AA]

<b>Eligible profits</b>	<b>Profits</b> derived from <b>Export</b> of articles/things or providing any service from the unit established in <b>SEZ</b> shall be <b>allowed as deduction</b> from total income.
<b>Eligible Assessee</b>	Assessee engaged in <b>Export</b> of articles/things or providing any service.
<b>Conditions</b>	<ul style="list-style-type: none"> <li>(i) Assessee has been granted a letter of approval u/s 15(9) by development commissioner to set a unit in SEZ.</li> <li>(ii) It begins to manufacture/produce articles or things or provide services during PY 2005-06 or after but not later than AY 20-21 in SEZ.</li> <li>(iii) It should not be formed by splitting up/reconstruction of business already in existence.</li> <li>(iv) It should not be formed by the transfer of old P&amp;M to a new business.</li> </ul> <p><b>Exception:</b> However, it can be formed by transfer of old P&amp;M to the extent of 20% of the total value of P&amp;M. Imported P&amp;M are not treated as old P&amp;M.</p> <p><b>Note:</b> Deduction is available if any undertaking (being a unit) is re-established, reconstructed, or revived by the assessee of any undertaking in the circumstances &amp; within specified period referred in section 33B.</p> <p><b>Circumstances &amp; Specified Period referred to in Section 33B</b></p> <ul style="list-style-type: none"> <li>▪ Undertaking, being the unit, is formed as re-establishment, reconstruction or revival by the assessee within 3 years from the end of PY in which the business of such undertaking is discontinued by reason of extensive damage, destruction of, any building, P&amp;M, furniture owned by the assessee &amp; used for the business.</li> <li>▪ Such damage or destruction should be affected because of flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature or riot or civil disturbance or accidental fire or explosion or action by an enemy or action taken in combating an enemy.</li> </ul> <p>(v) Assessee should furnish report of CA with ROI certifying that deduction has been correctly claimed.</p>
<b>Period of Deduction</b>	Deduction u/s 10AA shall be allowed for a total period of <b>15 relevant AY</b> .

	For first 5 AY	100% of profits & gains of export.
	For Next 5 AY	50% of profits or gains of export.
	For Next 5 AY	Amount not exceeding 50% of profits debited to P&L A/c of PY in respect of which deduction is to be allowed & credited to SEZ Reinvestment Reserve Account & utilised for specified purposes.
<p><b>Note:</b> Deduction u/s 10AA shall not exceed such total income of assessee.</p> <p><b>Ex:</b> An undertaking is set up in a SEZ &amp; begins manufacturing on 15.10.18. [PY 2018-19] Deduction u/s 10AA =</p> <p>(a) 100% of profits of such undertaking from exports from AY 2019-20 to AY 2023-24. (b) 50% of profits of such undertaking from exports from AY 2024-25 to AY 2028-29. (c) 50% of profits of such undertaking from exports from AY 2029-30 to AY 2033-34.</p>		
<b>Conditions for claiming deduction for further 5 years (after 10 years) [Sec 10AA(2)]</b>	<p>1. Amount credited to SEZ Re-investment Reserve Account is utilized:</p> <p>(a) <b>for acquiring P&amp;M</b> which is first put to use before expiry of 3 years following the PY in which the reserve was created; &amp;</p> <p>(b) <b>Until acquisition of aforesaid P&amp;M: For the business</b> of the undertaking.</p> <p><b>However, it should not be utilized for:</b></p> <p>(i) distribution of dividends/ remittance o/s India as profits; or (iii) for the creation of any asset outside India;</p>	
<b>Consequences of mis-utilisation or non-utilisation of reserve</b>	<p>Where any amount credited to SEZ Re-investment Reserve Account –</p> <p>(a) has been utilised for any purpose other than those referred to in 10AA(2), amount utilized shall be deemed to be profits of the year in which the amount was utilized.</p> <p>(b) has not been utilised before the expiry of 3 years, unutilized amount shall be deemed to be profits of the year immediately following the said period.</p>	
<b>Quantum of Deduction</b>	<p><b>= Profits from unit in SEZ × <math>\frac{\text{Export Turnover of unit in SEZ}}{\text{Total turnover of Unit in SEZ}}</math></b></p> <p><b>Export turnover:</b> Consideration in respect of export by the undertaking but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or rendering services.</p> <p>Profits derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be the profits &amp; gains derived from the export of computer software outside India.</p>	
<b>Conversion of EPZ / FTZ into SEZ</b>	<p>Period of 10 consecutive AYs shall be reckoned from AY relevant to PY in which the Unit began to manufacture such articles or services <b>in such FTZ or EPZ.</b></p> <p>However, where a unit initially located in any FTZ or EPZ is subsequently located in a SEZ by reason of conversion of such FTZ or EPZ into a SEZ &amp; has already completed 10 consecutive AYs, it shall not be eligible for further deduction from income.</p>	
<b>Restriction on other tax benefits</b>	<p>(i) Business Loss referred in sec 72(1) or Capital loss u/s 74 or unabsorbed depreciation in so far as such loss relates to business of the undertaking (being the Unit) shall be allowed to be carried forward or set off in subsequent years.</p>	

	<p><b>(ii) WDV after tax holiday period:</b> During tax holiday period, <b>depreciation is deemed to have been allowed</b> on the assets &amp; WDV shall be computed after tax holiday <b>as if depreciation has been claimed as deduction.</b></p> <p>(iii) If deduction u/s 10AA is allowed from profit of specified business u/s 35 AD, no deduction shall be allowed u/s 35AD for any AY.</p> <p>(iv) Where any goods or services held for the purposes of eligible business are transferred to any other business carried on by the assessee, or where any goods held for any other business are transferred to the eligible business &amp;, in either case, if the consideration for such transfer as recorded in the accounts of the eligible business does not correspond to the market value thereof, <b>then the profits eligible for deduction shall be computed by adopting market value of such goods or services on the date of transfer.</b></p> <p>In case of exceptional difficulty in this regard, the profits shall be computed by the Assessing Officer on a reasonable basis as he may deem fit. Similarly, where due to the close connection between the assessee &amp; the other person or for any other reason, it appears to the Assessing Officer that the profits of eligible business is increased to more than the ordinary profits, the Assessing Officer shall compute the amount of profits of such eligible business on a reasonable basis for allowing the deduction.</p>
<b>Amalgamation/ Demerger</b>  <b>[Sec 10AA(5)]</b>	<p>Deduction shall be allowable in the hands of the amalgamated or resulting company.</p> <p>NO Deduction shall be allowed u/s 10AA to amalgamating company or demerged company for the PY in which amalgamation/demerger takes place.</p>

**CQ4.** Y Ltd. gives the following information for AY 2019-20. Compute deduction u/s 10AA for AY 2019-20.

Particulars	Rs. (in lacs)
Total turnover of Unit A located in Special Economic Zone	100
Profit of the business of Unit A	30
Export turnover of Unit A	50
Total turnover of Unit B located in Domestic Tariff Area (DTA)	200
Profit of the business of Unit B	20

**Solution:** 100% of profit derived from export of articles/things or services is eligible for deduction u/s 10AA, assuming that PY 2018-19 falls within the first 5 years period commencing from the year of manufacture or production of articles or things or provision of services by the Unit in SEZ. As per section 10AA(7), the profit derived from export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of articles or things or services bears to the total turnover of the business carried on by the undertaking.

**Deduction u/s 10AA** = Profits from unit in SEZ × Export Turnover of unit SEZ / Total turnover of Unit in SEZ  
= [30 Lacs \* (50 Lacs/100 Lacs)] = Rs. 15 Lacs.

## 3B. AGRICULTURAL INCOME – [SEC 10(1)]

➤ Agricultural income is Exempt from Tax because CG has **NO Power** to levy tax on such Income.

### **Definition of Agricultural Income [Section 2(1A)]**

➤ It covers income of not only cultivators but also the land holders who might have rented out lands.

### **Agricultural Income consists of:**

1. **Rent/Revenue** derived from **letting of land** situated in **India** & used for **agricultural purposes**.

**Rent:** Rent received by the original tenant from sub-tenant would also be agricultural income.

**Revenue:** fees received for renewal of lease of land would be revenue derived from land.

**Note:** If agricultural land is situated in foreign country, Agricultural Income is taxable u/h IFOS.

2. Income **derived from Agriculture** or other related activities.

3. Agricultural income may be derived from **farm building** required for agriculture operations.

**Ex:** Farm building used as dwelling house or as a store house.

4. Income from **saplings/seeds grown in Nursery** (whether/not basic operations were carried out on land).

### **Some Examples of Agricultural Income & Non-agricultural Income:**

AGRICULTURAL INCOME	NON-AGRICULTURAL INCOME
Income derived from the sale of seeds.	Income from breeding of livestock.
Income from growing of flowers & creepers.	Income from poultry farming.
Rent received from land used for grazing of cattle required for agriculture activities.	Income from fisheries.
Income from growing of bamboo.	Income from dairy farming.

**CQ5.** Discuss whether Rent Received for letting out Agricultural land for a Movie shooting & amounts Received from Sale of seedlings in Nursery adjacent to Agricultural Land owned by Assessee can be regarded as Agricultural Income.

**Answer: Rent for Movie shooting:** It is not an Agricultural Income, since it is not Income derived 'through Agriculture'. This constitutes Rental Income for 'non – agricultural purposes'.

**Sales of seedlings in Nursery:** Income from Sale of Plants & Seedlings grown in Posts in Nursery constitutes Agricultural Income. However, in this case, such income is derived not from agricultural land, but from a Nursery 'adjacent' to it. Hence, it does not constitute Agricultural Income.

### **PROFIT ON TRANSFER OF URBAN AGRICULTURAL LAND: Whether Agricultural Income?**

**No,** as per Explanation to section 2(1A), CG arising from the transfer of urban agricultural land would not be treated as agricultural income u/s 10 but will be taxable u/s 45.

**Ex:** If I sell agricultural land situated in Mumbai for Rs. 10 lacs & make profit of Rs. 8 lacs over its COA. This surplus will not be an agricultural income exempt u/s 10(1). It will be taxable u/s 45 since it is urban agricultural Land & thus it is a capital asset.

## RULE 7 - INCOME FROM GROWING & MANUFACTURING OF ANY PRODUCT

<b>Business Income</b>	Sale proceeds of final product manufactured by using agricultural produce – Market value of Agricultural produce used in manufacturing of such Product – Manufacturing Expenses.
<b>Agriculture Income</b>	Market Value of Agricultural produce – Cost of Cultivation.

**CQ6.** Mr. B grows sugarcane & uses the same for the purpose of manufacturing sugar in his factory. 30% of sugarcane produce is sold for Rs. 10 lacs & cost of cultivation of such sugarcane is Rs. 5 lacs. Cost of cultivation of 70% is Rs.14 lacs & market value of the same is Rs. 22 lacs. After incurring Rs.1.5 lacs in manufacturing process on the balance sugarcane, the sugar was sold for Rs.25 lacs. Compute B's business income & agricultural income.

**Solution:** Income from sale of sugarcane is agricultural income & Income from sale of sugar is business income.

**(i) Business income** = Sale proceeds - MV of 70% of sugarcane (used in manufacture of sugar) - Manufacturing expenses  
= Rs. 25 lacs - Rs. 22 lacs - Rs. 1.5 lacs = Rs. 1.5 lacs.

**(ii) Agricultural income** = Market value of sugarcane produce - Cost of cultivation.  
= [Rs. 10 lacs + Rs. 22 lacs] - [Rs. 5 lacs + Rs. 14 lacs] = Rs. 13 lacs.

### DETERMINATION OF MARKET VALUE

**(i) Agricultural produce is capable of being sold in market as such/after ordinary processing:**

- Market value = Value calculated at Average price at which it has been sold during relevant PY.

**(ii) Agricultural produce is incapable of being sold in market as such/after ordinary processing**

- Market Value = Expenses of cultivation + Land revenue/rent paid for the area in which it was grown + Such profit as AO thinks to be reasonable.

**CQ7.** X Ltd. grows sugarcane to manufacture sugar. The data for the PY 2018-19 is as follow-

1. Cost of cultivation of sugarcane	6,00,000
2. Market value of Sugarcane when transferred to factory	10,00,000
3. other manufacturing cost	6,00,000
4. Sale of sugar	25,00,000
5. Salary of Managing Director who looks after all operation of the company	3,00,000

Determine the Income of the company.

**Solution:**

Particulars	Rs.	Rs.
<b>1. Profit &amp; Gain of Business or Profession:</b>		
Sales of sugar		25,00,000
<b>Less:</b> Average market Value of Sugarcane	10,00,000	
Salary to managing Director	3,00,000	
Manufacturing cost	6,00,000	(19,00,000)
<b>Business Income</b>		<b>6,00,000</b>
<b>2. Computation of Agricultural Income:</b>		
Market Value of Sugarcane		10,00,000
<b>Less:</b> Cost of Cultivation		(6,00,000)
<b>Agricultural Income</b>		<b>4,00,000</b>



## APPORTIONMENT OF INCOME B/W BUSINESS INCOME & AGRICULTURE INCOME

Rule	Apportionment of Income in certain cases	Agriculture	Business
<b>7A</b>	Income from growing & manufacturing of rubber	65%	35%
<b>7B</b>	Income from growing & manufacturing of coffee		
	Income derived from sale of coffee grown & cured	75%	25%
	Income derived from sale of coffee grown, cured, roasted & grounded	60%	40%
<b>8</b>	Income from growing & manufacturing of tea	60%	40%

**CQ8.** Mr. C manufactures latex from the rubber plants grown by him in India. These are then sold in the market for Rs. 30 lacs. The cost of growing rubber plants is Rs. 10 lacs & that of manufacturing latex is Rs. 8 lacs. Compute his total income.

**Solution:** The total income of Mr. C comprises of agricultural income & business income.

Total profits from the sale of latex = Rs. 30 lacs – Rs. 10 lacs – Rs. 8 lacs = **Rs. 12 lacs.**

Agricultural income = 65% of Rs. 12 lacs = Rs. 7.8 lacs; Business income = 35% of Rs. 12 lacs. = Rs. 4.2 lacs.

## PARTIAL INTEGRATION OF AGRICULTURAL INCOME WITH NON-AGRICULTURAL INCOME

- There exists an Indirect way of taxing agricultural income.
- It is known as partial integration of non-agricultural income with agricultural income.

<b>Objective of PIT</b>	Tax the non-agricultural Income at higher rates.
<b>Applicability of PIT</b>	Individuals, HUF, AOP/BOI & artificial persons. <del>[Company &amp; Firms]</del>
<b>Conditions for Partial Integration</b>	<b>1.</b> Net Agricultural Income should exceed Rs 5,000 p.a. & <b>2.</b> Non-Agricultural Income should exceed <b>BEL</b> .

### STEPS for calculation of tax in case of PIT

1. Calculate Tax on **Net Agricultural Income + Non-Agricultural Income.**
2. Calculate Tax on **Net Agricultural Income + BEL.**
3. **Income tax Calculated in Step 1 – Income Tax calculated in Step 2.**
4. Sum arrived in Step 3 shall be increased by SC (if applicable) & **reduced by rebate u/s 87A.**
5. Add Health & Education cess @ 4%.

**CQ9.** Mr. X, a resident, has provided the following particulars of his income for PY 2018-19.

Income from salary (computed)	Rs. 1,80,000
Income from house property (computed)	Rs. 2,00,000
Agricultural income from a land in Jaipur	Rs. 2,80,000
Expenses incurred for earning agricultural income	Rs. 1,70,000

Compute his tax liability assuming his age is (a) 45 years; (b) 70 years.

**Solution:**

**(a)**

#### Computation of tax liability (Age 45 years)

Income from salary		Rs. 1,80,000
Income from house property		Rs. 2,00,000
Net agricultural income [ Rs. 2,80,000 – Rs. 1,70,000 ]	1,10,000	
Less: Exempt u/s 10(1)	(1,10,000)	Nil
Gross Total Income		Rs. 3,80,000



<b>Step 1</b>	Tax on Rs. 4,90,000 (Rs. 3,80,000 + Rs. 1,10,000) = Rs. 12,000.
<b>Step 2</b>	Tax on Rs. 3,60,000 (Rs. 1,10,000 + Rs. 2,50,000) = Rs. 5,500.
<b>Step 3</b>	Rs. 12,000 – Rs. 5,500 = Rs. 6,500
<b>Step 4 &amp; 5</b>	Rs. 6,500 + 4% = Rs. 6,760.

(b)

**Computation of tax liability (Age 70 years)**

<b>Step 1</b>	Tax on Rs. 4,90,000 (Rs. 3,80,000 + Rs. 1,10,000) = Rs. 12,000.
<b>Step 2</b>	Tax on Rs. 4,10,000 (Rs. 1,10,000 + Rs. 3,00,000) = Rs. 8,000.
<b>Step 3</b>	Rs. 12,000 – Rs. 8,000 = Rs. 4,000
<b>Step 4 &amp; 5</b>	Rs. 4,000 + 4% = Rs. 4,160.

**NON - AGRICULTURAL INCOME** [even if there is indirect connection with land]

- Principal business of a rural society is selling butter made by its member societies from cream sold to them by farmers. Making of butter is factory process separated from farm. Butter is not an agricultural product & thus society was not entitled to exemption u/s 10(1) for such income.
- X was managing agent of a company. He was entitled to commission @ 10% p.a. on net profit of the company. 60% of company's income was agricultural income. X claimed that since his remuneration was calculated with reference to income of the company, 60% part of commission is Exempt. Since, X received remuneration under a contract for personal service, such remuneration does not constitute agricultural income.
- Y owned 100 acres of agricultural land, a part of which was used as pasture for cows. Lands were purely maintained for manuring & other purposes connected with agriculture & only surplus milk after satisfying assessee's needs was sold. The question arose whether income from such sale of milk was agricultural income. The regularity with which milk was sold & quantity of milk sold showed that the assessee carried on regular business of producing milk & selling it as a commercial proposition. Hence, it is not agricultural income.
- B was a shareholder in tea companies whose 60% income was exempt as agricultural income. She claimed that 60% of dividend received by her on shares in those companies was exempt from tax as agricultural income. Dividend is derived from investment made in company & is hence, not an agricultural income.
- In regard to forest trees of spontaneous growth which grow on soil **unaided** by any human skill & labour, there is no cultivation of soil at all. Even though operations in nature of forestry operations performed by assessee may have effect of nursing & fostering the growth of such forest trees, it cannot constitute agricultural operations. **Income from sale of such forest trees of spontaneous growth is not agricultural income.**

## 4A. INCOME UNDER THE HEAD SALARY

### MEANING OF SALARIES & SOME IMPORTANT TERMS

- Every payment made by an employer to his employee for **service rendered** would be taxable as Income from Salaries.
- **EMPLOYER-EMPLOYEE RELATIONSHIP:** To be taxable under the head “Salaries” -
  - (a) There should be Employer-Employee relationship.
  - (b) The Employee may be full-time or part-time employee.
  - (c) Employer may be operating in India or Abroad.

#### Examples:

(1) **Commission received by director** → Taxed u/h “Salaries” if he is employee of the company.

If he is not Employee → Such commission may be taxed u/h PGBP/IFOS depending on facts & circumstances.

(2) **Member of Parliament/State Legislature** → Not treated as Employee of Government & thus no Employer-Employee Relationship exist & their salary is not taxable u/h salaries. It is taxable u/h IFOS.

(3) Salary paid to a Partner by a Firm: is appropriation of profits. It is not treated as Salary since no Employer-Employee relationship exists b/w the partner & firm. It is taxed u/h PGBP.

**Note:** Amount received by Individual shall be treated as salary **only if relationship b/w payer & payee is of Employer & Employee or Master & Servant. (Principal & Agent).**

- Salary includes both **Monetary & Non-Monetary facilities.**
  - (a) Monetary Facilities: Basic salary, Bonus, Commission, Allowances etc.
  - (b) Non- Monetary facilities: Housing accommodation, Medical facility, Interest free loans etc.
- **Salary & wages** are **not different** terms for the purpose of Income Tax Act.
- **Salary from more than one source:** Salary from each source is taxable u/h Salaries.
- **SALARY PAID TAX-FREE**
  - This does not mean that tax is not levied on such salary.
  - It simply means that **Employer bears the burden of the tax** on the salary of the employee.
  - It does not matter whether employer pays the tax under terms of contract or voluntarily.
  - Thus, **Income from salaries = Salary Income + Tax on employee’s Salary paid by the employer.**
  - However, as per section 10(10CC), **Income-tax paid** by the **employer** on **Non-Monetary Perquisites** on behalf of the employee would be **exempt in the hands of the employee.**
- **LOAN OR ADVANCE AGAINST SALARY NOT TAXED AS SALARY**
  - Loan is different from salary. It **cannot be taxed as Salary.**
  - Similarly, **advance against salary is different from advance salary.** It is an advance taken by the employee from his employer. This advance is generally **adjusted with his salary** over a specified time period.
  - When an employee takes a loan from his employer, which is repayable in certain specified instalments, the loan amount cannot be brought to tax as salary of the employee.

## DEFINITION OF SALARY [SECTION 17(1)]

- Meaning of the term 'salary' for purposes of income-tax is much wider than what is normally understood.
- Salary includes the following:

Wages.
Annuity or Pension.
Gratuity.
Any fees, Commission, Perquisite or Profits in lieu of or in addition to any salary or wages.
Advance Salary.
Payment received in respect of any Period of Leave not availed by him.
Leave Salary or Leave Encashment.
Portion of the annual accretion in any PY to the balance at the credit of an employee participating in a recognised PF to the extent it is taxable.
Transferred balance in recognized PF (only taxable portion)
Contribution made by CG/other employer in PY under a pension scheme u/s 80CCD.

- **It is an inclusive definition & includes monetary as well as non-monetary items.**

## BASIS OF CHARGE [SECTION 15]

1. Salary is chargeable to tax on <b>Due or Receipt basis</b> whichever is <b>earlier</b> .
2. <b>Advance Salary:</b> Advance salary is <b>taxable on Receipt basis</b> . <ul style="list-style-type: none"><li>▪ Advance salary is taxable when it is received by the employee whether it is due or not.</li><li>▪ Thus when Advance Salary which has been taxed on Payment basis in earlier years, it cannot be subsequently brought to tax in the year in which it is due.</li><li>▪ Relief u/s 89(1) is available in this case.</li></ul>
3. <b>Salary in Arrears:</b> Salary in Arrears becomes <b>taxable on due basis</b> . <ul style="list-style-type: none"><li>▪ Since salary paid in arrears has already been assessed on due basis, the same cannot be taxed again on payment basis (when it is paid).</li><li>▪ <b>But there are circumstances when it may not be possible to tax on due basis.</b> <b>Ex:</b> If Pay Commission is appointed by CG &amp; it recommends revision of salaries of employees, arrears received in that connection will be charged on receipt basis. Here also, relief u/s 89(1) is available.</li><li>▪ Relief u/s 89(1) is available in this case.</li></ul>

### Examples:

(i) A draws his salary in advance for April 2019 in March 2019 itself. Salary of April is taxable on receipt basis & is to be taxed as income of PY 2018-19. However, salary for PY 2019-20 will not include salary of April 2019.

(ii) If salary due for March 2019 is received by A later in month of April 2019, it is still chargeable as income of PY 2018-19 i.e. AY 2019-20 on due basis. Obviously, salary for AY 2020-21 will not include that of March 2019.

## ANALYSIS OF SECTION 15

NATURE OF SALARY	PY OF TAXABILITY
Salary becomes due in PY 2018-19 (Paid in Subsequent Year)	2018-19
Salary is received in PY 2018-19 (becomes due Subsequent Year)	2018-19
Arrears of salary received during PY 2018-19 although it pertains to one of the earlier years & same were <b>not taxed</b> on due basis.	2018-19
Arrears of salary received during PY 2018-19 although it pertains to one of the earlier years but same were <b>taxed</b> on due basis.	Year in which it was due.

## FOREGOING OF SALARY

[Theory question may be asked in Exams]

- Salary is chargeable to tax on **due or receipt basis** (whichever is earlier).
- If employee foregoes his salary, it does not mean that salary so foregone is not taxable.
- Once salary accrues, subsequent waiver by employee does not make it exempt from tax.
- Such waiver is **only an application** & hence, is **taxable**.

**Ex:** Mr. A, an employee instructs his employer that he is not interested in receiving salary for April 2018 & same shall be donated to a charitable institution. In this case, Mr. A cannot claim that he cannot be charged in respect of salary for April 2018. It is only due to his instruction that donation was made to a charitable institution by his employer. It is only an application of income. Hence, salary for the month of April 2018 will be taxable in hands of Mr. A. However, he is entitled to claim a deduction u/s 80G for the amount donated to the institution.

- **Surrender of Salary to Central Government:** If an employee surrenders his salary to u/s 2 of Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961 → Such Salary is **Exempt**.

## PLACE OF ACCRUAL OF SALARY [SEC 9(1)]

- **General Rule:** Salary is deemed to **accrue or arise** at the **place** where the **services are rendered**.

Place of Service	Place of Payment	Deemed to accrue in India ?	Tax
India	India	Yes	Yes
India	Abroad	Yes	Yes
India	Pension for such services is paid Abroad (o/s India)	Yes	Yes
Leaves Earned in service in India	Leave salary for such leaves is paid abroad	Yes	Yes

**Note:** If an employee gets pension paid abroad for services rendered in India, the same will be deemed to accrue in India. Similarly, leave salary paid abroad in respect of leave earned in India is deemed to accrue or arise in India.

### Exception to General Rule - Sec 9(1)(iii)

- **Salary paid by Government to Citizen of India (R/NR) for services rendered outside India is deemed to accrue/arise in India.**
- However any **Allowance or Perquisites** paid **outside India** by **GOI** to a **citizen of India** for rendering services outside India will be **fully exempt**. [Section 10(7)].

**Ex:** A, a citizen of India is posted in United States as our Ambassador. Obviously, he renders his services outside India. He also receives his salary outside India. He is also a NR. The question, therefore, arises whether he can claim exemption in respect of his salary paid by GOI to him outside India.

Under general principles of income tax such salary cannot be charged in his hands since services are rendered outside India. But section 9(1)(iii) provides that salaries payable by GOI to a citizen of India for services outside India shall be deemed to accrue or arise in India. However, any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt u/s 10(7).

### TABULAR SUMMARY of Sec 9(1)(ii) & Sec 9(iii)

	Who is employee	Employer	Place of Service	Is it taxable in India	
				Salary	Allowance/Perquisite
<b>1</b>	<b>Indian Citizen (R/NR)</b>	<b>GOI</b>	<b>Outside India</b>	<b>Yes</b>	<b>No</b>
<b>2</b>	NR (Other than 1)	Any	Outside India	No	No
<b>3</b>	ROR (Other than 1)	Any	Anywhere	Yes	Yes

### COMPONENTS OF SALARY & THEIR TAXABILITY

RECEIPTS	TREATMENT
Basic Salary Dearness allowance/pay Leave encashment while in service Salary in lieu of Notice Fees & Commission Monthly Pension (uncommuted) Annuity from Employer Profits in lieu of Salary	} Taxable
Advance Salary	Taxable in the year of Receipt
Arrears of Salary	Taxable in the year in which it accrues.
Leave Encashment on Retirement Gratuity/Commutated Pension	Govt. employee: Exempt Non-Government employee: Exempt in some cases.
Salary to Partner	Not taxable under "Salaries", but taxable under "PGBP"
Bonus	Taxable on Receipt Basis [if not taxed earlier on due basis].
Annual Accretion to the credit balance in RPF (Taxable Amount)	Excess of Employer's contribution over 12% of salary. Excess of Interest over 9.5% is taxable.
Retrenchment for Extra Duties	Fully Taxable
Retrenchment Compensation (Imp)	Least of the following is Exempt from tax: (a) Amount calculated under Industrial Disputes Act; or (b) An amount specified by Government (Rs. 5,00,000)
<b>Salary/Pension from UNO</b>	<b>Not chargeable to tax.</b>
Compensation received under VRS	Exempt in some cases.
<b>Pension under NPS</b>	<b>Taxable at the time of receipt.</b>

### MEANING OF "SALARY" FOR DIFFERENT PURPOSES

Allowance/Perquisites	Definition of Salary for such purpose
Gratuity for Covered Employees.	Basic Salary + DA (whenever DA is paid)
(a) Gratuity for other cases (b) NPS (c) Employer's Contribution to RPF (d) Leave salary (e) HRA (f) VRS	Basic Salary + DA (if it forms part of salary for computing all retirement benefits) + Commission (if paid as % of turnover).

**Perquisite in respect of Rent-Free Accommodation** = BS + DA (Forming part of salary for all retirement benefits) + Commission (Paid as % of turnover) + Bonus + Any Commission (Monthly/otherwise) + Any other monetary payment by whatever name called **but Excludes:**

- (a) Employer's contribution to PF of the employee; (b) Exempt Allowances;
- (c) Value of Taxable Perquisites u/s 17(2); (d) Medical Allowance to the extent it is not taxable.
- (d) Payment/Expenditure for Allotment of shares/Debentures/Warrants under ESOP etc.

## A. DIFFERENT FORMS OF ALLOWANCES & ITS TAXABILITY

**Meaning of Allowance:** Fixed quantity of money given regularly to employees in addition to salary to meet some particular requirements connected with service or compensation for unusual conditions of that service. It is fixed, predetermined & given irrespective of actual expenditure.

VARIOUS ALLOWANCES & THEIR TAXABILITY		
Fully Taxable	Partly Taxable	Fully Exempt
<ul style="list-style-type: none"> <li>Dearness Allowance</li> <li>Overtime Allowance</li> <li>Fixed Medical Allowance</li> <li>City Compensatory Allowance (to meet increased cost of living)</li> <li>Interim Allowance</li> <li>Servant Allowance</li> <li>Project Allowance</li> <li>Tiffin/Lunch Allowance</li> <li>Any other cash allowance</li> <li>Warden Allowance</li> <li>Non-practicing Allowance</li> <li>Transport Allowance except handicapped employee.</li> </ul>	<ul style="list-style-type: none"> <li>House Rent Allowance</li> <li>Special Allowances</li> </ul>	<ul style="list-style-type: none"> <li>Allowance to Government employees outside India</li> <li>Sumptuary allowance granted to HC/SC Judges.</li> <li>Allowance paid by UNO.</li> <li>Compensatory Allowance received by a judge</li> </ul>

### HOUSE RENT ALLOWANCE [SEC 10(13A)]

► Least of the following is Exempt ↓

1. Actual amount of HRA received for the Relevant Period.
2. Excess of Rent paid over 10% of salary for the Relevant Period.
3. City of Residence: <ul style="list-style-type: none"> <li>(a) Mumbai, Delhi, Kolkata, Madras (chennai): 50% of Salary for Relevant Period.</li> <li>(b) Other cities: 40% of Salary for Relevant Period.</li> </ul>

- **Salary shall be determined on Due Basis:** Salary is determined on due basis in respect of period during which rental accommodation is occupied by employee in PY.  
Thus, Salary of the period other than PY is not considered even if it is received in P.Y & is taxable on receipt basis (Advance salary) & Salary of the period during which rental accommodation is not occupied in PY is also not considered.
- **No Exemption if employee lives in his own house/**in a house where he does not pay rent.
- Relevant period means the period during which the said accommodation was occupied by the assessee during the previous year.

**CQ1.** Mr. Shubham Sharma, staying at Chennai, receives Rs. 12,500 monthly as basic salary; Rs. 1,500 per month as DA provided in terms of employment & 4% as commission on turnover achieved by him. He is paid HRA of Rs. 1,800 per month. Turnover achieved by him for the year is Rs. 15 Lacs. House rent paid by him is Rs. 2,500 p.m. He received advance salary of Rs. 50,000 in March 2019 relating to the period April to July 2019. Find taxable HRA for AY 2019-20.



**Solution: Computation of Taxable House Rent Allowance of Mr. Shubham Sharma**

Particulars	Rs.	Rs.
Actual House Rent allowance (Rs. 1800 x 12 months)		21,600
<b>Less:</b> Exempt u/s. 10 (13A) to the extent of least of the following:		
1. Excess of rent paid over 10% of the salary (30,000 – 22,800)	7,200	
2. 50% of salary (50% of 2,28,000)	1,14,000	
3. Actual HRA received	<u>21,600</u>	<u>7,200</u>
<b>Taxable HRA</b>		<b><u>14,400</u></b>

Salary for HRA = BS + DA (Retirement Benefits) + Commission (% of TO) = (12,500 x 12 months) + (1,500 x 12 months) + 4% on 15,00,000 = Rs. 2,28,000.

**Note:** Though advance Salary is taxable in AY 2019-20 on receipt basis, it should not be considered in computing Salary for the purpose of calculating exemption u/s. 10(13A).

### SPECIAL ALLOWANCES EXEMPT u/s 10(14)

#### A. EXEMPTION DOES NOT DEPEND UPON ACTUAL EXPENDITURE BY EMPLOYEE

- **Actual Expenditure** incurred by the employee is **IRRELEVANT** for the purpose of exemption.
- Exemption = Lower of (a) Allowance actually received or (b) Amount specified in Rule 2BB.

Name of Allowance	Nature & Given to & Conditions	Exemption	
Special Compensatory (Hilly Areas) Allowance	High Altitude/Snow Area Allowance	Rs. 300 - Rs. 800 per month Rs. 7,000 per month in Siachen area of J&K.	
Children Education Allowance	Given for children's education	Rs. 100 per month per child upto Maximum of 2 children	
Hostel Expenditure	Given for meeting expenditure of child	Rs. 300 per month per child upto Maximum of 2 children	
Transport Allowance	Expenses for communicating between place of his residence & place of duty.	Rs. 3,200 per month only for <b>Handicapped employee.</b>	
Allowance for Transport Employees	Granted to meet his personal expenses during his duty but such employee is not in receipt of daily allowance.	(a) 70% of such Allowance; (b) Rs. 10,000 p.m ( <b>Lower</b> )	
Border Area Allowance	Border area/Remote locality Allowance	Rs. 200 – Rs. 1,300 p.m	
Compensatory Allowance (a) Field area (b) Modified Field Area	Employee cannot claim Border Area Allowance if this exemption is taken	(a) 2,600 p.m in some cases (b) 1,000 p.m in some cases	
Underground Allowance	Employee working in/under mines.	Rs.800 p.m	
High Altitude Allowance	Granted to Members of Armed forces operating in High Altitude areas.	<b>Altitude (fts)</b>	<b>Exemption</b>
		9000-15000	Rs. 1,060 p.m
		Above 15000	Rs. 1,600 p.m
Highly Active Field Area	Granted to Members of Armed forces.	Upto Rs. 4,200 per month	
Island Duty Allowance	Granted to Members of Armed forces in Andaman & Nicobar ; Lakshadweep.	Upto Rs. 3,250 per month	
Tribal areas/ Scheduled Areas Allowance	For MP, Tamil Nadu, UP, WB, Bihar, Orissa, Karnataka, Tripura, Assam	Rs. 200 per month	
Counter Insurgency Allowance	Members of armed forces operating in areas away from their permanent locations.	Rs. 3,900 per month	



**Ex:** During PY 2018-19, following allowance are given to X by the employer company:

Name of Allowance	Received	Spent	Exempt	Tax
Tribal area allowance for X posted in Assam for 2 months	1000	NA	200 p.m	600
Child education allowance for X's elder son	1800	NA	100 p.m	600
Child education allowance for X's younger son.	900	NA	Nil	900
Child education allowance for X's daughter	1080	NA	100 p.m	Nil
Hostel expenditure allowance for X's elder son	6600	NA	300 p.m	3000

## B. EXEMPTION DEPENDS UPON ACTUAL EXPENDITURE INCURRED BY EMPLOYEE

- **Actual Expenditure** incurred by the employee is **RELEVANT** for the purpose of exemption.
- **Exemption = Lower of (a) Allowance Received or (b) Amount utilized for specific purpose.**

Allowances	Nature of Allowance
Travelling /Transfer Allowance	Allowance granted to meet the cost of travel on tour or on transfer (including any sum paid for transfer, packing & transportation of personal effects on such transfer).
Conveyance Allowance	Granted to meet expenditure on conveyance in <b>performance of duties of office.</b> <b>Note: Expenditure for journey between office &amp; residence is not exempt.</b>
Daily Allowance	Allowance granted on tour or for journey in connection with transfer, to meet the ordinary daily charges incurred due to absence from his normal place of duty.
Helper allowance	Any allowance (by whatever name called) to meet the expenditure on a helper where such helper is engaged for the performance of official duties.
Research Allowance	Any allowance (by whatever name called) granted for encouraging the academic research & other professional pursuits.
Uniform Allowance	Any allowance (by whatever name called) to meet expenditure on purchase or maintenance of uniform for wear during the performance of duties of an office.

**Ex:** During PY 2018 -19, the following allowances are given to X by the employer company –

Nature of allowance	Amount of Allowance	Amount Actually spent	Amount taxable
Travelling allowance for official purposes	36,000	32,000	4,000
Transfer allowance given on transfer of X	40,000	41,000	Nil
Conveyance allowance for official purposes	50,000	42,000	8,000
Helper allowance of helper for official purposes	68,000	64,000	4,000
Research allowance	1,00,000	90,000	10,000
Uniform allowance for official purposes	18,000	17,000	1,000

## C. ALLOWANCES & PERQUISITES TO CHAIRMAN/MEMBER OF UPSC [SEC 10(45)]

### 1. EXEMPT ALLOWANCE IN CASE OF SERVING CHAIRMAN & MEMBERS OF UPSC

- Value of Rent-Free official Residence & Value of Leave Travel Concession.
- Value of Conveyance facilities including Transport Allowance,
- Sumptuary Allowance &

### 2. EXEMPT ALLOWANCE IN CASE OF RETIRED CHAIRMAN & MEMBERS OF UPSC

- Value of Residential telephone free of cost & number of free calls upto Rs. 1,500 p.m (over & above free calls per month allowed by the telephone authorities).
- Upto Rs. 14,000 p.m for defraying the service of orderly & for meeting expenses incurred towards secretarial assistance on contract basis.

## B. VARIOUS PERQUISITES & THEIR TAXABILITY

**DEFINITION:** Any Casual Emolument or benefits attached to office/position in addition to salary.

- It is an extra benefit in addition to the basic salary.
- It may be provided in cash or kind.
- It is not necessary that a recurring or regular receipt is alone perquisites; even a casual or non-recurring receipt can be perquisite.

Any Sum received shall be taxed as Perquisite only if following conditions are satisfied:

- (a) Given by Employer. (If received from person other than employer → Taxed u/h PGBP/IFOS)
- (b) Given during the **continuance of employment** & must be directly related to service
- (c) Resulting in personal advantage to an employee;
- (d) Derived by virtue of employer's authority
- (e) Perquisite may be given for the **benefits of employee or his Member of household**.

### POINTS TO REMEMBER:

- ❖ **Reimbursement of Expenses incurred in the official discharge of duties → Not a Perquisite.**
- ❖ **Perquisite will become taxable only if it has a legal origin.** An unauthorized advantage taken by an employee without his employer's sanction cannot be considered as a perquisite. Such unauthorized amount would be chargeable u/h IFOS.  
**Ex:** Suppose Mr. A, an employee, is given a house by his employer. On 31.3.2019, he is terminated from service. But he continues to occupy the house without the permission of the employer for six more months after which he is evicted by the employer. The question arises whether the value of the benefit enjoyed by him during the six months period can be considered as a perquisite & be charged to salary. It cannot be done since the relationship of employer- employee ceased to exist after 31.3.2019. However, the definition of income is wide enough to bring the value of the benefit enjoyed by Mr. A to tax as "income from other sources".
- ❖ Income-tax paid by the employer out of his pocket on the salary of the employee is a perquisite in the hands of the employee whether the payment is contractual or voluntary.

### SOME RELEVANT POINTS FOR THE VALUATION OF PERQUISITES

1. Member of Household shall include –

- (a) Spouse
  - (b) Children & their spouses
  - (c) Parents
  - (d) Servants & Dependants.
- } Dependent or Independent

2. (a) Children includes step child & adopted child.

- (b) Children born out of multiple birth after the first child will be treated as "one child only."

## PERQUISITE IN CASE OF "RENT-FREE UNFURNISHED ACCOMODATION"

- "Accommodation" includes a house, flat, farm house (or part), or accommodation in a hotel, motel, service apartment, guest-house, caravan, mobile home, ship or other floating structure.

Employee	Value of perquisites	
(a) CG or SG employees	License fee determined by CG or SG.	
(b) Other than Government Employee		
❖ Accommodation owned by Employer	Population of place of Accommodation	Perquisite
	Less than 10 lacs	7.5% of salary
	10 lacs – 25 lacs	10% of salary
	More than 25 lacs	15% of salary
❖ Accommodation is taken on lease/Rent by employer	Lower of: (i) 15% of salary or (ii) Actual lease rent paid by employer for the occupied period.	
(c) Accommodation Provided in Hotel (Gov/Non-Government Employer)	Lower of (i) 24% of salary or (ii) Actual Hotel charges paid by employer.	

**Note:** If Accommodation is provided ≤ 15 days on his transfer from one place to another → No Tax.

### Accommodation provided at two places

If any employee has been transferred and employer has provided him accommodation at the new place also, in such cases only one of the accommodation having lower perquisite value shall be taxable upto 90 days (three months) and after 90 days, both of the accommodations shall be taxable.

## VALUATION OF FURNISHED ACCOMODATION

- Valuation shall be done as if employer has provided **unfurnished accommodation**  
**Add: 10% p.a** of original cost of furniture (if furniture is owned by employer).  
**Add: Lease charges/Rent paid** for hiring furniture (If furniture is hired by employer).

### Points to Remember:

- ❖ Rent-free official residence provided to a Judge of HC/SC → Not taxable.
- ❖ Rent-free furnished house provided to an Officer of Parliament → Not taxable.

**CQ2.** Mr. Lakshman informs you the particulars of salary for previous year ending 31.03.2019:

Basic pay: Rs. 36,000; DA: Rs. 4,800 (not forming part of salary); Bonus: Rs. 6,000; Commission: Rs. 4,000; City Compensatory Allowance: Rs. 3,600. Calculate the value of perquisite in respect of rent-free furnished house if Mr. Lakshman stays in a city with a population (a) more than 25 Lacs, (b) less than 10 Lacs, (c) between 10 Lacs & 25 Lacs. Cost of furniture provided is Rs. 16,000. Sofa was taken on rent for Rs. 300 per month.

**Solution:** Salary for this purpose = BS + Bonus + Commission + City compensatory allowance = Rs. 36,000 + Rs. 6,000 + Rs. 4,000 + Rs. 3,600 = Rs. 49,600.

### Value of Rent-free unfurnished Accomodation

(a) Population > 25 Lacs	→ 15% of salary	= 15% of Rs. 49,600	= Rs. 7,440
(b) Population 10 lac – 25 lacs	→ 10% of salary	= 10% of Rs. 49,600	= Rs. 4,960
(c) Population < 10 lacs	→ 7.5% of salary	= 7.5% of Rs. 49,600	= Rs. 3,720

### Value of Furnished Accommodation

Particulars	Population > 25L	10 Lacs – 25 Lacs	Population < 10L
Value of unfurnished accommodation	7,440	4,960	3,720
Add: Perquisites for value of furniture [(10% of Rs. 16,000) + (300 x 12)]	5,200	5,200	5,200
<b>Value of furnished accommodation</b>	<b>12,640</b>	<b>10,160</b>	<b>8,920</b>

**Note:** Dearness allowance since not forming part of salary is not considered for the computation of Salary.

## PERQUISITE IN RESPECT OF “MEDICAL FACILITIES”

A. Medical Facilities in India	
Place of Provision of Medical Treatment	Value of Taxable Perquisite
(a) Hospital owned/maintained by employer; (b) Government Hospital; (c) Private Hospital (if recommended by Government for treatment of its employees). (d) Specified facility for prescribed diseases in hospital approved by PCC/CC.	Nothing shall be Taxable in such cases
(e) Any other facility in India (Ex: Family doctor)	Fully Taxable

B. Medical Facility outside India	
Type of Expenditure	Value of Taxable Perquisite
(a) Medical treatment in Abroad	<ul style="list-style-type: none"> <li>Exempt to the extent permitted by the RBI.</li> <li>Taxable Perquisite = Amount exceeding the amount permitted by RBI.</li> </ul>
(b) Cost of Stay in Abroad (including one attendant who accompanies the patient)	
(c) Cost on Travel (including one attendant who accompanies patient)	Exempt only if GTI of employee computed before including this expenditure ≤ Rs. 2 lacs

### Points to Remember:

- Health Insurance Premium paid by employer in approved scheme of CG/IRDA → Not Taxable.
- Medical Facilities may be provided to an employee or any member of his family.
- Family → Spouse + Children (Maximum 2) + [Dependent Parents + Brothers + Sisters].
- Fixed Medical Allowance → Always taxable.

**CQ3.** Compute taxable perquisite on medical facilities received by Mr. G from his employer during PY 2018-19:

Medical premium paid for insuring health of Mr. G	Rs. 7,000
Treatment of Mr. G by his family doctor	Rs. 5,000
Treatment of Mrs. G in a Government hospital	Rs. 25,000
Treatment of Mr. G's grandfather in a private clinic	Rs. 12,000
Treatment of Mr. G's mother (68 years & dependant) by family doctor	Rs. 8,000
Treatment of Mr. G's sister (dependant) in a nursing home	Rs. 3,000
Treatment of Mr. G's brother (independent)	Rs. 6,000
Treatment of Mr. G's father (75 years & dependant) abroad	Rs. 50,000
Expenses of staying abroad of the patient	Rs. 30,000
Limit specified by RBI	Rs. 75,000

**Solution:**

### Medical Facilities outside India

Total Expenditure on Treatment + Expense of Stay = Rs. 50,000 + Rs. 30,000	Rs. 80,000
Less: Exempt to the extent permitted by RBI (Limit specified by RBI)	Rs. 75,000
Value of Taxable Perquisite	Rs. 5,000

### Medical Facilities outside India

Medical premium paid for insuring health of Mr. G	Exempt
Treatment of Mr. G by his family doctor	Rs. 5,000
Treatment of Mrs. G in a Government hospital	Exempt
Treatment of Mr. G's grandfather in a private clinic	Rs. 12,000
Treatment of Mr. G's mother (dependant) by family doctor	Rs. 8,000
Treatment of Mr. G's sister (dependant) in a nursing home	Rs. 3,000
Treatment of Mr. G's brother (independent)	Rs. 6,000
Perquisite of Medical facilities in India	Rs. 34,000
Perquisite of Medical facilities outside India	Rs. 5,000
<b>Total Perquisite</b>	<b>Rs. 39,000</b>

**Note:** Grandfather & Independent brother are not included within the meaning of family of Mr. G

## INTEREST-FREE LOAN OR CONCESSIONAL LOAN

- If a loan is given by employer to employee or member of his household, it is a taxable perquisite.

### How to value the amount of Perquisite when loan is given:

1. Find out the <b>Maximum outstanding Monthly balance</b> on last day of every month.
2. Find out <b>Differential Interest</b> for each month on the outstanding amount [SBI rate on loan of same kind – Concessional rate given by employee]
3. Value of Perquisite on loan = <b>Sum of Differential Interest of all months.</b>

- **“Maximum outstanding monthly balance”** = Aggregate outstanding balance for each loan as on the last day of each month.

**Exceptions:** In following cases, Interest-free Loan is not treated as perquisite:

- (a) If the amount of **loans ≤ Rs. 20,000.**  
 (b) If **Loan** is given for **Medical Treatment of Prescribed Diseases** (Cancer, tuberculosis, etc).  
 However, such amount to the extent it is reimbursed to the employee by insurance company shall be considered for valuation of Perquisite.

**Note:** Any loan given by CHC to its employee (who holds at least 10% voting power) which is treated as deemed dividend u/s 2(22)(e), it shall also be taxable as perquisite.

**CQ4.** Mr. Raju is employed in Kangana Ltd. and he has taken a loan of Rs. 5 lacs from employer on 20.04.2018 at a rate of 4% p.a. but SBI rate is 10% p.a. and loan was repaid in monthly installment of Rs. 1 lac each starting from 10.07.2018. Find the value of taxable perquisite.

**Solution:**

April 2018	$5,00,000 \times 6\% \times 1/12$	Rs. 2,500
May 2018	$5,00,000 \times 6\% \times 1/12$	Rs. 2,500
June 2018	$5,00,000 \times 6\% \times 1/12$	Rs. 2,500
July 2018	$4,00,000 \times 6\% \times 1/12$	Rs. 2,000
August 2018	$3,00,000 \times 6\% \times 1/12$	Rs. 1,500
September 2018	$2,00,000 \times 6\% \times 1/12$	Rs. 1,000
October 2018	$1,00,000 \times 6\% \times 1/12$	Rs. 500
<b>Taxable amount</b>		<b>Rs. 12,500</b>

## PERQUISITE IN RESPECT OF TRAVELLING, TOURING, ACCOMMODATION

Circumstances	Value of perquisite
Facility is provided <b>uniformly</b> to all employees	Actual Expenditure incurred by the employer
Facility is <b>not available uniformly</b> to all employees	Actual value offered to public by other agencies
Employee is on official tour & he takes his family member with him	Amount of expenditure incurred for such family member
Any official tour is extended as a vacation.	Expenses incurred for extended period.

## PERQUISITE IN RESPECT OF “FREE EDUCATION”

Nature of Expenditure	Taxable Perquisite
1. <b>Training</b> of employees	<b>Not Taxable</b>
2. <b>Education facility</b> provided to <b>family members</b> Payment/reimbursement of <b>tuition fees</b> .	Fully Taxable. <b>No Exemption</b> is available.
3. <b>Education facility</b> provided to <b>children</b> of Employee	<b>Reasonable cost</b> of education is <b>taxable</b> . <b>Exemption → Rs 1000 per month per child</b>

- **Scholarship** given by an employer-company to **children** of its employees (solely at its discretion without reference to terms of employment) → Not a perquisite.

**CQ5.** The employer has made arrangements for the education of three childrens of his employee in his own school and has incurred Rs. 1,500 per month per child and has recovered Rs. 300 per month per child from the employee. Calculate the value of taxable perquisite in the hands of employee.

**Solution:** Exemption of Rs. 1,000 per month is available irrespective of number of children.

Value of perquisite per children = Rs. 1,500 – Rs. 300 – Rs. 1,000 (Exemption) = Rs. 200 per month.

Value of taxable perquisite = Rs. 200 per month × 12 months × 3 children = Rs. 7,200.

## VALUATION OF LEAVE TRAVEL CONCESSION IN INDIA [SEC 10(5)]

Different situations of Journey	Amount of exemption (LOWER OF 1 or 2)
1. Journey by Air	(a) Fare of <b>Economy class</b> by shortest route (b) Amount spent
2. Journey by Rail OR Journey by other mode even if Route of journey are <b>connected by rail</b>	(a) Fare of <b>AC 1<sup>st</sup> class rail</b> by shortest route or (b) Amount spent.
3. If <b>origin &amp; destination</b> of journey (or part) <b>not connected</b> by rail: (i) If <b>Recognised</b> public transport <b>Exists</b> (ii) If <b>No recognised</b> public transport Exist	(i) 1 <sup>st</sup> /Deluxe fare by shortest route (ii) AC 1 <sup>st</sup> class rail fare by shortest route

### Points to Remember:

- ❖ **Exemption** is available only for going anywhere **in India along with family**.
- ❖ **Family:** Spouse & children (Max 2 children), Dependent Parents, brothers, sisters.
- ❖ **Only 2 journeys in a block of 4 years are Exempt:** The block of 4 years applicable for AY 19-20 is **2018-2012** (1 Jan 2018 - 31 Dec 2021). Earlier blocks were 2014-2017 & so on.
- ❖ **Exemption is based on Actual Expenditure:** No Exemption without performing any journey.
- ❖ **Exemption is available only on Bus fare, Rail fare, Air fare:** No exemption of taxi charges, loading charges, boarding expenses is available.
- ❖ **CARRY FORWARD OF EXEMPTION**

If **any** of the **LTC available** in earlier block has **not been availed** by the assessee, then assessee can claim carry forward of such unavailed exemption (**ONLY ONE**) in first calendar year of the next block. The carried forward exemption so availed will not be counted for future exemptions allowable in respect of two journey.

**Ex:** For the block of 2014-2017, X can claim exemption of LTC on two occasions. If X has not availed the exemption (or has availed exemption only on one occasion) during 2014-2017, then he can carry forward unavailed concession. The benefit of carry forward is available in respect of only one journey in 1<sup>st</sup> year of the next block (i.e during calendar year 2018). In addition, he can avail exemptions on two more occasions during 2018-2022.



**CQ6.** Mr. D went on a holiday on 25.12.2018 to Delhi with his wife and three children (one son – age 5 years; twin daughters – age 2 years). They went by flight (economy class) and the total cost of tickets reimbursed by his employer was Rs. 60,000 (Rs. 45,000 for adults and Rs. 15,000 for the three minor children). Compute the amount of LTC exempt.

**Solution:** Since the son's age is more than the twin daughters, Mr. D can avail exemption for all his three children. The restriction of two children is not applicable to multiple births after one child. The holiday being in India and the journey being performed by air (economy class), the entire reimbursement met by the employer is fully exempt.

**CQ7.** In the above question, will there be any difference if among his three children the twins were 5 years old and the son 3 years old? Discuss.

**Solution:** Since the twins' age is more than the son, Mr. D cannot avail for exemption for all his three children. LTC exemption can be availed in respect of only two children.

**Taxable LTC = 15000 \* 1/3 = Rs. 5000. LTC exempt = Rs 55000. [60000-5000]**

### PREQUISITE IN RESPECT OF “GIFT, VOUCHER OR TOKEN”

- Value of perquisite = Actual cost to the employer.
- However, **Aggregate Exemption of Rs. 5,000 in a year** is available if gift is **received in kind**.
- **Cash gifts are fully taxable without any exemption.**
- Gift or voucher or token may be received by the employee or by member of his household.

**Ex:** Employer provides a cash gift of Rs 3,000 to X. Beside this, X gets a wrist watch of Rs. 8,000 from his employer.

**Answer:** Rs. 3,000 being cash is fully taxable. Further Rs. 3,000 (Rs. 8,000 – Rs. 5,000) is taxable for gift-in-kind.

### PERQUISITE IN CASE OF “TELEPHONES/MOBILE PHONES BILLS”

- If employer pays/reimburses telephone bills or mobile charges of employee → No Perquisite.

**Note:** In case of Retired chairman/members of UPSC, Value of residential telephones free of cost & number of free calls upto Rs. 1,500 p.m (over & above free calls allowed by telecompany → **Exempt**.

### PERQUISITE IN RESPECT OF “FREE DOMESTIC SERVANTS”

- Taxable Amount = **Actual Cost** (Total salary paid by employer – amount recovered from employee)

**Note:** When a house owned by employer is given to employee & employer incurs expenditure on maintenance of garden → Not a perquisite.

As per CBDT circular, provisions of gardener (when gardener is provided along with a house owned by the employer) cannot be taken as a perquisite, as employer in any case would have maintained the garden irrespective of the fact whether building was occupied by employee or lying vacant.

**CQ8.** Mr. X employed in XYZ Ltd. as a computer analyst gives you the list of perquisites provided by the company to him for the entire financial year 2018-19:

- Domestic servant was provided at the residence of Mr. X. Salary of domestic servant is Rs. 1,500 per month. The servant was engaged by him and the salary is reimbursed by the company (employer).
- Free education was provided to his two children Y & Z in a school maintained and owned by the company. The cost of such education for Y is computed at Rs. 900 per month and for Z at Rs. 1,200 per month. No amount was recovered by the company for such education facility from Mr. X.
- A gift voucher worth Rs. 10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.
- Telephone provided at the residence of Shri Bala and the bill aggregating to Rs. 25,000 paid by the employer. Compute the chargeable perquisite in the hands of Mr. X for the AY 2019-20.



**Solution:**

(i) Domestic servant was employed by the employee and the salary of such domestic servant was paid/reimbursed by the employer. It is taxable as perquisite for all categories of employees. Taxable perquisite value = Rs. 1,500 × 12 = Rs. 18,000.

(ii) Where the educational institution is owned by the employer, the value of perquisite in respect of free education facility shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality. However, there would be no perquisite if the cost of such education per child ≤ Rs. 1,000 p.m.

Therefore, there would be no perquisite in respect of cost of free education provided to his child Y.

However, the cost of free education provided to his child Z would be taxable, since the cost exceeds Rs. 1,000 per month. The taxable perquisite value would be Rs. 2,400 (Rs. 200 × 12).

(iii) The value of any gift or voucher or token in lieu of gift received by the employee or by member of his household not exceeding Rs. 5,000 in aggregate during the previous year is exempt. Value of perquisite would be Rs. 5,000.

(iv) Telephone provided at the residence of the employee & payment of bill by the employer is a tax-free perquisite.

### FREE FOOD & NON-ALCOHOLIC BEVERAGES

Nature of expenditure	Taxability of perquisite.
1. Tea or snacks provided during working hours	Not a perquisite
2. Food & non-alcoholic beverages provided in remote area or an off-shore installation	Not a perquisite if provided in working hours
3. Meal provided in office	Cost to the employer (in excess of Rs 50) – Amount recovered from the employee

**Note:** Working hours include overtime & working on holidays.

**Ex:** Mr. X is employed in the office of Chartered Accountant and during the year he was given free lunch on many occasions and value per lunch is Rs. 175. In such case Rs. 125 (Rs. 175 – Rs. 50) per lunch is taxable.

### PREQUISITE IN RESPECT OF “CREDIT CARD EXPENSES”

- **Perquisite** = Total expenditure incurred (including Membership fees) by the employer
- Less:** Expenditure incurred for **official purposes** [Complete details should be maintained]
- Less:** Amount recovered from employee.

### PREQUISITE IN RESPECT OF “CLUB EXPENDITURE”

- **Perquisite** = Total expenditure incurred (including annual fees) for club facilities
- Less:** Expenditure incurred for official purposes [Complete details should be maintained]
- Less:** Amount recovered from employee.
- Expenditure pertaining to **health club, sports facilities** etc. → **Not a perquisite.**

**Note:** Where the employer has obtained corporate membership of the club, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

### PERQUISITE IN RESPECT OF “FREE/CONCESSIONAL TICKETS”

- **Employer:** Engaged in the carriage of passengers or goods;
- **Services given:** Free/concessional Tickets for Personal Journey/Goods;
- **Perquisite** = Value at which such benefit or amenity is offered by such employer to the public

**Note:** Employees of an airline or the railways → **No Perquisite.**

## PERQUISITE IN RESPECT OF “USE OF MOVEABLE ASSETS”

- Value of perquisite is determined as follows:

Asset given	Value of benefit
(a) Laptops & computers	NIL
(b) Other Movable assets	10% p.a. of Actual Cost (Hire/Rent Charges)

- Completed years of Use is not required. Even use of asset for part of year will be perquisite.

## TRANSFER OF MOVEABLE ASSETS AT DISCOUNTED/ NOMINAL PRICE

- **Perquisite** = WDV [Actual Cost – Depreciation] – Sale Consideration paid by employee.  
 ➤ Depreciation shall be calculated only if asset has been used by employer for business purpose.  
 ➤ Depreciation is deductible for **completed years of use only**. (Fraction of years → Ignored)  
 ➤ Depreciation **shall be calculated as follows**:

1. Computer & electronics items	50% on WDV for each completed year of usage.
2. Motor car	20% on WDV for each completed year of usage.
3. Any other Asset	10% on SLM for each completed year of usage

- Electronics items do not include household electronic appliances.

**CQ9.** Find out the taxable value of the perquisite in the following cases for the AY 2019-20:

- Mr. X is given a laptop by his employer for using it for private purpose. Cost of the laptop is Rs. 96,000.
- On 18.10.2018, the company gives its music system to Mr. X for domestic use. Ownership is not transferred. Cost of music system (in 2010) to the employer is Rs. 30,000.
- The employer sells the following assets to the employees on 1.1.2019

Name of employee	W	X	Y
Asset sold	Car	Computer	Fridge
Cost of the asset to employer	Rs. 8,50,000	Rs. 95,000	Rs. 30,000
Date of purchase [put to use on the same day]	14.5.2016	14.5.2016	14.5.2016
Sale price	Rs. 3,00,000	Rs. 19,000	Rs.10,000

Before sale on 1.1.2019, these assets were used for business purpose by the employer.

**Solution:**

- Free use of laptop is not a taxable perquisite.
- S is provided a music system by the employer. Taxable perquisite is determined @ 10% p.a. of cost for the period of use (From 18.10.2018 – 31.3.2019). Thus Taxable perquisite = Rs. 1,356 [Rs. 30,000 × 10% ×  $\frac{165}{365}$ ].
- The taxable value of the perquisite in the hands of W, X & Y shall be determined as follows-

Particulars	Car	Computer	Fridge
Cost of the asset on 14.5.2016	8,50,000	95,000	30,000
Less- Normal wear & tear for first year ending 13.5.2017 (20% of Rs. 8,50,000; 50% of Rs. 95,000; 10% of Rs.30,000)	1,70,000	47,500	3,000
Balance on 14.5.2017	6,80,000	47,500	27,000
Less- Normal wear & tear for second year ending 13.5.2018 (20% of Rs. 6,80,000; 50% of Rs.47,500; 10% of Rs. 30,000)	1,36,000	23,750	3,000
Balance on 14.5.2018	5,44,000	23,750	24,000
Less- Sale consideration	3,00,000	19,000	10,000
Taxable value of the perquisite	2,44,000	4,750	14,000

**Note:** Normal wear & tear for a part of the year is not taken into consideration.

**CQ10.** Mr. X is employed with ABC Ltd. His son is allowed to use a motor cycle belonging to the company. The company had purchased this motor cycle for Rs. 60,000 on 01.05.2015 & given him on the same date. The motor cycle was finally sold to him on 01.08.2018 for Rs. 30,000. Compute the taxable perquisite in the hands of Mr. X.

**Solution:**

**(i) Perquisite for Use of motor cycle** =  $60,000 \times 10\% \text{ p.a. for 4 months } [1.4.2018 - 31.7.2018] = \text{Rs. } 2,000.$

**Note:** Only the period of use in this previous year shall be considered for valuation of perquisite. Because we are determining the taxability for this PY. **Students generally make mistake on this point.**

**(ii) Perquisite in respect of Transfer of motor cycle:**

Depreciated value of the motor cycle = Original cost - Depreciation @ 10% p.a. for 3 completed years

= Rs. 60,000 - (Rs. 60,000  $\times$  10% p.a.  $\times$  3 years) = Rs. 42,000.

**Taxable Perquisite** = Rs. 42,000 - Rs. 30,000 = Rs. 12,000.

## PAYMENT OF PREMIUM ON PERSONAL ACCIDENT INSURANCE POLICIES

- **No immediate benefit** would become payable and benefit will accrue at a future date only if certain events take place.
- Moreover, employers would be taking such policy in their **business interest only**, so as to indemnify themselves from payment of any compensation.
- Therefore, the premium so paid will **not** be a **taxable perquisite** in the **employees' hands**.

## PERQUISITE IN RESPECT OF "SWEAT EQUITY SHARES/ESOP"

- **Perquisite = FMV on Exercise Date – Amount Actually paid by the Employee.**
- Year of taxability: Taxable in the year of Allotment of Shares.

**Ex.** Mr. X is employed in ABC Ltd. & employer has issued 100 equity shares to the employee for free on 1.07.2018 & FMV is Rs. 150 per share on the exercise date. In this case, taxable amount = Rs. 15,000. {100  $\times$  (150 – 0)}

**Note:** If the shares have been sold by the employee, cost of acquisition = FMV on exercise date [Sec 49(2AA)].

**FMV on Exercise Date** shall be determined as follows:

**[To be read once]**

- Listed shares in India:** Average of opening & closing price on the date of exercise of option.
  - If Listed on more than one RSE in India on Exercise Date: Average value on RSE which have highest volume of trading in the shares.
  - If No Trading on Exercise Date: Closing price on any RSE on closest date of exercise date.
- Unquoted (unlisted) Shares:** Value determined by Merchant Banker on the specified date.  
Specified Date = (i) Date of Exercising options or (ii) Any date earlier (not more than 180 days) than the date of exercise of option.

## PERQUISITE IN RESPECT OF GAS, ELECTRIC ENERGY OR WATER SUPPLY

- **Taxable amount = Actual Cost (Total Expenditure of Employer – Amount Recovered from Employee)**
- If Employee himself is **manufacturer** → Perquisite = **Manufacturing cost** incurred by employer.

**Ex:** Mr. X is employed in Bisleri and the company has provided him free water facility for which manufacturing cost of the company is Rs. 1,000 and its market value is Rs. 1,100, in this case, perquisite value shall be Rs. 1,000.

**CQ11.** Mr. X is drawing a consolidated salary of Rs. 60,000. Employer provides Gas, Water & Electricity facilities for which bills settled during the year amount to Rs. 24,000. Calculate the value of taxable perquisite. **[Rs. 24,000]**

## PERQUISITE IN RESPECT OF “USE OF MOTOR CAR”

Owned by	Expenses by	Purpose of use	Taxable Perquisite	
1. Employer	Employer	Fully Official	No Perquisite	
2. Employer	Employer	Fully Personal	(a) Actual expenditure on car + (b) Remuneration to driver + (c) Depreciation @ 10% p.a on actual cost.	
Expenses recovered from employee are deductible. No limit of Rs. 900 for driver's salary.				
3. Employer	Employer	Partly official & Partly Personal	CC of Engine	Perquisite
			Upto 1600 CC	1,800 p.m + 900 p.m for driver = Rs 2,700 p.m
			Above 1600 CC	2,400 p.m + 900 p.m for driver = Rs 3,300 p.m
Rs. 900 p.m shall be taxable if driver is provided. Expenses recovered from employee are NOT deductible.				
4. Employer	Employee	Partly official & Partly Personal	CC of Engine	Perquisite
			Upto 1600 CC	600 p.m + 900 p.m for driver = Rs 1,500 p.m
			Above 1600 CC	900 p.m + 900 p.m for driver = Rs 1,800 p.m
Rs. 900 p.m shall be taxable if driver is provided. Expenses recovered from employee are NOT deductible.				
5. Employee	Employer	Partly official & Partly Personal	Actual Expenditure incurred <b>Less</b> ↓	
			CC of Engine	Perquisite
			Upto 1600 CC	1,800 p.m + 900 p.m for driver = Rs 2,700 p.m
			Above 1600 CC	2,400 p.m + 900 p.m for driver = Rs 3,300 p.m
Rs. 900 p.m shall be taxable if driver is provided. Expenses recovered from employee are NOT deductible.				
6. Employee	Employer	Official use	Not a perquisite.	
7. Employee owns other conveyance but not car	Employer	Partly official & Partly Personal	Actual Expenditure incurred by Employer <b>Less:</b> Rs. 900 p.m	
8. Employer	Employee	Fully Personal	10%p.a on actual cost of Car/hire charges	

### Points to Remember:

- ❖ **Meaning of Month:** Month means **completed months**.
- ❖ **When two or more cars are provided by employer to the employee:** If an employer provides two or more cars (which falls in category 3), taxable value of only one such car (at employee's option) shall be determined according to the rules given in category 3. For other cars, value of perquisite shall be calculated under category 2.
- ❖ **Car facility between residence & office: Not taxable.**
- ❖ **Facility for HC/SC Judges/Chairman/members of UPSC: Not taxable.**
- ❖ **Transport allowance provided to serving chairman/members of UPSC is also not taxable.**

### ANY OTHER BENEFIT/AMENITIES PROVIDED BY EMPLOYER (Residual provision)

- **Perquisite = Cost to Employer (Arms length price) – Amount recovered from employee.**

**CQ12.** Mrs. Roma, an employee of XYZ Ltd., submits the following information for the AY 2019-20:  
 Salary: 1,86,000; City compensatory allowance: 8,000; Bonus: 10,200; Education allowance: 4,000 (for her grandchildren); Income tax penalty paid by the employer: 2,000; Medical expenses reimbursed by the employer: 12,000; Leave travel concession: 1,000 (expenditure incurred by the employee nil); Free residential telephone: 4,000; Free refreshment during office hours 4,000; reimbursement of electricity bill by the employer: 1,060; reimbursement of gas bills: 1,000; Professional tax paid by the employer: 300 on behalf of Mrs. Roma; Professional tax paid by Mrs. Roma: 150. Determine the Total Income of Mrs. Roma for the AY 2019-20.

**Solution:**

#### Computation of Salary

Basic Salary	1,86,000
City Compensatory Allowance	8,000
Bonus	10,200
Education Allowance [Fully taxable since given for grandchildren]	4,000
Income tax Penalty paid by employer [Income tax paid by employer on Non-monetary perquisites is exempt. In this case, penalty is paid. Thus, it is a taxable perquisite]	2,000
Medical Reimbursement [other medical facilities are fully taxable]	12,000
Leave Travel Concession [taxable since actual expenditure is not incurred]	1,000
Refreshment [Since during office hours]	Nil
Residential Telephone	Nil
Payment of electricity bills by employer [It is a taxable perquisite]	1060
Reimbursement of gas bills [It is a taxable perquisite]	1000
Professional tax paid by employer [First included in salary & then allowed as deduction from gross salary u/s 16(iii)]	300
Gross Salary	2,25,560
Less: Professional Tax paid by employee as well as employee [300 + 150]	(450)
Taxable salary	2,25,110

## MEANING OF SPECIFIED EMPLOYEE & NON-SPECIFIED EMPLOYEES

### 1. Specified Employee means

<b>Director Employee</b>	<ul style="list-style-type: none"> <li>Any Director of the company.</li> </ul>
<b>Substantial Interest</b>	<ul style="list-style-type: none"> <li>Person has a substantial interest in a company if he is a beneficial owner of equity shares carrying 20% or more of the voting power in the company.</li> </ul>
<b>Salary &gt; Rs. 50,000</b>	<ul style="list-style-type: none"> <li>Employee drawing a salary of more than Rs. 50,000.</li> <li>While calculating limit of Rs. 50,000, following payment shall be ignored:               <ul style="list-style-type: none"> <li>(a) all non-monetary benefits;</li> <li>(b) Monetary benefits exempt u/s 10. [Ex: HRA to the extent exempt]</li> <li>(c) Standard deduction of Rs. 40,000; Deduction for Entertainment allowance &amp; Professional tax.</li> </ul> </li> </ul>

### 2. Non-Specified Employee → Employees other than specified employees.

#### PERQUISITES TAXABLE ONLY IN HANDS OF SPECIFIED EMPLOYEES [SECTION 17(2)(iii)]

- Monetary perquisites are taxable in the hands of all employees [Specified + Non-Specified].
- Non- Monetary perquisites are taxable in the hands of **specified employees** only.

Followings perquisites will be taxable in the hands of specified employees.

- Provision of sweeper, gardener, watchman or personal attendant
- Facility of use of gas, electricity or water supplied by employer
- Free or concessional tickets
- Use of motor car
- Free or concessional educational facilities.

## C. RETIREMENT BENEFITS

### LEAVE SALARY [SECTION 10(10AA)]

- Amount received by encashment of **unutilized leave** on retirement/termination of employment.
- Leave salary received during the **period of service** → Fully Taxable. (Gov/Non-Gov. Employees)
- Taxability of leave salary received **at** the time of **retirement is different**. It is as follows:

Government Employees (at the time of retirement)	Fully Exempt
Non-Government Employees (at the time of retirement)	Partly Exempt

### TAXABILITY AT THE TIME OF RETIREMENT FOR NON-GOVERNMENT EMPLOYEES

Least of the following is **EXEMPT** ↓

(i) Leave Salary Actually received.
(ii) Rs. 3,00,000
(iii) $10 \times \text{AMS}$ (on the basis of average salary of last 10 Months)
(iv) Leaves Earned (in No. of Months) $\times$ AMS.

- **Leaves Earned** = [Completed years of service  $\times$  No. of leaves credited/month (Maximum 30 days allowed in a year)] – Leaves actually taken/ availed.
- AMS = Average Salary of 10 months immediately preceding **date of retirement**.
- Leave entitlement credited cannot exceed 30 days for every year of actual service rendered.

#### Points to Remember:

- ❖ **Receipt of Leave salary from two or more employers:** in the same year/ different year, then the **aggregate** amount of leave salary **exempt from tax cannot exceed Rs. 3,00,000**.  
If Leave salary is received in any earlier year from former employer & again received from another employer in later year, limit of Rs. 3,00,000 will be reduced by amount of leave salary exempt earlier.
- ❖ Leave salary paid to legal heir → Exempt.
- ❖ Leave salary received by family of government servant who died in harness (on duty) → Exempt.

**CQ13.** X was employed by PQR Ltd. upto March 15, 2004. At the time of leaving PQR Ltd, he was paid Rs. 3,50,000 as leave salary out of which Rs. 57,000 was exempt from tax u/s 10(AA)(ii). Thereafter he joined ABC(P.) Ltd. & received Rs. 4,12,200 as leave salary at the time of his retirement on December 31, 2018. Determine taxable leave salary:

Particulars	Rs.
Salary at the time of retirement (per month)	22,900
Average salary received during 10 months ending on December 31, 2018	
- From March 1, 2018 to July 31, 2018 (per month)	22,600
- From August 1, 2018 to December 31, 2018 (per month)	22,900
Duration of service (a)	14.75 years
Leave entitlement for every year of service (b)	45 days
Leave availed while in service (c)	90 days
Leave at the credit of employee at the time of retirement $[(14 \times 45 - 90)/30]$	18 months
Leave salary paid at the time of retirement @ Rs. 22,900 per month (i.e., Rs. 22,900 $\times$ 18)	Rs. 4,12,200

#### **Solution:**

(i) Rs. 4,12,200.
(ii) Rs. 3,00,000 – 57,000 (already exempted from previous employer) = Rs. 2,43,000.
(iii) $10 \times 22,750 = \text{Rs. } 2,27,500$ . [Note 1]
(iv) $11 \times 22,750 = \text{Rs. } 2,50,250$ . [Note 2]

Leave salary exempt = Rs. 2,27,500; Taxable leave salary = Rs. 4,12,200 – Rs. 2,27,500 = Rs. 1,84,700.

**Note:** (1)  $\text{AMS} = [(22,600 \times 5) + (22,900 \times 5)] = \text{Rs. } 22,750$ .

(2)  $\text{Leaves Earned} = \{ \text{Completed years of service} \times \text{No. of leaves credited/month (Maximum 30 days allowed in a year)} \} - \text{Leaves actually taken.} / 30 \text{ days.} = [(14 \times 30) - 90] / 30 = 11 \text{ months.}$



## GRATUITY [SECTION 10(10)]

➤ It is a retirement benefit payable at time of cessation of employment on basis of duration of service.

**A. GOVERNMENT EMPLOYEES** → **Fully Exempt** u/s 10(10)(i).

**B. NON-GOVERNMENT EMPLOYEES:** Taxable Gratuity = Gratuity Received – Gratuity Exempt

<b>I. COVERED BY GRATUITY ACT, 1972</b>	<b>Least of following is Exempt</b> <table><tr><td>1. Gratuity Actually Received</td></tr><tr><td>2. Rs. 20 Lacs</td></tr><tr><td>3. Length of Service (LOS) x 15 days Salary</td></tr></table>	1. Gratuity Actually Received	2. Rs. 20 Lacs	3. Length of Service (LOS) x 15 days Salary
1. Gratuity Actually Received				
2. Rs. 20 Lacs				
3. Length of Service (LOS) x 15 days Salary				
<b>(a) How to calculate LOS:</b> More than half year = Full year [Ignore less than half part] <b>(b) 15 days salary =</b> $\frac{\text{Salary last drawn} \times 15}{26}$				
<b>II. NOT COVERED BY GRATUITY ACT, 1972</b>	<b>Least of following is Exempt</b> <table><tr><td>1. Gratuity Actually received.</td></tr><tr><td>2. Rs. 10 Lacs</td></tr><tr><td>3. ½ Month's Average Salary x Completed YOS</td></tr></table>	1. Gratuity Actually received.	2. Rs. 10 Lacs	3. ½ Month's Average Salary x Completed YOS
1. Gratuity Actually received.				
2. Rs. 10 Lacs				
3. ½ Month's Average Salary x Completed YOS				
<b>AMS:</b> Avg. salary for 10 months immediately preceding <b>Retirement Month</b> (& not date).				

### Points to Remember:

- ❖ Gratuity Received during the **period of Service** → **Fully Taxable**.
- ❖ Gratuity received by Members of **Defence Service** → **Fully Exempt**.
- ❖ Retirement Gratuity received by Employees of CG/Members of Civil Services/LA → **Fully Exempt**.
- ❖ Gratuity is received by Widow, Children or Dependents of Deceased Employee → **Fully Exempt**.
- ❖ **Completed YOS** (year of service) will **include** the period of **earlier employment** if the employee was **not entitled** to gratuity at that time/during that employment.
- ❖ **Exemption Limit of Rs. 20 Lacs/10 Lacs is the maximum amount of gratuity exempt.** If gratuity is received in any earlier year from former employer (if any) & again received from another employer in later year, limit of Rs. 20 Lacs/10 Lacs will be reduced by the amount of gratuity exempt earlier.

**CQ14.** Mr. Raj not being covered by the Payment of Gratuity Act, 1972 retires during PY 2018-19 from XYZ Private Ltd, and receives Rs. 45,000 as gratuity after a service of 40 years 11 months. Her average monthly salary during the last 10 months of services was Rs. 2,200. Determine the taxable gratuity in her case for AY 2019-20.

**Solution:** **Computation of taxable gratuity Of Mr. Raj**

Particulars	Rs.
Actual Gratuity	45,000
<b>Less:</b> Exempt u/s. 10(10) to the extent of least of the following:	
1. Rs. 10,00,000	
2. $2,200 \times \frac{1}{2} \times 40 = \text{Rs. } 44,000$ .	
3. Actual Gratuity received = Rs. 45,000	<u>44,000</u>
<b>Taxable gratuity</b>	<b><u>1,000</u></b>



## PENSION [SEC [10(10A)]]

➤ Pension means a periodic payment made to employee in consideration of past services payable after his retirement. Pension is of two types:

### 1. **COMMUTED PENSION:** Commutation means Inter-Change.

- Converting future right to receive monthly pension into lumpsum amount receivable immediately on retirement/superannuation.
- It is lumpsum payment in lieu of periodical payment.

### 2. **UNCOMMUTED PENSION (Monthly pension):** It is periodical payment of pension.

- It is **always TAXABLE** in the hands of both Government/Non-Government Employee.

**Ex:** If a person is entitled to receive a pension of Rs. 10,000 p.m. for the rest of his life. He may commute 50% of this amount & get a lumpsum of Rs. 3 lakh (random amount). After commutation, his monthly pension will now be the balance 50% of Rs. 10,000 p.m. = Rs. 5,000 p.m.

## 1. **TAX TREATMENT OF COMMUTED PENSION**

**A. GOVERNMENT EMPLOYEE** → Always **EXEMPT**.

**B. NON-GOVERNMENT EMPLOYEE:** Taxable Pension = Pension Received – Exempt Pension.

<b>I. If Gratuity is Received by Employee</b>	▪ <b>Exemption = 1/3<sup>rd</sup> of the Pension</b> which he would have been normally entitled to receive had he not commuted the pension ( <b>Total Pension</b> ).
<b>II. If Gratuity is Not received by Employee</b>	▪ <b>Exemption = 1/2<sup>th</sup> of the Pension</b> which he would have been normally entitled to receive had he commuted the pension ( <b>Total Pension</b> ).
<b>Note:</b> For this purpose, <b>Total Pension</b> = $\frac{\text{Commutated Pension}}{\% \text{ of commutation}}$	

### **Points to Remember:**

- ❖ Commuted Pension to Judges of HC/SC → Fully Exempt.
- ❖ Commuted Pension received by Individual out of annuity plan of LIC → Exempt.
- ❖ Pension received from UNO by the employee or his family members → Exempt.
- ❖ Family Pension received by the family members of Armed forces → Exempt u/s 10(19).
- ❖ **Family Pension received by family members after death of an employee (Other than armed forces) → Taxable u/h IFOS. Deduction u/s 57 = Lower of Rs 15000 OR 1/3<sup>rd</sup> of Pension.**

## 2. **TAX TREATMENT OF UNCOMMUTED (MONTHLY) PENSION**

- It is **always TAXABLE** in the hands of both Government/Non-Government Employee.

**CQ15.** Mr. X retires from PQR Ltd. on 31.3.2017. He is paid Rs. 1,800 p.m. as pension. On his request, RG Co. Pays Rs. 36,000 in lieu of 50% of monthly pension from 1.12.2018. Assume that i) Gratuity is paid, (ii) No Gratuity is paid. Calculate taxable pension includible in the salary income for AY 2019-20.

**Solution:** Mr. X has commuted his pension from 1.12.2018. Till 31.11.2018 (i.e for 8 months), he was receiving monthly pension of Rs. 1,800. Now from 1.12.2018, he will receive only Rs. 900 as monthly pension since he has commuted 50% of his monthly pension. Total pension =  $\frac{\text{Rs. 36,000}}{50\%}$  = Rs. 72,000 for the purpose of exemption.

### Computation of taxable pension of Mr. Sundar

Case I : Gratuity is paid	Rs.	Rs.
(1) Uncommuted pension before the date of commutation (1,800 x 8)		14,400
(2) Uncommuted pension after the date of commutation (900 x 4)		3,600
(3) Commuted pension received	36,000	
Less: Exempt commuted pension = 1/3 <sup>rd</sup> of Total Pension [Rs. 72,000 x 1/3]	<u>24,000</u>	
Taxable Commuted Pension		<u>12,000</u>
<b>Total Taxable Pension</b>		<b><u>30,000</u></b>

Case II : Gratuity is not paid	Rs.	Rs.
(1) Uncommuted pension before the date of commutation (1,800 x 8)		14,400
(2) Uncommuted pension after the date of commutation (900 x 4)		3,600
(3) Commuted pension received	36,000	
Less: Exempt commuted pension = 1/2 of Total Pension [Rs. 72,000 x 1/2]	<u>36,000</u>	
Taxable Commuted Pension		<u>Nil</u>
<b>Total Taxable Pension</b>		<b><u>18,000</u></b>

### NATIONAL PENSION SCHEME

<b>Applicability</b>	Only to new employees of government or any other employer.
<b>Scheme</b>	Every employee is required to contribute 10% of his salary every month towards NPS. A matching contribution is made by the employer.
<b>Tax treatment</b>	<b>1. Employer's contribution:</b> First included in salary income of the employee & deduction (upto 10% of salary) is given u/s 80CCD(2). <b>2. Employee's contribution:</b> Deductible (upto LOWER OF 10% of salary or 1.5 lacs ) u/s 80CCD(1).
<b>Maturity amount</b>	Pension received out of the aforesaid amount → Taxable to recipient.

### RETRENCHMENT COMPENSATION [SECTION 10(10B)]

- Any compensation received by a workman at the time of his retrenchment shall be **Exempt** to the Extent of **Lower** of the following:
  - (a) Actual Amount Received.
  - (b) Rs. 5,00,000.
  - (c) 15 days Average Pay × Length of service (More than half year shall be treated as full year).
- Average pay = Average of the wages payable to a workman: [To be read once]
  - (a) **In 3 Complete calendar months:** In case of Monthly paid workman,
  - (b) **In 4 calendar weeks:** In case of weekly paid workman
  - (c) **In 12 full working weeks:** In case of daily paid workman.

preceding the date on which the average pay becomes payable if the workman had worked for 3 complete calendar months/4 Complete weeks/12 full working days.
- Where such calculation cannot be made, the average pay shall be calculated as the average of the wages payable to a workman during the period he actually worked.

**Note:** Where retirement compensation is received by workman ap per the scheme approved by CG (for extending special protection to workman), entire compensation received is exempt u/s 10(10B).

**CQ16.** Mr. Garg received retrenchment compensation of Rs. 10,00,000 after 30 years 4 months of service. At the time of retrenchment, he was drawing basic salary Rs. 20,000 p.m.; dearness allowance Rs. 6,000 p.m. Compute his taxable retrenchment compensation.

**Solution:** Taxable Retrenchment compensation = Rs. 10 lacs – Rs. 4,50,000 = Rs. 5,50,000

Calculation of exempt Retrenchment compensation = Lower of

- (a) Actual Amount Received = Rs. 10 lacs
- (b) Rs. 5,00,000.
- (c) 15 days Average Pay × Length of service (More than half year shall be treated as full year).  
 = Rs. 26000 × 15/26 × 30 years = **Rs. 4,50,000.**

## COMPENSATION RECEIVED ON VOLUNTARY RETIREMENT [SEC 10(10C)]

➤ Maximum Exemption upto **Rs. 5,00,000** is available if following condition is satisfied:

**Condition:** Amount payable for VRS should not exceed [Higher of (a) or (b)]

(a) **3 Months Salary** for each completed year of service.

(b) Salary @ time of retirement × Balance months of service left before retirement/superannuation.

### Points to Remember:

- ❖ Relief u/s 89 is not available if exemption is taken in this section.
- ❖ Exemption u/s 10(10C) shall be allowed once in a lifetime.

**CQ17.** Mr. Dutta received voluntary retirement compensation of Rs. 7,00,000 after 30 years 4 months of service. He still has 6 years of service left. At the time of voluntary retirement, he was drawing basic salary Rs. 20,000 p.m.; Dearness allowance (which forms part of pay) Rs. 5,000 p.m. Compute his taxable VRS, assuming that he does not claim any relief u/s 89.

**Solution:** Exemption of Rs. 5,00,000 is available if Amount payable for VRS does not exceed Higher of

(a) 3 Months Salary for each completed year of service =  $3 \times \text{Rs. } 25,000 \times 30 \text{ years} = \text{Rs. } 22,50,000$ ;

(b) Salary @ time of retirement × Balance months of service left before retirement =  $\text{Rs. } 25,000 \times 72 = \text{Rs. } 18 \text{ lacs}$ ;

Thus, If VRS Compensation received does not exceed Rs. 22,50,000, Exemption of Rs. 5,00,000 will be available.

Amount of VRS Compensation received = Rs. 7,00,000. Thus Rs. 5,00,000 will be Exempt. Taxable VRS = Rs. 2,00,000.

### Some other Points:

[To be Read once]

- (i) Only the employee of the following undertakings are eligible for exemption under this clause:
  - Public sector company/Any other company/LA/Co-operative society.
  - Authority established under a Central/State or Provincial Act
  - University established or incorporated under a Central/State or Provincial Act.
  - Indian Institute of Technology/Institute of Management notified by CG in Official Gazette
  - Central Government/Any State Government
  - An institution, having importance throughout India or in any State as notified by CG.
- (ii) It applies to an employee who has completed 10 years of service or completed 40 years of age.  
[Except: Employee of a public sector company under voluntary separation scheme framed by the company].
- (iii) It applies to all employees except directors of a company or a cooperative society.

## DEDUCTION ALLOWED FROM SALARY INCOME

➤ Income taxable u/h 'Salaries' is computed after making the following deductions:

### 1. STANDARD DEDUCTION [SECTION 16(ia)]

- Lower of (i) **Rs. 40,000** or (ii) Amount of Salary is deductible from salary Income.

### 2. ENTERTAINMENT ALLOWANCE [SEC 16(ii)]

- It is first included in salary income & then deduction is available u/s 16.
- **Least** of the following is **Exempt for GOVERNMENT EMPLOYEES only**

Amount of entertainment allowance actually received during PY.

Rs. 5,000.

20% of basic salary.

- **Actual expenditure** towards entertainment is **NOT RELEVANT**.
- In the case of **Non-Government Employee** → Entertainment allowance is **not deductible**.

**CQ18.** Mr. D, a Government employee gets Rs. 20,000 per year as entertainment allowance out of which he spends Rs. 2,000 for official purpose; Rs. 3,200 for personal purposes & save the balance Rs. 14,800. Basic salary amounts to Rs. 60,000. Compute the taxable entertainment allowance.

**Solution:**

**Computation of taxable entertainment allowance**

Entertainment allowance for the year	20,000
Least of the following is deductible	
1. Rs. 5,000	
2. 1/5 <sup>th</sup> of salary – Rs. 8,000	
3. Actual entertainment allowance – Rs. 20,000	5,000
<b>Taxable Entertainment Allowance</b>	<b>15,000</b>

### 3. PROFESSIONAL TAX [SEC 16(iii)]

- It is levied by a State under Article 276 of the Constitution. SG cannot impose more than Rs. 2,500 as profession tax.
- It is deductible only when it is **actually paid** by the Employee during PY.

Student should note that the Limit of Rs. 2,500 is for the levy of professional tax in a previous year by the State Government. However, under Income Tax Act, there is no such limit on claiming deduction in a PY. Thus, if Rs. 5,000 is paid as professional tax during the PY, whole of Rs. 5,000 will be deductible in the PY in which it is paid.

- If an Employer pays Professional Tax on behalf of Employee, it shall be first included in salary of the employee as perquisite & then shall be allowed as deduction on payment basis.

### **RELIEF [SECTION 89]** (Only for INDIVIDUALs)

- If any individual receives any portion of his salary in arrears or in advance or receives profits in lieu of salary (gratuity, commuted pension), family pension & as a result of such receipt, his income is assessed at a higher rate than the rate at which it would have been assessed if there was no such aforesaid receipts, he can claim relief u/s 89.
- Procedure for computing relief as given in Rule 21A is as follows:

<b>1.</b> Calculate the <b>tax payable of PY</b> in which the arrears/ advance salary is received on (a) Total Income <b>including</b> of advance salary/ salary in arrears. (b) Total Income <b>excluding</b> of advance salary/ salary in arrears <b>The difference between (a) &amp; (b) is the tax on additional salary included in the total income.</b>
<b>2.</b> Calculate the tax payable of PY to which the advance salary/salary in arrears relates. (a) Total Income <b>including</b> of advance salary/ salary in arrears (b) Total Income <b>excluding</b> of advance salary/ salary in arrears. <b>Calculate the difference between (a) &amp; (b) for every PY to which the additional salary relates.</b>
<b>3.</b> Excess tax on additional salary as calculated in 1 & 2 shall be Relief admissible u/s 89.

**CQ19.** Mr. Hari, who turned 66 years on 28.3.2019, salary for PY 2018-19 is Rs. 10,20,000 & Arrears of salary received is Rs. 3,45,000. Further, you are given the following details relating to the earlier years to which the arrears of salary received is attributable to:

Previous year	Taxable Salary	Arrears now received
2010 – 2011	7,10,000	1,03,000
2011 – 2012	8,25,000	1,17,000
2012 – 2013	9,50,000	1,25,000

Compute the relief available u/s 89 & the tax payable for the AY 2019-20.

**Note: Rates of Taxes:**

AY	Slab rates of income-tax			
	For resident individuals of the age of 60 years or more at any time during the previous year		For other resident individuals	
	Slabs	Rate	Slabs	Rate
2011-12	Upto 2,40,000	Nil	Upto Rs. 1,60,000	Nil
	2,40,001 - 5,00,000	10%	Rs. 1,60,001 - Rs. 5,00,000	10%
	5,00,001 - 8,00,000	20%	Rs. 5,00,001 - Rs. 8,00,000	20%
	Above 8,00,000	30%	Above Rs. 8,00,000	30%
2012-13	Upto 2,50,000	Nil	Upto Rs. 1,80,000	Nil
	2,50,001 - 5,00,000	10%	Rs. 1,80,001 - Rs. 5,00,000	10%
	5,00,001 - Rs. 8,00,000	20%	Rs. 5,00,001 - Rs. 8,00,000	20%
	Above Rs. 8,00,000	30%	Above Rs. 8,00,000	30%
2013-14	Upto Rs. 2,50,000	Nil	Upto Rs. 2,00,000	Nil
	2,50,001 - 5,00,000	10%	Rs. 2,00,001 - Rs. 5,00,000	10%
	5,00,001 - 10,00,000	20%	Rs. 5,00,001 - Rs. 10,00,000	20%
	Above 10,00,000	30%	Above Rs. 10,00,000	30%

**Note:** Education cess @ 2% & SHEC @ 1% was attracted on the income-tax for all above preceding years.

**Solution: Computation of tax payable by Mr. Hari for the AY 2019-20**

Particulars	Incl. arrears of salary	Excl. arrears of salary
Current year salary	10,20,000	10,20,000
Add: Arrears of salary	3,45,000	-
Taxable Salary	13,65,000	10,20,000
Income-tax thereon	2,19,500	1,16,000
Add : HEC @ 4%	8,780	4,640
<b>Total payable</b>	<b>2,28,280</b>	<b>1,20,640</b>

**Computation of tax payable on arrears of salary if charged to tax in respective AYs**

Particulars	AY 2011-12		AY 2012-13		AY 2013-14	
	Incl. arrears	Excl. arrears	Incl. arrears	Excl. arrears	Incl. arrears	Excl. arrears
Taxable salary	7,10,000	7,10,000	8,25,000	8,25,000	9,50,000	9,50,000
Add: Arrears of salary	1,03,000	-	1,17,000	-	1,25,000	-
<b>Taxable salary</b>	<b>8,13,000</b>	<b>7,10,000</b>	<b>9,42,000</b>	<b>8,25,000</b>	<b>10,75,000</b>	<b>9,50,000</b>
Tax	97,900	76,000	1,34,600	99,500	1,47,500	1,15,000
Add: Cess@3%	2,937	2,280	4,038	2,985	4,425	3,450
<b>Tax payable</b>	<b>1,00,837</b>	<b>78,280</b>	<b>1,38,638</b>	<b>1,02,485</b>	<b>1,51,925</b>	<b>1,18,450</b>

**Computation of Relief u/s 89**

Particulars	Rs.	Rs.
Tax payable in AY 2019-20 on arrears:		
Tax on income including arrears	2,28,280	
Less : Tax on income excluding arrears	1,20,640	1,07,640
Tax payable in respective years on arrears :		
Tax on income including arrears (Rs. 1,00,837 + Rs. 1,38,638 + Rs. 1,51,925)	3,91,400	
Less: Tax on income excluding arrears (Rs. 78,280 + Rs. 1,02,485 + Rs. 1,18,450)	2,99,215	92,185
Relief u/s 89 [Diffn b/w tax on arrears in AY 2019-20 & tax on arrears in respective years]		<b>15,455</b>

## TREATMENT OF PROVIDENT FUND

### Kinds of Provident Funds:

<b>A. Statutory Provident Fund (SPF)</b> <ul style="list-style-type: none"> <li>This fund is <b>set up</b> under the <b>Provident Fund Act, 1925</b>.</li> <li>This Scheme is mainly meant for: <ul style="list-style-type: none"> <li>Government employees/ Semi Government employees,</li> <li>University/Educational Institutions affiliated to a university established by statute.</li> </ul> </li> </ul>
<b>B. Recognized Provident Fund (RPF)</b> <ul style="list-style-type: none"> <li>RPF means a provident fund recognised by CIT for Income Tax purposes.</li> <li>It is governed by Part A of Schedule IV to the Income-tax Act, 1961.</li> <li>RPF Scheme is a scheme to which Employee's Provident Funds &amp; Miscellaneous Provisions Act, 1952 applies.</li> <li>According to this Act, any person who employs 20 or more employees is under an obligation to register himself under the PF Act, 1952 &amp; start a provident fund scheme for the employees in his organization.</li> <li>If CIT grants the approval to such fund, it is called a recognized provident fund scheme.</li> </ul>
<b>C. Unrecognized Provident Fund (URPF)</b> <ul style="list-style-type: none"> <li>A scheme started by employer &amp; employees in an establishment which is <b>not approved by CIT</b> is called URPF</li> </ul>
<b>D. Public Provident Fund (PPF)</b> <ul style="list-style-type: none"> <li>This scheme is covered under Public PF Act, 1968. In this scheme there is <b>no employer's contribution</b>.</li> <li>Any member of the public, whether in employment or not, may contribute to this fund.</li> <li><b>Therefore, even self-employed persons may contribute to this fund.</b></li> <li>Individual may contribute to the fund on his own behalf as also on behalf of a minor of whom he is the guardian.</li> <li>The employee can deposit money in PPF a/c in addition to other provident fund schemes.</li> <li>The minimum contribution to this Fund is Rs. 500 &amp; maximum Rs. 1,00,000 per year.</li> <li>The sums contributed to PPF earn interest at 7.6% p.a. compounded quarterly.</li> </ul>

## TREATMENT OF PROVIDENT FUND FOR INCOME-TAX PURPOSES

Particulars	SPF	RPF	URPF	PPF
1. Employees contribution	Deductible u/s 80C.	Deductible u/s 80C	No deduction.	Deductible u/s 80C.
2. Employer's contribution	Fully exempt.	Exempt upto 12% of salary. Amount in excess of 12% of salary is taxable.	1.Accumulated Employee's contribution is not taxable. 2.Accumulated Employer's contribution + Interest on Employer's contribution is taxable as profit in lieu of salary.	NA as there is only assessee's own contribution.
3. Interest on PF	Fully exempt.	Exempt upto 9.5% p.a. <input checked="" type="checkbox"/> Any excess over 9.5% p.a. is taxable.	3. Interest on Employees Contribution is taxable u/h IFOS.	Fully exempt.
4. Withdrawal on retirement	Fully exempt u/s 10(11)	Exempt subject to certain conditions.		Fully exempt u/s 10(11)



## IMPORTANT NOTES

**1. URPF:** Employer's contribution & Interest on provident fund are not taxable/deductible in the year of payment or credit of interest. It becomes taxable when accumulated balance is withdrawn by employee.

**2. RPF:** Withdrawal of accumulated balance by employee from RPF is exempt in following cases:

- (i) If employee has rendered continuous service with his employer for a period of 5 years/more.
- (ii) If service has been terminated by reason of (a) employee's ill health, (b) discontinuance of employer's business, (c) reasons which are beyond employee's control. **[even if continuous service < 5 years]**
- (iii) If employee obtains employment with any other employer on cessation of his employment & accumulated balance due to him is transferred to his individual account in any recognized fund maintained by such other employer. In such case, for calculating period of service for (i) & (ii) above, period for which employee rendered continuous service **under his former employer shall be included.**

**3.** If accumulated balance due to an employee in RPF is paid to him otherwise than in the circumstances referred to above(ex: where employee voluntarily resigns from the post before completion of 5 years of service with the employer, amount paid to the employee is taxable. In such cases, tax relief or deduction allowed to the assessee shall be withdrawn. **Thus,**

- ☑ Employer's contribution + Interest on it (which was not taxed earlier) → Taxed as Profit in lieu of salary.
- ☑ Interest on employee's contribution → Taxable u/h IFOS.

**CQ20.** On his retirement from service, Mr. Rahul received a sum of Rs. 9,00,000 from unrecognized provident fund, the composition being as follows:

Employee's contribution	4,10,000
Interest on Employee's contribution	40,000
Employers contribution	4,10,000
Interest on Employer's contribution	40,000
<b>Total</b>	<b>Rs. 9,00,000</b>

**Answer:** Whenever any amount is withdrawn or at the time of retirement, the credit balance in unrecognized provident fund is refunded to the employee,

- (a) Employer's contribution & Interest on Employer's contribution is taxable in the hands of the employee, as profits in lieu of salary. Thus, taxable amount shall be Rs. 4,10,000 + 40,000 = Rs. 4,50,000.
- (b) Interest on Employee's own contribution in URPF is taxable u/f IFOS. Thus, Rs. 40,000 is taxable u/h IFOS.
- (c) Employee's contribution (Refunded) from URPF is not taxable, since it was not allowed as deduction when it was paid.

## THEORY QUESTIONS

**Q1. Salary in lieu of notice period.**

**Answer:**

Meaning of notice period: Normally, if any employer wants to terminate the services of an employee, he gives notice of his intention to do so.

Ex: As per the contract of service, he may have to give three months notice in advance to the employee. This is known as notice period.

Sometime employer instead of giving him a notice gives him salary for the notice period & terminates him immediately. This amount paid by employer is known as salary in lieu of notice period & is fully taxable to employee in PY in which it is received.

**Q2. What is Foregoing of salary & surrender of salary?**

[Refer Text above]

**Q3. What is annuity. Discuss its tax implication.**

**Answer:**

(i) As per the definition, annuity is treated as salary. Annuity is a sum payable in respect of a particular year. It is a yearly grant. If a person invests some money entitling him to series of equal annual sums, such annual sums are annuities in the hands of the investor.

(ii) Annuity received by a present employer is to be taxed as salary. It does not matter whether it is paid in pursuance of a contractual obligation or voluntarily.

(iii) Annuity received from a past employer is taxable as profit in lieu of salary.

(iv) Annuity received from person other than employer is taxable as u/h IFOS.



**Q4. Profit in lieu of salary.****[SECTION 17(3)]**

**Answer:** These payments are received by employee in lieu of or in addition to salary. They are:

**(i) Terminal Compensation:** Compensation received by employee from his present/former employer in connection with termination (retirement, premature termination, resignation or otherwise) of his employment or the modification of terms & conditions of the employment.

**(ii) Payment from URPF/URSF:** Accumulated balance of URPF/URSF consists of employee's contribution plus interest on employee's contribution & employer's contribution plus interest on employer's contribution.

☞ Employer's contribution & interest on the employee's contribution as well as employer's contribution are not taxed during the period of employment.

☞ When the accumulated balance is paid to the employee either on retirement or on termination of service, the untaxed portion, i.e. the employer's contribution & interest thereon is taxed

☞ Interest on employee's contribution is taxed as 'Income from other sources'.

**CRUX:** Payment received by employee on termination of employment from URPF/URSF to the extent of total employer's contribution & interest on such employer's contribution → Taxable as "profit in lieu of salary".

**NOTE:** Since employee is not eligible for deduction u/s 80C for contribution to URPF, employee's share received from the URPF is not taxable at the time of withdrawal.

**(iii) Payment under Keyman Insurance Policy:** Any payment received by an employee, under a Keyman Insurance Policy including bonus on such policy will be regarded as profit in lieu of salary.

**(iv)** Any amount due or received before joining or after cessation of employment.

**(v)** Any other sum received by the employee from the employer: This is a comprehensive provision by virtue of which all payments made by an employer to an employee whether made in pursuance of a legal obligation or voluntarily are brought to tax under "profit in lieu of salary".

Following receipts are not termed as 'profits in lieu of salary' to the extent they are exempt u/s 10.

Death-cum-retirement gratuity – Sec. 10(10)	Commuted Pension – Sec. 10(10A)
Payment received from SPF - Sec 10(11)	Payment received from RPF – Sec. 10(12)
Any payment from an Approved Superannuation fund as per Sec. 10(13)	
HRA exempt u/s 10(13A)	
Retrenchment compensation received by a workman Sec. 10(10B)	

**Q5.** The question whether a particular income "Income from Salary" or "Income from Business" depends upon whether the contract is a 'Contract of Service' or is a 'Contract for Service'. Discuss.

**Answer:** Income is taxable under the head salary, if there is a 'contract of service' i.e. the relationship is that of employer-employee. In other words, the employee does the work for his master. Control and supervision vests in the master.

**Contract for service**

A 'contract for service', on the other hand, is one, in which a person offers his services to any person who is willing to pay the prescribed charges. He has discretion to do the work in his own way. He is entitled to the fruits of his labour and liable for its losses. Such receipts constitute income from business in his hands.

## 4B. INCOME FROM HOUSE PROPERTY

### BASIS OF CHARGE [SECTION 28]

- **“Annual value”** of any **house property** of which the assessee is the **owner** is taxable u/h “Income from house property”. [Note: Annual value is taxable & not Rental Income].
- House property shall include all types of house properties i.e. residential houses, shops, godowns, cinema building, workshop building, hotel buildings etc.
- Income from Sale of House Property → Taxable u/h “Capital Gains”.

### ANALYSIS OF SECTION 22

#### I. PROPERTY SHOULD CONSIST OF ANY BUILDING OR/ & LAND APPURTENANT THERETO

- Land appurtenant means land connected with the building [Ex: Garden, Garage, Parking]
- **Letting out of vacant land** → Taxable u/h **IFOS** [as No Building]
- **Subletting of House Property** → Taxable u/h **IFOS** [as No Ownership]

#### II. ASSESSEE MUST BE THE OWNER OF THE HOUSE PROPERTY

- Registration of the sale deed → Not necessary. [& thus includes also a beneficial owner]
- Ownership includes both free-hold & lease-hold rights.
- Ownership includes deemed ownership (discussed in Section 27 later).
- **Ownership of land on which the building stands is not necessary.** [Land may be on lease].
- **Ownership in PY is relevant** & not in AY.
- **House Property with Disputed Title of Ownership:** It will be the decision of Income-tax Department as to who is the owner till the court gives its decision on such property.

#### III. PURPOSE

- HP may be used for any purpose by the owner (**other than for his business/profession**).

### HOUSE PROPERTY USED BY ASSESSEE FOR HIS OWN BUSINESS/PROFESSION

- Since Section 30 does not allow deduction of ‘notional rent’ of the property while computing business income u/h PGBP, annual value of house property is **not taxable** u/h “Income” from house property.

**Ex:** Mr. X uses the property for his office. Income from such property cannot be taxed u/h house property since it is used for his own business.

### HOUSE PROPERTY HELD AS SIT

- If the property constitutes SIT of a business, Income from such house property is to be charged u/h “Income from House Property”. [Since specific head has been given for income from house property, it cannot be taxed under any other head].
- **Annual value of HP held as SIT = NIL for 1 year** from the end of FY in which completion certificate of the property is obtained from competent authority, if such property is not LOP during such period. [Sec 23(5)]
- Properties of an assessee engaged in the **business of letting out of properties:** Income earned by an assessee engaged in the business of letting out of properties on rent would be taxable as Business Income. [SC ruling in *Rayala Corporation (P) Ltd. v. Asstt. CIT* (2016) 386 ITR 500]

**CQ1. Write a note on letting out of building which is supplementary to the business.****Answer: Letting out of building which is supplementary to the business**

If any person has let out any house property for any purpose which is supplementary to the business of the assessee, in such cases rental income shall be taxable under the head business/profession and all expenses of such house property will be allowed as deduction.

**Ex:** If a Public school has let out a part of its building to a Bank, in this case rent received shall be considered to be income u/h "PGBP" & all the expenses of such house property shall be debited to profit & loss account.

**Ex:** If any company has constructed houses for the employees in their premises and it is let out to the employees, rental income is taxable under the head Business/Profession.

**COMPOSITE RENT**

- **Meaning:** The owner of a property may sometimes receive rent in respect of building as well as
- (i) Other assets [**Ex:** Furniture, plant and machinery] or
  - (ii) for different services provided in the building [**Ex:** Lifts; Security; Power backup].

➤ **Tax Treatment**

Two lettings are separable	Two lettings are not separable
<ul style="list-style-type: none"> <li>▪ <b>Rent from HP</b> → Taxable u/h HP.</li> <li>▪ <b>Rent from Use of other services</b> → Taxable u/h PGBP or IFOS.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Taxable u/h PGBP or IFOS.</b></li> <li><b>Ex:</b> Hotel business/paying guest accommodation or warehousing or auditorium</li> </ul>

**Note:** All expenses for other facilities → Deducted while computing its income u/h PGBP or IFOS.

**INCOME FROM HOUSE PROPERTY SITUATED OUTSIDE INDIA**

<b>1. ROR in India (Note)</b>	Taxable, whether or not such income is brought into India.
<b>2. RNOR/NR in India</b>	Taxable only if it is received in India.

**Note:** Municipal Taxes Paid o/s India – Deductible if Tax has been deducted at source.

**COMPUTATION OF INCOME FROM HOUSE PROPERTY**

<b>A.</b> Gross Annual Value (GAV)	xxx
<b>B. Less:</b> Municipal tax paid by the owner during the PY.	(xxx)
<b>C.</b> Net Annual Value (NAV) [A – B]	xxx
<b>D. Less:</b> Deduction u/s 24	(xxx)
<b>24(a):</b> Standard deduction (30% of NAV)	(xxx)
<b>24(b):</b> Interest on borrowed Capital	(xxx)

**MEANING OF SOME IMPORTANT TERMS USED IN THIS TOPIC**

- 1. Municipal value:** Rent fetching capacity of the house determined by the municipal authorities.
- 2. Fair rent:** Rent fetching capacity of similar property in the same locality.
- 3. Standard Rent:** Maximum rent which can be taken from a tenant legally under Rent Control Act.
- 4. Expected Rent:** Higher of (a) MV or (b) FR subject to Maximum of SR.

## A. DETERMINATION OF GROSS ANNUAL VALUE [SECTION 23]

### GENERAL FORMAT

1	Calculate <b>Expected Rent (ER)</b>
2	Calculate <b>Actual Rent Received (ARR)</b>
3	GAV = <b>Higher</b> of ER or ARR

- ❖ **Expected Rent** = Higher of (a) MV or (b) FR subject to maximum of SR.
- ❖ **ARR = Rent receivable - Unrealized Rent.**
- ❖ **Vacancy Loss** → Loss of rent because house property remained vacant during such period.
- ❖ **Unrealized Rent** → House was let out, but rent could not be recovered from tenant.

### COMPUTATION OF GAV FOR DIFFERENT TYPES OF HOUSE PROPERTIES

1. Self-occupied/unoccupied House Property	<ul style="list-style-type: none"> <li>▪ <b>GAV = Nil</b></li> <li>▪ No deduction of Municipal taxes paid.</li> </ul>
2. Property Let out for whole year	<ul style="list-style-type: none"> <li>▪ <b>GAV = Higher of (i) ER or (ii) ARR.</b></li> <li>▪ No Question of vacancy loss since property was occupied for whole year.</li> </ul>
3. Let out Property vacant for a part of year.	<ul style="list-style-type: none"> <li>▪ ER shall be calculated for the whole year.</li> <li>▪ While computing ARR, rent for the period for which the house was vacant shall be excluded.</li> <li>▪ <b>If ARR &gt; ER → GAV = ARR.</b></li> <li>▪ If ARR &lt; ER due to vacancy → <b>GAV = ARR.</b></li> <li>▪ If ARR &lt; ER due to other reason → <b>GAV = ER.</b></li> </ul>
4. Let out for part & self occupied for part of year	<ul style="list-style-type: none"> <li>▪ ER shall be calculated for the whole year.</li> <li>▪ ARR shall be <b>computed for let out period.</b></li> <li>▪ GAV = Higher of (i) ER (whole year) or (ii) ARR (let out part).</li> </ul>
5. Deemed Let out property	<ul style="list-style-type: none"> <li>▪ If Assessee is having two houses &amp; he is using both of them for himself, he has the option to choose any 1 house as SOP &amp; the other house will be deemed to be let out.</li> <li>▪ <b>GAV of DLOP → ER</b> because there is no rent (ARR) since both the properties are self-occupied.</li> <li>▪ <b>GAV of SOP = Nil;</b></li> </ul>
6. Single House – One portion is let & other portion is self-occupied	<ul style="list-style-type: none"> <li>▪ <b>SOP → GAV = Nil;</b></li> <li>▪ No deduction of Municipal taxes paid;</li> <li>▪ Interest is deductible subject to the limit of Rs. 30,000/2,00,000 <b>[Keep in Mind]</b></li> <li>▪ For LOP → ER shall be computed on proportionate basis.</li> </ul>

**CQ2.** Mr. X owns five houses in Chennai, all of which are let-out. Compute GAV of each House.

Particulars	House I	House II	House III	House IV	House V
Municipal Value	80,000	55,000	65,000	24,000	80,000
Fair Rent	90,000	60,000	65,000	25,000	75,000
Standard Rent	N.A.	75,000	58,000	N.A.	78,000
AR received/Receivable	72,000	72,000	60,000	30,000	72,000

**Solution:** Computation of GAV of each house owned by Jayashree

	Particulars	House I	House II	House III	House IV	House V
(i)	Municipal value	80,000	55,000	65,000	24,000	80,000
(ii)	Fair rent	90,000	60,000	65,000	25,000	75,000
(iii)	Higher of (i) & (ii)	90,000	60,000	65,000	25,000	80,000
(iv)	Standard rent	N.A.	75,000	58,000	N.A.	78,000
(v)	Expected rent [Lower of (iii) & (iv)]	90,000	60,000	58,000	25,000	78,000
(vi)	Actual rent received/ receivable	72,000	72,000	60,000	30,000	72,000
	GAV [Higher of (v) & (vi)]	90,000	72,000	60,000	30,000	78,000

**CQ3.** Anirudh has a property whose municipal valuation is Rs. 1,30,000 p.a. The fair rent is Rs. 1,10,000 p.a. and the standard rent fixed by the Rent Control Act is Rs. 1,20,000 p.a. The property was let out for a rent of Rs. 11,000 p.m. throughout the previous year. Unrealised rent was Rs. 11,000 and all conditions prescribed by Rule 4 are satisfied. Compute gross annual value for AY 2019-20.

**Solution:** Computation of Gross Annual Value

ER = Higher of (a) MV or (b) FR subject to maximum of SR.	Rs. 1,20,000
ARR = Rent receivable – Unrealized Rent = Rs. 1,32,000 – Rs. 11,000	Rs. 1,21,000
GAV = Higher of ER or ARR [Higher of Rs. 1,20,000 or Rs. 1,10,000]	Rs. 1,21,000

**CQ4.** Ganesh has a property whose municipal valuation is Rs. 2,50,000 p.a. The fair rent is Rs. 2,00,000 p.a. and the standard rent fixed by the Rent Control Act is Rs. 2,10,000 p.a. The property was let out for a rent of Rs. 20,000 p.m. However, the tenant vacated the property on 31.1.2019. Unrealised rent was Rs. 20,000 and all conditions prescribed by Rule 4 are satisfied. Compute GAV of such house property of Ganesh for A.Y. 2019-20.

**Solution:** The property was vacant for 2 months. So while calculating ARR, we will take only 10 months.

ER = Higher of (a) MV or (b) FR subject to maximum of SR. [For whole year]	Rs. 2,10,000
ARR = Rent receivable – Unrealized Rent = Rs. 2,00,000 – Rs. 20,000	Rs. 1,80,000

Now if the property was let out for 2 months, i.e for the period it remained vacant, ARR would be Rs. 2,40,000 – Rs. 20,000 = Rs. 2,20,000. Thus we can say that ARR < ER due to vacancy, thus **GAV = ARR = Rs. 1,80,000.**

**CQ5.** Smt. Rajalakshmi owns a house property at Adyar in Chennai. The municipal value of the property is Rs. 5,00,000, fair rent is Rs. 4,20,000 and standard rent is Rs. 4,80,000. The property was let-out for Rs. 50,000 p.m. up to December 2018. Thereafter, the tenant vacated the property and Smt. Rajalakshmi used the house for self-occupation. Rent for the months of November and December 2018 could not be realised in spite of the owner's efforts. All the conditions prescribed u/r 4 are satisfied. Compute GAV of such house property for AY 19-20.

**Solution:**

ER = Higher of (a) MV or (b) FR subject to maximum of SR. [For whole year]	Rs. 4,80,000
ARR = Rent receivable – Unrealized Rent = Rs. 4,50,000 – Rs. 1,00,000 [for let out period]	Rs. 3,50,000
GAV = Higher of ER (for whole year) or ARR (for let out period)	Rs. 4,80,000

**CQ6. WHEN UNREALIZED RENT SHALL BE DEDUCTED FROM RENT RECEIVED/RECEIVABLE?**

**Answer:** Unrealized rent shall be deducted from rent if all the following conditions are satisfied:

- Tenancy is **bonafide**;
- Defaulting tenant **has vacated**, or steps have been taken to compel him to vacate the property;
- Defaulting tenant is **not in occupation** of any other property of the assessee;
- Assessee has taken all **reasonable steps to institute legal proceedings** for the **recovery** of the unpaid rent or **satisfies AO** that **legal proceedings would be useless**.

## B. MUNICIPAL TAXES

- Meaning: Taxes levied by any local authority in respect of the property.
- Municipal taxes are to be deducted from the GAV if the following conditions are fulfilled:
  - (a) Municipal taxes have been borne by the owner &
  - (b) These have been **actually paid during the PY**.

### Points to Remember:

- ❖ Taxes are allowed as deduction in the PY of payment **even if they relate to past years**.
- ❖ Taxes levied by foreign local authority are deductible if such taxes are paid by the owner.
- ❖ Refund of Municipal Tax Paid which was already allowed as a deduction in computation of Annual Value shall not be taxable.
- ❖ If municipal taxes are borne by tenant, rent received/receivable should not be increased to calculate rent since it is the duty of occupier of HP (i.e. tenant) to pay the municipal taxes.

## C. NET ANNUAL VALUE

- **NAV = GAV - Municipal Taxes** paid & borne **by the owner**.

## D. DEDUCTIONS U/S 24

### 1. STANDARD DEDUCTION [Sec 24(a)]

- Standard deduction = **30% of NAV** shall be allowed from NAV.
- This is a **flat deduction** & is allowed irrespective of the actual expenditure incurred.
- **No other expenses** shall be **allowed** as deduction while computing house property income.
- **SOP → Standard Deduction = Nil** (as NAV itself is Nil).

### 2. INTEREST ON BORROWED CAPITAL [Sec 24(b)]

#### (a) Current year Interest:

<b>Deduction</b>	<b>Interest</b> = Amount of Loan × ROI p.a (Without any limit)
<b>From When</b>	Interest relating to the <b>PY of completion of construction</b> can be fully claimed in that PY (irrespective of the date of completion).
<b>Purpose</b>	Loan can be taken for <b>Acquisition, construction, repair, renovation, reconstruction</b> of HP.
<b>Accrual</b>	Deduction u/s 24(b) for interest is available on <b>accrual basis</b> . Thus Interest <b>accrued but not paid during PY</b> can also be claimed as deduction.

#### (b) Pre-construction period Interest:

<b>Deduction</b>	Pre-commencement Interest is allowed as deduction in <b>5 successive PYs</b> starting from PY of completion of construction. <b>[1/5<sup>th</sup> of Total Interest]</b>
<b>Meaning</b>	Pre-construction Period means period during which loan was taken but the construction of HP was/could not be started.
<b>Pre-Construction Period</b>	<b>Start:</b> From Date of Borrowing & <b>End: (a) 31<sup>st</sup> March</b> immediately prior to date of completion of construction <b>(b) Date of payment of Loan (Whichever is earlier).</b>
<b>Note:</b> Interest will be aggregated from the date of borrowing till the end of the PY prior to the PY in which the house is completed and not till the date of completion of construction.	



### Computation of Prior Period Interest

<b>Step 1:</b> Identify the Date of Borrowing of Loan.
<b>Step 2:</b> Identify the Date of Completion/Acquisition.
<b>Step 3:</b> Identify Last Date of FY immediately preceding the date of Completion/ Acquisition.
<b>Step 4:</b> Prior Period = Period calculated from Step 1 to Step 3
<b>Step 5:</b> Prior Period Interest = Prior Period as per Step 4* Rate of Interest * Amount of Loan.
<b>Step 6:</b> Allowable Prior Period Interest = $\frac{\text{Prior Period Interest as per Step 5}}{5 \text{ Years}}$

**Ex:** If Mr. X had taken a loan of Rs. 5,00,000 for construction of property on 01.10.2017 & interest is payable @ 10% p.a. and the construction was completed on 30.06.2018, interest allowed under section 24(b) shall be:

- (a) Current year Interest = Interest for PY 2018-19 = 10% of Rs. 5,00,000 = Rs. 50,000;
- (b) Pre-construction Period = Period from date of borrowings to 31<sup>st</sup> March immediately preceding date of completion.  
 Date of Completion = 30.6.2018. Thus pre-construction period will end on 31<sup>st</sup> March immediately preceding 30.6.2018 which is 1<sup>st</sup> March 2018.  
 Thus Pre-construction period = From 1.10.2017 - 31.03.2018  
 Pre-construction Interest = 10% of Rs. 5,00,000 for 6 months (from 01.10.2017 to 31.03.2018) = Rs. 25,000.  
 Prior period interest to be allowed in 5 equal annual installments of Rs. 5,000 from the year of completion of construction i.e. in this case, PY 2018-19.  
**Therefore, total interest deduction u/s 24(b) = 50,000 + 5000 = Rs. 55,000.**

### Points to Remember:

- (a) Loan may be taken for purchasing the land even if construction is done out of the own funds.
- (b) Interest on unpaid interest is not deductible.
- (c) Interest on fresh loan taken to repay original loan is allowed as a deduction.
- (d) Amount paid as brokerage/commission for arrangement of loan → NOT Allowed as deduction.
- (e) If loan is taken from outside India, Interest is deductible if tax has been deducted at source.

### Some other points

- ❖ Assessee should furnish a certificate from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable.
- ❖ Where a buyer enters into an arrangement with a seller to pay the sale price in installments along with interest due thereon, the seller becomes the lender in relation to the unpaid purchase price & the buyer becomes the borrower. In such case, unpaid purchase price can be treated as capital borrowed for acquiring property & interest paid can be allowed as deduction.

### LIMIT ON DEDUCTIONS OF INTEREST FOR SELF OCCUPIED PROPERTY

Case	Maximum Interest Allowed
If HP has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital before 1.4.99.	Actual Interest payable (Maximum of Rs. 30,000)
If loan is taken for <b>repair or renovation</b> of House property on/after 1.4.99.	Actual Interest payable (Maximum of <b>Rs. 30,000</b> )
If loan is taken for <b>acquisition or construction</b> of House Property on or after 1.4.99 & such acquisition or construction is completed within 5 years from the end of the PY in which capital was borrowed.	Actual interest payable (Maximum of <b>Rs. 2,00,000</b> )

**Note:** No such limit is applicable in case of **Let-out property or Deemed Let out property.**



## UNREALISED RENT & ARREARS OF RENT RECEIVED SUBSEQUENTLY [SEC 25A]

Unrealized Rent	Arrears of Rent
<ul style="list-style-type: none"> <li>Rent which could not be realized from the Assessee.</li> <li>If such amount is realized subsequently, it gets taxed in the <b>PY of Receipt</b>.</li> <li>However deduction shall be allowed @ 30% of such unrealized rent.</li> <li><b>Taxable @ 70%</b> of received amount.</li> </ul>	<ul style="list-style-type: none"> <li>If the assessee has increased the rent payable by the tenant retrospectively &amp; there is a dispute over such increase; &amp; later on the assessee receives the increased rent as arrears, it is called arrears of rent.</li> <li>It is taxable in the <b>PY of Receipt</b>.</li> <li>However deduction shall be allowed @ 30% of such arrears of rent.</li> <li><b>Taxable @ 70%</b> of received amount.</li> </ul>

**Note:** It does not matter whether the Assessee is owner of such house property in PY of receipt.

## TREATMENT OF INCOME FROM CO-OWNED PROPERTY [SECTION 26]

Co-owned HP is Self occupied	Co-owned HP is Let out
<b>For Each Co-owner:</b> <ul style="list-style-type: none"> <li><b>Annual Value</b> → NIL</li> <li>Deduction of Rs. 30,000/Rs. 2,00,000 u/s 24(b) <b>separately</b> for each co-owner.</li> </ul>	<ul style="list-style-type: none"> <li>Income from such HP shall be computed as if property is owned by <b>one owner</b> &amp; then</li> <li>Income so computed shall be <b>apportioned</b> amongst each co-owner <b>as per their share</b>.</li> </ul>

**Note:** If Shares of co-owners are not definite → Income from HP is taxed as income of AOP (Co-owners).

## TREATMENT OF INCOME FROM PROPERTY OWNED BY A PARTNERSHIP FIRM

➤ Income is assessable in the hands of firm & not in the hands of partners.

**CQ7.** A, B & C are three equal co-owners of the property situated in Ranchi, which has 6 units of identical size. A & B have occupied one unit each for their residence. Other 4 units are let out to one tenant at a rent of Rs. 3,00,000. The Municipal Valuation of the house is Rs. 3,00,000. Other details are: (i) Municipal taxes paid: Rs. 30,000 ; (ii) Insurance premium paid: Rs. 6,000. (iii) Interest on money borrowed (for construction of house which was completed in 1996): Rs. 2,10,000. Compute Income u/h House property & Income of each co-owners for LOP.

**Solution:** **Income from Let out portion:**

(a) Actual rent (25,000 x 12)	3,00,000	
(b) Municipal valuation [3,00,000 x 4/6]	2,00,000	
<b>GAV</b>		<b>3,00,000</b>
Less: Municipal taxes paid (30,000 x 4/6)		(20,000)
<b>NAV</b>		<b>2,80,000</b>
Less: (i) Standard deduction @ 30% of NAV	84,000	
(ii) Interest on loan borrowed (2,10,000 x 4/6)	1,40,000	2,24,000
<b>Income from let out portion</b>		<b>56,000</b>

### Apportionment of Income from Let out portion between A, B & C

Income from let out portion → Distributed amongst A, B & C in the ratio of 1:1:2 as out of 6 identical units A & B are occupying one unit each for self residence. Income of A, B & C = Rs. 14,000; Rs. 14,000 & Rs. 28,000 resp.

### **Income from Self-occupied Portion of A & B**

Particulars	A	B
<b>Net Annual Value</b>	Nil	Nil
Interest on money borrowed [Interest on each unit = $\frac{2,10,000}{6} = \text{Rs. } 35,000$ but limited to Rs. 30,000 per co-owner]	(30,000)	(30,000)

## DEEMED OWNERSHIP [SECTION 27]

**(i) Transfer to a spouse:** If an Individual transfer any HP to his/her spouse for **Inadequate** consideration, such transferor is deemed to be the owner of HP transferred.

**Exception:** If a Property is transferred to a spouse in connection with an agreement to live apart.

**Ex:** Mr. X has two house property each having income of Rs. 10 lacs and Mr. X has gifted one house property to Mrs. X, in this case income from such house property shall be taxable in the hands of Mr. X but if Mr. X has sold the house property to Mrs. X and has taken full payment, in that case income from house property shall be taxable in the hands of Mrs. X.

**Note:** Where an individual gives cash to his/her spouse or minor child & such transferee acquires HP from such cash, transferor shall not be treated as deemed owner. It will attract **clubbing** provisions.

**(ii) Transfer to Minor Child:** If an Individual transfer any house property to minor child for inadequate consideration, transferor is deemed to be the owner of transferred house property.

**Exception:** Where a property is transferred to a minor married daughter.

**(iii) Holder of an Impartible estate:** Holder of an Impartible estate (Impartible estate is a property which is not legally divisible) shall be deemed to be owner of all properties in the estate.

**Ex:** A Property could not be divided at the time of partition since it was occupied by the temple. Mr. X being the eldest son is the owner of the property as per the family convention. Property is given to Mr. X because the property could not be divided amongst the younger brother. Mr X in this case if not the beneficial owner of the property. He holds the property as a trustee on behalf of his younger brothers since all the members of the family have right to enjoy the benefits of the property. Mr. X is deemed as owner of the property.

**(iv) Member of a Co-operative Society, etc:** Member of a co-operative society, company or other AOPs to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, shall be deemed to be owner of that building or part thereof allotted to him although the co-operative society/company/association is the legal owner of that building.

**(v) Person in possession of a property:** A person who is allowed to take possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the TOPA shall be deemed owner of that house property. This would cover cases where

- (a) Possession of property has been handed over to the buyer,
- (b) Sale consideration has been paid or promised to be paid to the seller by the buyer,
- (c) Sale deed has not been executed in favour of the buyer.

**Buyer would be deemed to be the owner of the property although it is not registered in his name.**

**Ex:** Mr. X has sold his house property to Mr. Y for Rs. 50 lakcs & has taken full payment and possession has been given to Mr. Y but conveyance deed is not prepared in the name of Mr. Y, in this case Mr. Y is the deemed owner.

**(vi) Person having right in a property by way of Lease for 12 years or more:** A person who acquires any building by way of lease for a period of **12 years** or more shall be deemed to be the owner of that building or part thereof.

**Exception:** This will not cover the case where any Lease is acquired from **month to month** basis or for a **period not exceeding one year**.

## CASES WHEN INCOME FROM HOUSE PROPERTY IS EXEMPT FROM TAX

<b>1. Income from Farm house:</b> Income from any building owned or occupied by an agriculturist or receiver of rent/revenue of such land provided that the building is in the immediate vicinity of agricultural land and is used as a dwelling house or as a store house or other out-building.
<b>2. Property held for charitable purposes:</b> As per section 11, where the property is held for charitable or religious purposes the income from such property is exempt from tax.
<b>3. House property used for own business/profession:</b> It falls under PGBP & although no income will be derived but deductions/allowances of such property shall be allowed under that head.
<b>4. Self-occupied house:</b> Annual value of one self-occupied house shall be taken as Nil.
<b>5. House property of registered trade union/local authority:</b> The income from property held by a registered trade union/local authority is not taxable.
<b>6. Annual value of Palace of ex-ruler:</b> Annual value of any one palace in the occupation of an ex-ruler is exempt.

## CONCEPTUAL QUESTIONS

**CQ8.** An assessee owns four house properties. The following are the particulars in respect of the properties. Compute the assessee's income from house property.

	A	B	C	D
MV	80,000	1,60,000	1,15,000	1,20,000
Rent p.m.	10,000	6,000	10,000	
Local taxes paid	8,000	16,000	15,000	1,00,000
Used for	Let-out for business	½ used for own business, ½ given to the manager	Let-out for residential purpose	Self occupied
Actual repairs	5,000	12,000	3,000	6,000
Ground rent due	2,000	-	3,000	-
Insurance Premium	-	2,000	-	4,000
Vacancy	2 months	-	one month	-
Collection charges	3,000	Nil	4,000	-
Annual charges	-	2,000	-	-

**Solution:** **Computation of Assessee's Income from house property**

<b>1<sup>st</sup> House [Let out for business]</b>	
GAV [ARR > ER; thus GAV = ARR [Rs. 1,00,000]	1,00,000
Less: Municipal taxes paid	(8,000)
NAV	92,000
Less: Standard Deduction @ 30%	27,600
<b>Income from 1<sup>st</sup> house</b>	<b>64,400</b>

**2nd House:** Nil as used for own business. House given to manager is also considered to be used for business.

<b>3<sup>rd</sup> House [Let out for residential purpose]</b>	
GAV [ARR < ER due to vacancy; thus GAV = ARR [Rs. 1,10,000]	1,10,000
Less: Municipal taxes paid	(15,000)
NAV	95,000
Less: Standard Deduction @ 30%	
<b>Income from 3<sup>rd</sup> house</b>	<b>66,500</b>

<b>4<sup>th</sup> House [Self-occupied]</b>	
NAV	Nil
Less: Standard Deduction @ 30%	Nil
<b>Income from 4<sup>th</sup> House</b>	<b>Nil</b>

**Note:** No deduction of any other expenses will be allowed like repairs, ground rent, insurance premium etc.

**CQ9.** Mr. Sanju aged 50 years owns a house property at Gwalior which is let out for residential purposes:

Rent of house and amount charged for different amenities (Rs. 2,40,000 includes charges for the following amenities - water charges: Rs. 12,000, electricity charges: Rs. 18,000, lift charges: Rs. 15,000 & security charges: Rs. 18,000)	Rs. 2,40,000
Rent of 1 month could not be collected (1/12 of Rs. 2,40,000)	Rs. 20,000
Municipal taxes paid by the tenant	Rs. 15,000
Municipal valuation	Rs. 1,60,000
Fair rent	Rs. 1,50,000
Standard Rent	Rs. 1,90,000
Repairs (met by the tenant)	Rs. 10,000
Insurance	Rs. 9,000
Collection charges and litigation expenses for collection of rent	Rs. 7,000

For providing different amenities, the following expenses are incurred by Sanju:

Depreciation	Rs. 2,000
Electricity bills	Rs. 20,000
Lift maintenance	Rs. 5,000
Salary of liftman	Rs. 9,000
Depreciation of lift	Rs. 3,000
Salary of guard	Rs. 21,000

During PY 2009-2010, Sanju had claimed deduction of unrealized rent of Rs. 20,000 out of which Rs. 15,000 was allowed as deduction for that year. On 15.9.2018, Sanju recovers Rs. 9,000 from defaulting tenant (expenditure on recovery of rent: Rs. 1,000). Find out his taxable Income & state the heads under which it is taxable.

**Solution:** Since house property is provided with all other amenities which are separable, we should only take the rent of HP for calculation of Annual Value.

Rent of the house property = Rs. 2,40,000 - Rs. 12,000 - Rs. 18,000 - Rs. 15,000 - Rs. 18,000 = Rs. 1,77,000

ARR = Rs. 1,77,000 - (1/12 of Rs. 1,77,000) = Rs. 1,62,250.

ER = [Higher of MV or FR subject to max of SR] = Rs. 1,60,000;

#### Computation of Income u/h "House Property"

GAV [Higher of ER or ARR]	Rs. 1,62,250
<b>Less:</b> Less: Municipal tax (not deductible as paid by tenant)	Nil
NAV	<b>Rs. 1,62,250</b>
Less: Standard deduction @ 30%	(Rs. 48,675)
Income from House Property	<b>Rs. 1,13,575</b>
Add: Unrealized rent taxed @ 70% [Refer Note below] [Rs. 9,000 - Rs. 5,000] × 70%	<b>Rs. 2,800</b>
Income under the head "Income from house property"	<b>Rs. 1,16,375</b>

**Note:** Rs. 15,000 of unrealized rent was allowed as deduction in PY 2009-10 itself. Thus Rs. 5,000 was not allowed as deduction in PY 2009-10. Thus we can say that Rs. 5,000 was taxed in PY 2009-10 itself.

Now if we recover any such unrealized rent in later years, Unrealized rent received upto Rs. 5000 will not be taxable. Receipt of unrealized rent over Rs. 5,000 will only be taxable & 30% will be allowed as deduction.

Income from other sources		
Amount collected from tenant for providing different amenities [11/12 of (Rs. 12,000 + Rs. 18,000 + 15,000 + 18,000)]	57,750	
<b>Less:</b> Expenses (i.e., Rs. 2,000 + Rs. 20,000 + Rs. 5,000 + Rs. 9,000 + Rs. 3,000 + Rs. 21,000)	60,000	(2,250)

**CQ10.** Mrs. Indu, a resident individual, own a house in U.S.A. She receives rent @ \$ 2,000 per month. She paid municipal taxes of \$ 1,500 during PY 2018-19. She also owns a two storied house in Mumbai, ground floor is used for her residence & first floor is let out at a monthly rent of Rs. 10,000. Standard rent for each floor is Rs. 11,000 per month. Municipal taxes paid for the house amounts to Rs. 7,500. Mrs. Indu had constructed the house by taking a loan from a nationalized bank on 20-6-2015. She repaid the loan of Rs. 54,000 including interest of Rs. 24,000. 1 \$ = Rs. 60. Compute total income from house property of Mrs. Indu for AY 2019-20.

**Solution:** **Computation of Income from house property of Mrs. Indu for FY 2018-19**

<b>(1) Rent received from Property in USA (\$2000 x 60 x 12)</b>	14,40,000	
Less: Municipal Taxes paid (\$ 1,500 x Rs. 60)	(90,000)	
NAV	13,50,000	
Less: Standard deduction @ 30%	(4,05,000)	9,45,000

**Income from House Property in India**

<b>(2) Let out property</b>		
GAV [Higher of (i) ER = SR = Rs. 11,000 p.m or (ii) ARR = Rs. 10,000 p.m]	1,32,000	
Less: Municipal taxes [50% of Rs. 7,500]	(3,750)	
Net annual value	1,28,250	
Less: Standard deduction @ 30% of NAV [30% of 1,28,250]	(38,475)	
Less: Interest paid on loan [Rs. 24,000 × ½]	(12,000)	77,775

<b>(3) Self-occupied house</b>		
Net annual value		Nil
Less: Interest paid on loan		(12,000)
Income from Self occupied house property		(12,000)

<b>Income under the head "House Property"</b>	
(i) Income from House property in USA	Rs. 9,45,000
(ii) Income from Let out house property in India	Rs. 77,775
(iii) Income from Self-occupied Property	(Rs. 12,000)
<b>Total</b>	<b>Rs. 10,10,775</b>

**THEORY QUESTION**

**Q1.** Can there be any loss under the head income from house property?

**Answer:**

**(a) SOP:** NAV = Nil. No deductions are allowed except for interest on borrowed funds up to a maximum of Rs. 30,000/Rs. 2,00,000. Thus, Maximum loss in respect of such SOP shall be either Rs. 30,000 or Rs. 2,00,000.

**(b) LOP/DLOP:** There are no restrictions on deductions & therefore, there can be loss u/h HP due to municipal taxes as well as deductions. Similarly, deductions u/s 24 in case of DLOP can be more than NAV.

**Q2.** Can Net Annual Value be negative?

**Answer: YES,** only if MT paid by the owner are more than GAV.

**Q3.** When is the interest not deductible from "Income from House Property"?

**Answer:** Section 25 states that Interest on borrowed money which is payable outside India shall not be allowed as deduction u/s 24(b) if, (i) Tax on interest has been paid or deducted at source & (ii) in respect of which there is no person in India who may be treated as agent of the recipient for such purpose.

## 4C. PROFITS & GAINS OF BUSINESS OR PROFESSION

### MEANING OF “BUSINESS & PROFESSION”

<b>BUSINESS</b> – Sec 2(13)	<ul style="list-style-type: none"> <li>Business means any “Recurring Economic Activity” done with the objective of earning profit.</li> <li>However “Isolated Activity” (which has an element of trade) can also be termed as ‘business’ depending on the facts &amp; circumstances of the case.</li> <li>Thus Profit from single venture which has the element of trade may be treated as business.</li> <li>Business includes any Trade, Commerce, Manufacture or any adventure or concern in the nature of TCM.</li> </ul> <p><b>Adventure:</b> Doing an activity for first time without knowing its outcome.</p>
<b>PROFESSION</b>	<ul style="list-style-type: none"> <li>The term “Profession” has not been defined in the act.</li> <li>In general sense, it means an occupation requiring some degree of learning.</li> <li>The term ‘Profession’ includes Vocation also [Section 2(36)]</li> </ul> <p><b>Ex:</b> Painter, a sculptor, an author, an auditor, a lawyer, a doctor, an architect &amp; even an astrologer are persons who can be said to be carrying on a profession.</p>

**Note:** For the purpose of Income tax, it is immaterial whether a person is carrying on a ‘Business’ or ‘Profession’ or ‘vocation’. Profits from all these sources are treated & taxed alike.

### MEANING OF “PROFIT”

<b>Cash or Kind</b>	<ul style="list-style-type: none"> <li>Profits may be realized in money or in money’s worth (cash or in kind).</li> <li>Profit is realized in any form other than cash → Cash Equivalent (FMV) of the received item/thing on the date of receipt is taken as value of the Income.</li> </ul>
<b>Capital Receipt</b>	<ul style="list-style-type: none"> <li>Capital receipts are generally not taxable u/h PGBP.</li> </ul>
<b>Voluntary Receipts</b>	<ul style="list-style-type: none"> <li>Voluntary Payment received in the course of a business/profession would be treated as income in the hands of the Recipient. (There should be Nexus between the Business &amp; Payment received).</li> </ul> <p><b>Ex:</b> Any amount paid to a lawyer by a person who was not a client, but who has been benefited by the lawyer’s professional service to another would be assessable as the lawyer’s income.</p>
<b>Application of Profit (use)</b>	<ul style="list-style-type: none"> <li>Purpose for which the profits earned in business/profession are use is immaterial. It will be taxed irrespective of the manner &amp; reason of application.</li> </ul>
<b>Legality</b>	<ul style="list-style-type: none"> <li>Even the profit earned from illegal source is taxable.</li> </ul>
<b>Income from Distinct Businesses</b>	<ul style="list-style-type: none"> <li>Tax is chargeable on the Aggregate profits of all the business carried on by the assessee even though the computation of profit is done separately.</li> </ul>
<b>Computation of Profits</b>	<ul style="list-style-type: none"> <li>Tax is levied on the ‘profits &amp; gains’ &amp; not on gross receipts.</li> <li>Profits should be computed after deducting losses &amp; expenses incurred for earning the income in the regular course of the business/profession unless the loss or expenses is expressly disallowed by the Act.</li> </ul>



## BASIS OF CHARGE - (SECTION 28)

<p><b>1. Profits &amp; Gains</b> of any <u>business or profession</u> carried on at <u>any time</u> during PY by the assessee.</p> <ul style="list-style-type: none"> <li>▪ Capital Receipt → Not Taxable. (Subject to certain exceptions)</li> <li>▪ Capital Loss → Not Deductible.</li> </ul>
<p><b>2. Compensation for Loss of Office.</b></p> <p>Any compensation or other payment due to or received by any person in relation to</p> <ol style="list-style-type: none"> <li>(a) <u>Termination or Modification</u> of <u>Managing agent's</u> agreement in relation to an Indian Company/any other company in India;</li> <li>(b) <u>Termination or Modification of contract</u> relating to an <u>Agency</u> in India;</li> <li>(c) Vesting of Management of any property or business with Government/their Corporation.</li> <li>(d) Termination or Modification of terms &amp; conditions, of any contract relating to his business.</li> </ol>
<p><b>3. Income of Trade/Professional Association from Specific Activities for its Members.</b></p> <ul style="list-style-type: none"> <li>▪ This is an <u>exception</u> to “<u>Principle of Mutuality</u>” since association &amp; its members are treated as Same Person. [Ex: <u>Chambers of commerce, stock brokers' associations etc</u>]</li> <li>▪ As a result, Association performing <u>specific services</u> for its members is deemed to be carrying on business in respect of these services &amp; on this assumption, Income arising from such specific activities is <b>Taxable</b>.</li> </ul>
<p><b>4. Export Incentives.</b></p> <ol style="list-style-type: none"> <li>(a) Profit on sale of import entitlements.</li> <li>(b) Cash assistance against exports under any scheme of Government of India.</li> <li>(c) Customs duty or excise re-paid or repayable as drawback.</li> <li>(d) Profit on transfer of Duty Entitlement Passbook Scheme/Duty-Free Replenishment Certificate.</li> </ol>
<p><b>5. Remuneration to Partners</b> is <b>taxable</b> in the hands of the <b>Partner to the extent it is deductible to firm</b>.</p> <p><b>Ex:</b> The allowable rate of interest is 12% p.a. u/s 40(b). Now if a firm pays interest to a partner at 15% p.a, excess 3% paid will be disallowed to firm u/s 40(b). Thus 12% which is allowed as deduction to the firm u/s 40(b) shall be taxed in the hands of partner. Excess interest of 3% which has been disallowed to the firm u/s 40(b) will not be taxed in the hands of the partner again.</p>
<p><b>6. Amount received for Non-Competence Fees are taxable [even if they are capital receipts].</b></p> <p>Any sum received under an agreement,</p> <ul style="list-style-type: none"> <li>▪ For <b>not carrying out any activity</b> in relation to any <b>business or profession</b>.</li> <li>▪ <b>Not to share any know-how</b>, patent, copyright, trade mark likely to assist in the manufacture or processing of goods or provision for services etc.</li> </ul> <p><b>However, the above sub-clause shall not apply to –</b></p> <ol style="list-style-type: none"> <li>(i) Sum received for transfer of ‘Right to manufacture/produce’ or Right to carry on any business which is chargeable u/h CG).</li> <li>(ii) Sum received as <u>compensation from Multilateral fund of Montreal Protocol</u> on “<u>Substances that Deplete Ozone- layer</u>” in accordance with terms of agreement entered into with Government of India.</li> </ol>
<p><b>7. Keyman Insurance Policy</b> (including Bonus) is taxable in the hands of <u>employer</u> if maturity Amount is Received by Employer.</p>
<p><b>8. FMV of Inventory (SIT) on its conversion into Capital Asset</b> → <b>FMV</b> of Inventory on the date of its conversion into capital asset would be <b>taxable</b> as business income.</p>
<p><b>9. Value of Benefit arising from Business/Profession.</b> (Whether Convertible into Money or not). (There should be Nexus between the business &amp; the benefits received).</p>
<p><b>10. Sum received or receivable on demolition, destruction or transfer of any Capital Asset</b> (Except Land/GW/Financial Instrument), whole cost of which was allowed as deduction u/s 35AD.</p>



## **FOLLOWING INCOMES ARE ALSO TAXED U/H “PGBP”**

1. **Deemed Income (Section 41):** Items which normally would not have the character of income but are deemed as income as they have been allowed as deduction in the earlier years irrespective of whether the business/ profession is continued or not.
2. **Discontinuation of Business (Section 176):** relates to a situation where the income is earned after discontinuance of business/ profession.

## **SPECULATION BUSINESS**

- **Meaning:** “Speculative transaction” means a transaction in which a contract for purchase or sales of any commodity (including stocks & shares) is **periodically/ultimately settled otherwise than by the Actual delivery or transfer of the commodity/Scripts** [section 43(5)].
- **Deeming provision:** Where any part of the business of a company consists of purchase & sale of the shares of other companies, such company is deemed to be carrying on speculation business to the extent of such business of the purchase & sale of such shares.
- **However, this Deeming Provision does not apply to the following companies: [To be Read once]**
  1. A company whose GTI consists of mainly income chargeable under the heads “Interest on securities”, “Income from house property”, “Capital gains” & “IFOS”;
  2. A company whose principal business is:
    - (i) Trading in shares; or
    - (ii) Banking or
    - (iii) Granting of loans & advances.Thus, if these companies carry on the business of purchase & sale of shares of other companies, they would not be deemed to be carrying on speculation business. [Explanation to sec 73]
- **Profits/Losses resulting from Speculative** Transaction must be **treated as separate** & distinct from **other** profits & gains of business & profession because Loss from Speculative Business can be set off only against Profit of Speculative Business & no other business (Section 73).

## **TRANSACTIONS NOT DEEMED TO BE SPECULATIVE TRANSACTIONS**

- (i) **Hedging Contract in respect of Raw Materials or Merchandise:** A contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for the actual delivery of goods manufactured by him or merchandise sold by him; or
- (ii) **Hedging contract in respect of Stocks & Shares:** A contract in respect of Stocks & Shares entered into by a dealer/investor to guard against loss in his holdings of stocks & shares; or
- (iii) **Forward Contract:** A Contract entered into by a Member of a Forward Market or Stock Exchange in the course of any transaction in the nature of Jobbing or Arbitrage to guard against any loss which may arise in the ordinary course of his business as a member; or
- (iv) **Trading in Derivatives:** Eligible transaction carried in respect of Trading in Derivatives in RSE.
- (v) **Trading in Commodity Derivatives:** Eligible transaction in respect of trading in commodity derivatives carried out in a recognized association, which is chargeable to CTT.

## **RELEVANCE OF METHOD OF ACCOUNTING [Section 145(1)]**

- Income chargeable u/h ‘PGBP’ or ‘IFOS’ shall be computed in accordance with the **method** of accounting **regularly followed** by the Assessee.
- If Assessee follows Mercantile System of Accounting → Income will be taxed on “Due” basis.
- If Assessee follows Cash basis of Accounting → Income will be taxed on “Receipt” basis.

## **COMPUTATION OF INCOME FROM BUSINESS [SECTION 29]**

According to Section 29, Profits & Gains of any Business or Profession are to be computed in accordance with the provisions contained in sections 30 to 43D.

- Sec 30 to 36 provides Specific Deductions & Allowances.
- Sec 37 provides for General Deductions of Revenue Expenditure NOT Covered by Sec 30-36.
- Sec 40 provides for Inadmissible Deductions.
- Sec 41 states the Receipts which are Deemed Incomes.
- Sec 44 gives Presumptive Income scheme.

## A. SPECIFIC DEDUCTIONS [SECTION 30 – 36]

- We know that Profit = Receipts – Expenditures.
- However, there may be some expenditures which are deducted by the Assessee while computing his income, but they are not allowable as deduction under Income Tax Act.
- Section 30 - 36 gives the list of the expenditures which are allowed as deductions while calculating income under this head.
- Let us study each of them in detail.

### RENT, RATES, TAXES, REPAIRS & INSURANCE FOR BUILDING [SEC 30]

Nature of Expenditure	Conditions
<b>Rent</b>	Paid by the <b>Tenant</b> for Building occupied by him for his business.
<b>Revenue Repairs</b>	Done by <b>Owner/Tenant</b> . [Capital Repairs are not covered in this section]
<b>Rates &amp; Taxes</b>	Land Revenue, Local Rates & Municipal Tax [Section 43B will Apply]
<b>Insurance Premium</b>	Paid by the <b>owner</b> .

#### Points to remember:

- ❖ Premises used partly for Business & partly for other purposes: Proportionate Expenditure of the premises used for Business will be allowed as a deduction.
- ❖ Deduction in case of Subletting of rented premises = Rent paid – Rent recovered from sub-tenant.
- ❖ **No Deduction for Notional Rent:** If the owner uses his own premises for his business, No Notional Rent shall be allowed as deduction.  
But if firm runs its business in the premises owned by one of its partners, rent payable to the partner will be an allowable deduction to the extent it is reasonable & is not excessive.
- ❖ Cesses, Rates & Taxes levied by a Foreign Government → Allowed as deduction.

### REPAIRS & INSURANCE OF PLANT, MACHINERY & FURNITURE [SEC 31]

Nature of Expenditure	Conditions
<b>Revenue Repairs</b>	Done by Owner & Tenant.
<b>Insurance Premium</b>	Paid by Owner.

#### Points to Remember:

1. Insurance & Repair charges of the Assets which have been discarded (though owned by the assessee) or have not been used for the business during the PY → **Not Allowed as Deduction**.
2. To Claim Deduction u/s 31 → Asset must be used (atleast for 1 day) for assessee's business.
3. Repairs include **Renewal or Renovation** of an asset but **not its Replacement or Reconstruction**.

**CQ1.** State how the following items of expenditure must be treated:

**(a)** Expenditure incurred in replacing petrol engines fitted in jeeps with Diesel engines to improve old & defective condition of existing engines & the price variation in petrol as compared to diesel.

**Ans:** Deductible as current repairs to the Jeep u/s 31.

**(b)** Assessee (Engaged in Restaurant Business) replaces decorative display lines for Rs. 10 lacs.

**Ans:** Deductible as revenue expenditure u/s 31.

## DEPRECIATION [SECTION 32]

### INCOME TAX PROVISIONS

1. Only WDV Method of charging depreciation is recognized under the Act. However, Power Generation units have option to claim depreciation on SLM.
2. Depreciation is to be claimed on the **BLOCK OF ASSETS & Not on Individual Asset.**
3. Claiming Depreciation is Mandatory. Assessee does not have any option to not claim it.

### CONDITIONS FOR CLAIMING DEPRECIATION

#### 1. OWNERSHIP OF ASSET

- Assessee must be the owner of the asset (fully or partly owned).
- Registered ownership is not necessary (It can be a beneficial ownership).
- Type of leases & Availability of depreciation:

Operating lease → Depreciation shall be claimed by the Lessor. Financial lease → Depreciation shall be claimed by the Lessee.
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- Hire Purchase → Hire purchaser is entitled to claim depreciation as he gets substantial rights when contract is made.
- To claim depreciation on building, ownership of land on which building is constructed is **not necessary**. Land may be lease-hold.

**Note:** If Tenant has incurred any Capital Expenditure on construction, renovation, extension of the building taken on lease/rent, he can take depreciation on such capital expenditure.

#### 2. ASSET MUST BE ACTUALLY USED BY THE ASSESSEE FOR HIS BUSINESS/PROFESSION DURING THE RELEVANT PREVIOUS YEAR

- The asset must be put to use **at any time** during the previous year.
  - Even if the asset is used for a **single day** during the year, **full depreciation** shall be allowed **Except for first year of use of asset.**
  - **Use of Asset in 1<sup>st</sup> year of Asset:** Asset must be used for atleast 180 days to get full depreciation. If it is used for less than 180 days in 1<sup>st</sup> year, only 50% of the allowable depreciation can be claimed.

**Ex:** If Assessee acquires the asset in PY 2018-19 on 1 Dec 2018, only 50% of the allowable depreciation can be claimed by the Assessee in PY 2018-19. However, from PY 2019-20, full depreciation can be claimed even if the asset has been used even for a single day in PY 2019-20.

However, if asset is acquired in PY 2018-19 & it is not put to use in PY 2018-19, no depreciation can be claimed for PY 2018-19. Now PY 2019-20 cannot be said to be the first year of asset. Thus 100% depreciation will be allowed in PY 2019-20.

**Note:** Since in case of Partition of HUF, Dissolution of Firm, Conversion of firm into Company, no asset is acquired by the successor & thus the **Provision of 180 days** is Not Applicable.

- Use includes **“Passive use”** also [Asset is said to be in use even when it is “kept ready for use”].
- Used Partly for Business & partly for Personal purposes → Depreciation proportionate to the extent of business is allowed as deduction u/s 32 & should be deducted from WDV.
- Used Partly for Business & partly for Agricultural purposes → Depreciation proportionate to the extent of business shall be allowed as deduction u/s 32, but 100% depreciation should be subtracted from WDV.

**Note:** Assessee is **engaged** in the **business of Letting** of Assets on Hire: **Depreciation** is allowed to the assessee who has let on hire his building, machinery, plant or furniture **u/s 32.**

Assessee is **NOT engaged** in the **business of Letting** of Assets on Hire: If letting of such assets does not constitute the business of the assessee, **depreciation** of such assets is allowed **u/s 57(ii).**

### 3. THE ASSET MUST FALL UNDER THE ELIGIBLE CLASS OF ASSETS

- (a) **Class A: Tangible assets.** It included building, machinery, plant or furniture.
- (b) **Class B: Intangible assets.** It includes know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature etc.

#### Points to be considered while forming block of asset:

- (i) **Building** includes Roads, bridges & tubewells attached to the building or forming part of it.
- (ii) **Machinery** → Asset which is directly connected with Production/Manufacture/ processing.
- (iii) **Furniture** → Asset used for Convenience & Decoration.
- (iv) **Plant** → Any Asset not falling under any other classification, but which are Essential to carry out the business.

**Includes:** Ships, vehicles, books, scientific apparatus & surgical used for business.

**Excludes:** Tea bushes or livestock etc.; animal, human body or stock- in-trade; Buildings.

However, Theatre buildings, hospital buildings & hotel buildings though specially equipped for business are still buildings & **cannot be treated as plant**.

#### Points to Remember:

- Assets Ineligible for depreciation [**Land/Personal assets**] will **not** form part of **any block**.
- While calculating Depreciation on Building, **Cost of Land is to be Excluded**.

### CONCEPT OF “BLOCK OF ASSETS”

**Meaning:** **Group** of assets falling within **Same Class** & having **Same Rate** of Depreciation.

#### A. STEPS TO DETERMINE BLOCK OF ASSET:

1. Classify assets into (i) Tangible Assets & (ii) Intangible Assets.
2. All the Tangible Assets shall further be classified into
  - (a) Building,
  - (b) Plant & Machinery &
  - (c) Furniture
3. Group the classified assets in each category separately on the basis of Rate of depreciation.
4. Assets having same rate of depreciation should be grouped together.

#### B. STEPS TO CALCULATE DEPRECIATION:

[V. IMP]

1. Find Closing WDV of each block for PY. [**Opening WDV + Additions during year – Sale Value**].
2. Bifurcate Closing WDV of each block into two categories:
  - (i) WDV of the assets used for less than 180 days during PY
  - (ii) Balance WDV. [Note that it is not always equals to WDV of Assets used for > 180 days]
3. Apply Rate of depreciation on (i) Assets used for less than 180 days. [50% Depreciation]
4. Apply Rate of depreciation on (ii) Balance WDV. [100% depreciation (as per the rates)].

## RATES OF DEPRECIATION

	Nature of Asset	(%)
<b>A.</b>	<b>Building</b>	
<b>I</b>	Block 1: Residential Building except hotels & boarding houses	5
	Block 2: Buildings which are not used mainly for residential purposes & not covered by Block (1) above & (3) below ( <b>Office, factory, Godowns &amp; other buildings</b> )	10
	Block 3: Building used for installing P&M of Water supply project/Water treatment system. It should be used for the business of providing Infrastructure facilities.	40
	Block 4: Any temporary erections (wooden structures)	40
<b>AII</b>	<b>Furniture</b> - Any furniture & fittings including electrical fittings.	<b>10</b>
<b>A.</b>	<b>Plant &amp; Machinery</b>	
<b>III</b>	Block 1: Motor cars (Except cars used in business of running them on hire)	15
	Block 2: Buses, lorries & taxies used in the business of running them on hire	30
	Block 3: Moulds used in rubber & plastics goods factory	30
	Block 4: Aeroplanes & Aeroengines.	40
	Block 5: Pollution control equipments (air/water); Solid waste control equipment etc.	40
	Block 6: P&M used in semi-conductor industry covering all Integrated Circuits (ICs)	30
	Block 7: Life saving medical equipments.	40
	Block 8: P&M in Water supply project/Water treatment system. It should be used for the business of providing Infrastructure facilities.	40
	Block 9: Oil wells	40
	Block 10: Renewable Energy Saving Devices	
	(i) Windmills & any specially designed devices which run on windmills (including any special devices including electric generators & pumps running on wind energy) installed <b>on or after 1.4.2014</b>	40
	(ii) Windmills & any specially designed devices which run on windmills (including any special devices including electric generators & pumps running on wind energy) installed <b>before 1.4.2014</b>	15
	Block 11: Computers & computer softwares.	40
	Block 12: Books (Annual publication/not) owned by assessee carrying on profession	40
	Block 13: Books owned by assessee carrying on business of running Libraries	40
	Block 14: <b>Any other</b> Plant & Machinery	<b>15</b>
<b>A.</b>	<b>Ships</b>	
<b>IV</b>	Block 1: Ocean-going ships	<b>20</b>
	Block 2: Vessels ordinarily operating on inland waters not covered by Block (3) below	<b>20</b>
	Block 3: Speed boats operating on inland water	<b>20</b>
<b>B</b>	<b>All Intangible assets</b>	<b>25</b>

### Increased ROD for certain Assets [Rule 5(2)]

**Any New P&M** installed to **Manufacture** or Produce any Article or thing by using any technology or other know-how developed in -

(a) **Laboratory** owned or financed by the **government** or

(b) Laboratory owned by a **public sector company** or a University/recognized institution

shall be treated as a part of the block of assets qualifying for **depreciation @ 40%**.

**CQ2.** Compute the WDV of the respective Blocks for the AY 2019-20:

Blocks of asset	ROD %	WDV on 1.4.2018
1. Plant A, B & C	15%	Rs. 10,40,000
2. Plant D & E	40%	Rs. 2,60,000
3. Plant F	50%	Rs. 70,000
4. Building A,B,C & D	10%	Rs. 10,90,600
5. Building E,F & G	5%	Rs. 7,10,200
6. Building H,I,J & K	100%	Rs. 16,90,000

The company purchases the following assets in PY 2018-19:

Assets	Date of purchase	ROD	Actual cost
Plant G	April 6,2018	50	6,000
Plant H	May 11,2018	15	18,000
Furniture	June 6,2018	10	56,000
Car	July 7, 2018	15	2,56,000
Building L	October 26,2018	5	7,28,000
Computer	December 27,2018	60	90,000
Copyright	Jan 30,2019	25	17,50,000

The following assets are transferred:

Plant B	20 December 2018	15,00,000
Plant D	31 January 2019	12,000
Building L	6 March 2019	6,00,000

**Solution:**

Block 1 - Plant & Machinery (ROD: 15%)	
Opening WDV as on 1.4.2018 [Plants A, B, & C]	10,40,000
<b>Add:</b> Actual cost of plant H & Car (is always treated as Plant) [18,000 + 2,56,000]	2,74,000
Total	13,14,000
<b>Less:</b> Sales proceeds of plant B [although sale proceeds of plant B is more than Rs. 13,14,000, amount to be deducted is restricted to Rs. 13,14,000] {case of <b>STCG to be discussed later</b> }	(-) 13,14,000
WDV of the block consisting of plants D & E on 31 March 2019	Nil

Block 2 - Plant & Machinery (ROD: 40%)	
Depreciated value of the block consisting of plant E on April 1, 2018	2,60,000
Less: Sale proceeds of plant D sold during PY 2018-19	(-)12,000
WDV of the block consisting plant E on March 31, 2019	2,48,000

Block 3 - Plant & Machinery (ROD: 50%)	
Depreciated value of the block consisting of plant F & G on 1.4.2018	70,000
Add: Cost of plant G purchased during PY 2018-19	6,000
WDV of the block consisting of plants F & G on March 31, 2019	76,000

Block 4 - Building (ROD: 10%)	
Opening WDV of the block on April 1, 2018 consisting of buildings A, B, C & D	10,90,600
WDV on March 31, 2019	10,90,600

Block 5- Building (ROD: 5%)	
Depreciated value of the block consisting of Building E, F & G	7,10,200
Add: Cost of building L Purchased during PY 2018-19	7,28,700
Less: Sales proceeds of building L sold during PY 2018-19	(-) 6,00,000
WDV of the block consisting of Buildings E, F & G on March 31, 2019	8,38,000

Block 6- Building (ROD: 100%)	
Depreciated value of the block consisting of building H, I, J & K on April 1, 2018	16,90,000
WDV	16,90,000

Block 7- furniture (ROD: 10%)	
Depreciated value on April 1, 2018	Nil
Add: Cost of furniture purchased during PY 2018-19	56,000
WDV on March 31, 2019	56,000



Block 8 – Plant (ROD: 60%)	
Depreciated value on April 1, 2018	Nil
Add: cost of computer purchased during PY 2018-19	90,000
WDV on March 31, 2019	90,000

Block 9- Copyright (ROD: 25%)	
Depreciated value on April 1, 2018	Nil
Add: cost of copyright purchased during PY 2018-19	17,50,000
WDV on March 31, 2019	17,50,000

**CQ3.** Rajan Ltd. has two machines namely S & M in the block as on 01.04.2018 [WDV = Rs. 3,00,000]. Machine L was acquired on 12.11.2018 for Rs. 1,50,000 & put to use on the same date. The same machine L is sold on 24.03.2019 for Rs. 2,00,000.

(a) Compute the depreciation allowable u/s 32 for the AY 2019-20 on the block.

(b) What will be the depreciation allowed, if machine S is sold instead of machine L.

(c) What will be the depreciation allowed if both the machineries S & M are sold instead of machine L.

(d) What will be the depreciation allowed, if machine S is sold At Rs. 3,20,000 instead of machine L.

**Solution:(a)**

Opening WDV of the block as on 01.04.2018	3,00,000
<b>Add:</b> Actual cost of Machine L (Acquired & put to use for less than 180 days)	1,50,000
<b>Less:</b> Sale consideration of machine L (sold in this same year)	(2,00,000)
WDV as on 31.03.2019	2,50,000
Depreciation on Rs. 2,50,000 @ 15% [Since No asset used for < 180 days exist on 31.3.2019]	(37,500)
WDV as on 01.04.2019	2,12,500

**Note:** Depreciation @ 15% has been charged on the total WDV, as the machine L which was put to use for <180 days during the year, ceases to exist on 31.03.2019 & as much depreciation shall not be charged at the rate of 50% of the normal rate.

If machine L would have been in the block as on the last day of the previous year, than the actual cost of Machine L to the extent of the WDV of the block would be eligible to only half of the normal depreciation.

**(b)**

WDV of the block as on 01.04.2018		3,00,000
<b>Add:</b> Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
<b>Less:</b> Sale consideration of machine S		(2,00,000)
WDV as on 31.03.2019		2,50,000
Depreciation on Rs. 1,00,000 @ 15%	(15,000)	
Rs. 1,50,000 @ 7.5% (half of Normal Depreciation)	(11,250)	(26,250)
WDV as on 01.04.2019		2,23,750

**(c)**

WDV of the block as on 01.04.2018		3,00,000
<b>Add:</b> Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
<b>Less:</b> Sale consideration of machine S & M sold during the year		(2,00,000)
WDV as on 31.03.2019 for the purpose of charging depreciation		2,50,000
Depreciation on *Rs. 1,00,000 @ 15%	15,000	
Rs. 1,50,000 @ 7.5%	11,250	26,250
WDV as on 01.04.2019		2,23,750

\*Although only one asset L is left in the block whose cost is Rs.1,50,000, still depreciation will be allowed on the balance amount Rs. 1,00,000 @15% as the block has not ceased to exist.

**(d)**

WDV of the block as on 01.04.2018		3,00,000
<b>Add:</b> Actual cost of Machine L (Acquired & put to use for less than 180 days)		1,50,000
<b>Less:</b> Sale consideration of machine L (sold in this same year)		(3,20,000)
WDV as on 31.03.2019		1,30,000
Depreciation on Rs.1,30,000 @ 7.5%		9,750
WDV as on 01.04.2019		1,20,250

As machine L is in the block as on the last day of the previous year, the **actual cost of Machine L to the extent of the WDV of the block** would be eligible to only half of the normal depreciation, as the machine L was put to use for less than 180 days during the year.



**CQ4.** Calculate Depreciation of the following assets for PY 2018-19:

Particulars	WDV on 1.4.2018	Rate of Dep.
Building A	5,40,000	5%
Building B	4,15,000	10%
Building C	5,20,000	10%
Furniture	24,500	10%
Plant & Machinery A	5,60,000	30%
Plant & Machinery B	3,20,000	15%

Following assets have been purchased on 5.4.2018 & put to use on following dates during the PY.

	Date put to use	Rs.	Rate of Dep.
Plant C	01.08.2018	1,60,000	100%
Plant D	18.11.2018	2,80,000	30%
Plant E	10.09.2018	4,00,000	15%
Building D	01.12.2018	3,00,000	10%
Building E	11.04.2018	1,60,000	5%

Following assets have been sold during the PY.

	Date of sale	Sale consideration
Building B	25.10.2018	6,40,000
Plant A	08.05.2018	5,80,000

Rs. 90,000 were also spent to renovate & modify Building A. Rs. 1,20,000 also been spent in June 2018 on Machinery B to make it suitable for the new system of production.

**Solution:**

#### Calculation of Depreciation

Block of Assets	WDV/Cost	Depreciation
<b>1. Building Block I [Rate 5%]</b>		
Building A: WDV on 1.4.2018	5,40,000	
Add: New addition (Cost) building E [Put to use for more than 180 days]	1,60,000	
Add: Capital expenditure to renovate building A	90,000	
Depreciation = 5% on Rs. 7,90,000		<b>39,500</b>
<b>2. Building Block II [Rate 10%]</b>		
Building B: WDV on 1.4.2018	4,15,000	
Building C: WDV on 1.4.2018	5,20,000	
Add: New building D (Cost) put to use for less than 180 days	3,00,000	
Less: Sale consideration of building B	(6,40,000)	
WDV	5,95,000	
Depreciation: (i) On new 3,00,000 @ 5%	15,000	
(ii) On Rs. 2,95,000 @ 10%	29,500	<b>44,500</b>
<b>3. Furniture Block III [Rate 10%]</b>		
WDV on 1.4.2018	24,500	
Depreciation: On Rs. 24,500 @ 10%		<b>2,450</b>
<b>4. Plant &amp; Machinery Block IV [Rate 15%]</b>		
WDV on 1.4.2018	3,20,000	
Add: Capital Expenditure on Modernization	1,20,000	
Add: New Plant E put to use for more than 180 days	4,00,000	
WDV before claiming depreciation	8,40,000	
Depreciation: 15% of Rs. 8,40,000		<b>1,26,000</b>
<b>5. Plant &amp; Machinery Block V [Rate 30%]</b>		
WDV on 1.4.2018	5,60,000	
Add: New addition of Machine D (less than 180 days)	2,80,000	
Less: Sale consideration of Machine A	(5,80,000)	
WDV on 31.3.2018	2,60,000	
Less: Depreciation (30% of 2,60,000 x ½)		<b>39,000</b>
<b>6. Plant &amp; Machinery Block VI [Rate 100%]</b>		
Cost of Purchase	1,60,000	
Less: Depreciation	1,60,000	<b>1,60,000</b>
WDV on 1.4.2019	Nil	
<b>Total depreciation</b>		<b>4,11,450</b>

## ADDITIONAL DEPRECIATION [SECTION 32(1)(ia)]

<b>Eligibility</b>	The Assessee must be engaged in the business of – (a) <b>Manufacturing</b> or production of any article or thing, or (b) Generation, transmission or Distribution of <b>Power</b>	
<b>Benefits</b>	Additional depreciation is available @ prescribed rates to the eligible assesseees for <b>Investment in New Plant &amp; Machinery. [No Land &amp; Building or OLD P&amp;M]</b>	
<b>Ineligible Investments</b>	<ol style="list-style-type: none"> <li>1. Ships &amp; Aircrafts</li> <li>2. Any <b>second-hand</b> P&amp;M (in/out of India)</li> <li>3. Any P&amp;M installed in <b>office premises, residential house</b> or guest house.</li> <li>4. Any other office appliances or <b>road transport vehicles</b>.</li> <li>5. Any P&amp;M whose <b>whole</b> of <b>Actual cost</b> has been allowed as deduction.</li> </ol>	
<b>Rate</b>	Undertakings set up in any backward area in State of <b>Telangana/West Bengal/Andhra Pradesh/Bihar</b> during 1 April 2015 to 1 April 2020.	<b>35% of Actual Cost</b> of New P&M
	Any other case (other than specified areas of above 4 states)	<b>20% of Actual cost</b> of new P&M
<b>Assets put to use for less than 180 days in 1<sup>st</sup> PY:</b> If the asset is used for less than 180 days in the year in which the asset is acquired, Additional depreciation will be allowed as: <ul style="list-style-type: none"> <li>▪ <b>1<sup>st</sup> PY</b> = Restricted to 50% (i.e. 10% or 17.5% as the case may be)</li> <li>▪ <b>Next PY</b> = Remaining 50% that was disallowed in the 1<sup>st</sup> PY</li> </ul>		
<ul style="list-style-type: none"> <li>➤ Addition depreciation will be over &amp; above normal depreciation allowed.</li> <li>➤ It should be reduced from WDV of the asset.</li> </ul>		

### Points to Remember:

- ❖ Additional depreciation is not available to the power generating assessee who claims depreciation on SLM basis. Because Additional depreciation is available only in those cases where normal depreciation is claimed u/s 32(1)ii on the WDV of block of assets.
- ❖ **Amount of Depreciation cannot be more than WDV of Block.** Therefore, if **Normal Depreciation + Additional depreciation > WDV**, Depreciation will be restricted to the extent of WDV only.

[Circular No. 15/2016]: **Printing or Printing & Publishing** amounts to **manufacture** & thus an Assessee engaged in such business is **eligible for Additional Depreciation u/s 32(1)(ia)**.

**CQ5.** Rama Ltd. has started a new business of manufacturing paints on 01.04.2018. The company has purchased the following assets during PY 2018-19.

Asset	Actual COA	ROD	Date when it is put to use
Furniture	6,00,000	10%	20.04.2018
AC installed in office	3,00,000	15%	22.06.2018
Motor Car	24,00,000	15%	16.07.2018
Plant A	1,50,00,000	15%	25.04.2018
Plant B	60,00,000	15%	14.11.2018
Plant C	2,40,000	100%	18.09.2018
Computer installed in office	3,00,000	60%	09.07.2018
Computer for factory	4,50,000	60%	12.07.2018

Compute normal & additional depreciation allowable for AY 2019-20 to Rama Ltd.

**Solution:****Computation of Normal & Additional Depreciation for AY 2019-20**

Asset	Furniture (10%)	Plant (60%)	Plant & Car (15%)	Plant (100%)
Opening WDV as on 1.4.2018	NIL	NIL	NIL	NIL
<b>Add:</b> Cost of assets acquired during PY	6,00,000	7,50,000	2,37,00,000	2,40,000
WDV as on 31.03.2019	6,00,000	7,50,000	2,37,00,000	2,40,000
<b>Less:</b> Normal Depreciation	60,000	4,50,000 (WN 2)	31,05,000 (WN 3)	2,40,000
Additional Depreciation	NIL (WN 1)	90,000 (WN 2)	36,00,000 (WN 3)	Nil
WDV as on 01.04.2019 [Closing WDV]	5,40,000	2,10,000	1,69,95,000	Nil

**WN 1:** Additional depreciation is not available on furniture as the same is not covered u/s 32 (1)(ia).

**WN 2:** Block of Plant also consists of computer. Further computer installed in office is not eligible for additional depreciation.

Normal depreciation @ 60% on Rs. 7,50,000	Rs. 4,50,000
Additional Depreciation @ 20% on Rs. 4,50,000	Rs. 90,000

**WN 3:** Normal Depreciation on Plant (inclusive of Motor-Car) has been calculated as under:

Depreciation @ 15% on Rs. 1,77,00,000	Rs. 26,55,000
Depreciation @ 7.5% on Rs. 60,00,000 (as put to use for less than 180 days)	Rs. 4,50,000
Total Depreciation	Rs. 31,05,000

**Additional Depreciation on Plant (inclusive of Motor-Car) as under:**

Asset	Plant A	Plant B	Plant C
Actual cost	Rs. 1,50,00,000	Rs. 60,00,000	-
Rate of Additional Depreciation	20%	10%	Nil
Additional Depreciation	Rs. 30,00,000	Rs. 6,00,000	Nil

As per third proviso to sec.32(1)(ii) inserted by **Finance Act, 2015** the balance of additional depreciation of Rs. 6,00,000 being 50% of Rs.12,00,000 (20% of Rs.60,00,000) would be allowed as deduction in the AY 2020-21.

**CQ6.** Mr. X, a proprietor engaged in manufacturing business, furnishes the following particulars:

	Particulars	Rs.
1	Opening WDV of plant & machinery as on 1.4.2018	30,00,000
2	New plant & machinery purchased & put to use on 08.06.2018	20,00,000
3	New plant & machinery acquired & put to use on 15.12.2018	8,00,000
4	Computer acquired & installed in the office premises on 2.1.2019	3,00,000

Compute the amount of depreciation & additional depreciation for the AY 2019-20.

**Solution:****Computation of Normal Depreciation & Additional depreciation for AY 2019-20**

Particulars	P & M 15%	Computer 40%
<b>Normal depreciation</b>		
@ 15% on Rs. 50,00,000 [See Working Note 1]	7,50,000	-
@ 7.5% on Rs. 8,00,000	60,000	-
@ 20% (50% of 40%) on Rs. 3,00,000	-	60,000
<b>Additional Depreciation</b>		
@ 20% on Rs. Rs. 20,00,000	4,00,000	-
@10% on Rs. 8,00,000	80,000	-
<b>Total depreciation</b>	12,90,00	60,000

**Working Notes:** (1) Computation of written down value of Plant & Machinery as on 31.03.2019

Particulars	P & M	Computer
Written down value as on 1.4.2018	30,00,000	
<b>Add:</b> Plant & Machinery purchased on 08.6.2018	20,00,000	
<b>Add:</b> Plant & Machinery acquired on 15.12.2018 [Less than 180 days]	8,00,000	
Computer acquired & installed in the office premises		3,00,000
<b>Written down value as on 31.03.2019</b>	<b>58,00,000</b>	<b>3,00,000</b>

**Note:** 1. Balance Additional Depreciation of Rs. 80,000 would be allowed as deduction in AY 2020-21.

2. Additional depreciation is not allowable on computer installed in the office premises.

## INVESTMENT IN NEW PLANT & MACHINERY [SECTION 32AD]

<b>Assessee</b>	<b>Any Assessee</b> who sets up an undertaking or enterprise for <b>manufacture or production</b> of any article or thing, on or after the 1 <sup>st</sup> April 2015 in specified backward area <b>in Telangana or West Bengal or Andhra Pradesh or Bihar</b> .
<b>Investment</b>	Acquires & Installs <b>new plant &amp; machinery</b> during the period beginning on 1 <sup>st</sup> April 2015 & ending on 31 <sup>st</sup> March 2020 in the said backward area.  <b>New plant &amp; machinery shall not include</b> (a) Ship or Aircraft (b) Any Second-hand P&M (c) Any P&M installed in office premises, residential house or guest house (d) Any Office appliances including computers or computer softwares (e) Any Vehicle (f) Any P&M whose whole of actual cost has been allowed as deduction.
<b>Deduction</b>	<b>15% of Actual Cost</b> of New P&M acquired & installed during PY
<b>Lock in period</b>	<b>5 years</b> from the date of installation
<b>Withdrawal of deduction</b>	If sold or otherwise transferred within 5 years, the deduction allowed shall be treated as income u/h PGBP  <b>Exception:</b> Amalgamation or Demerger or business re organisation u/s 47 (xii), (xiiib) or (xiv). However the lock in will be applicable for the <b>remaining period</b> to the amalgamated or resulting company.

## DEPRECIATION ON SLM BASIS [SECTION 32(1)(i)]

<b>Applicability</b>	For Undertakings engaged in <b>Generation, transmission, Distribution of Power</b> .
<b>Time to Exercise</b>	<b>Before DD of Filing ROI</b> u/s 139(1) relevant to the PY in which they begin to generate power. <b>The option once exercised shall be Final.</b>
<b>Option of SLM → Tangible Assets only</b>	For Intangible Assets, only WDV method shall be applicable. Such undertakings can charge depreciation on tangible assets <b>individually</b> , i.e. SLM or WDV whichever is beneficial for assessee.
<b>New Assets used for &lt; 180 days</b>	Newly acquired assets put to use < 180 days → Depreciation is allowable at <b>50% of ROD; Remaining 50% will be allowed in next AY.</b>
<b>Sale in Year of First Use</b>	Profit/Loss arising shall be treated as <b>STCG/STCL</b> .

## TRANSFER OF DEPRECIABLE ASSETS BY POWER SECTOR UNITS

Conditions	Treatment
1. NSC < WDV	<b>Terminal Depreciation (Loss)</b> = WDV – NSC. It shall be Deductible u/s 32.
2. NSC > WDV but < COA	<b>Balancing Charge (Profit)</b> = NSC – WDV. It shall be Taxable u/s 41(2).
3. NSC > COA	<b>Capital Gain</b> = NSC – Original COA. <b>Balancing Charge (Profit)</b> = Original COA – WDV. It shall be Taxable u/s 41(2).

**CQ7.** Bijli Ltd. a power generating unit purchased a machinery of Rs. 15,00,000 on 01.01.2018 on which the depreciation rate is 7.84% on SLM basis. The machinery is sold on 31.12.2018 for:

(i) Rs. 7,50,000; (ii) Rs. 14,41,200; (iii) Rs. 18,00,000.

Calculate depreciation for PY 2018-19 & the tax implications on transfer of the asset in each of the above cases.

**Solution:** Depreciation as per the SLM method for Bijli Ltd. for AY 2018-19 shall be Rs. 58,800.

Thus WDV as on 1.4.2018 is Rs. 14,41,200.

**Case 1: Assets is sold on 31.12.2018 for Rs. 7,50,000:** WDV = Rs. 14,41,200. Thus SC < WDV, Terminal depreciation = WDV – SC = Rs. 14,41,200 – Rs. 7,50,000 = Rs. 6,91,200.

**Case 2: Assets is sold on 31.12.2018 for Rs. 14,41,200:** WDV = Rs. 14,41,200. Thus SC = WDV, Thus No Terminal depreciation & no Balancing charge.

**Case 2: Assets is sold on 31.12.2018 for Rs. 18,00,000:** WDV = Rs. 14,41,200. In this case actual sale consideration is greater than WDV. Thus Capital gain & Balancing charge will arise.

Balancing charge = Original COA – WDV = Rs. 15,00,000 – Rs. 14,41,200.

Capital Gains = Sale consideration – Actual COA = Rs. 18 lacs – Rs. 15 lacs = Rs. 3,00,000.

## DEPRECIATION IN CASE OF AMALGAMATION/DEMERGER OF COMPANY, SUCCESSION OF FIRM & OTHER BUSINESS RE-ORGANISATION

In Case of: (i) Succession, (ii) Amalgamation, (iii) Demerger, (iv) Business Re-organization.	<ul style="list-style-type: none"> <li>These are the cases of <b>Change in ownership</b>.</li> <li>In such cases, <b>depreciation</b> shall be <b>calculated</b> on the assumption that <b>no change in ownership has taken place</b>.</li> <li>Then the amount of <b>depreciation</b> so <b>calculated</b> shall be <b>apportioned</b> between predecessor &amp; successor in the <b>ratio of number of days</b> for which the <b>asset is USED by them</b>.</li> </ul>
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**Note: Consideration** for which the assets are **transferred** to the **resulting company** is **irrelevant** for calculation of depreciation. Students should not get confused by such amount given in question.

**CQ8.** Harsh Ltd. has a block of assets (depreciation @ 15%), WDV of which on 1.4.2018 was Rs. 12 lacs. It purchased & put to use another asset on 1.11.2018 for Rs. 3 lacs. Harsh Ltd. is converted into Harsh LLP on 1.1.2019 & the block of assets were transferred to Harsh LLP at Rs. 18 lacs. Though the conversion into LLP took place on 1.1.2019, but assets were put into use by Harsh LLP on 1<sup>st</sup> March 2019. Explain the tax implications.

**Solution:** Depreciation shall be calculated first as if no conversion has taken place & then the aggregate depreciation shall be apportioned between the predecessor company & the successor LLP.

WDV as on 1.4.2018	12,00,000
Add: Actual cost of asset acquired during the year [Put to use for less than 180 days]	3,00,000
WDV on 31.3.2019	15,00,000
Depreciation @ 15% on Rs. 12,00,000 [WDV of assets used for more than 180days]	1,80,000
Depreciation @ 7.5% on Rs. 3,00,000 [WDV of assets used for more than 180days]	22,500
Depreciation for PY 2018-19	2,02,500

### Apportionment of Depreciation between Predecessor & successor

<b>1. Harsh Ltd: (Note 1)</b>	Rs. 1,80,000 × 275/306 = Rs. 1,61,765	
	Rs. 22,500 × 61/92 = Rs. 14,918	<b>Rs. 1,76,683</b>
<b>2. Harsh LLP (Note 1)</b>	Rs. 1,80,000 × 31/306 = Rs. 18,235	
	Rs. 22,500 × 31/92 = Rs. 7,582	<b>Rs. 25,817</b>

**Note:** (1) The number of days of January & February has not been considered for apportioning the depreciation as the Harsh LLP has put to use assets only on 1<sup>st</sup> March, 2018 i.e. after 2 months from Conversion.

(2) Price at which the assets are transferred (Rs. 18,00,000) has no implication in computing depreciation.

### Calculation of Depreciation for Harsh LLP

<b>Actual Cost of Assets acquired from Harsh Ltd. (WDV on the Date of conversion)</b>	<b>15,00,000</b>
As per Explanation 2C to section 43(6), WDV of Block of assets on the date of conversion is deemed as actual cost (Rs. 12,00,000 + Rs. 3,00,000)	
<b>Less: Depreciation allowable to Harsh Ltd</b>	<b>(1,76,683)</b>
WDV for AY 2019-20	13,23,317
<b>Less: Depreciation for Harsh LLP on Rs. 15,00,000 - Apportioned depreciation</b>	<b>(25,817)</b>
<b>WDV as on 1.4.2019</b>	<b>12,97,500</b>

## DETERMINATION OF ACTUAL COST [SECTION 43(1)]

Cost of Acquisition/Construction of Asset		Rs.
<b>Less:</b>		
(i) <b>Excise Duty</b> in respect of which CENVAT credit is Allowed	xx	
(ii) Subsidy or Grant received by any Authority (Directly/Indirectly)	xx	(xx)
<b>Add:</b>		
(i) Interest on loan borrowed payable upto date of commencement of production.	xxx	
(ii) Expenses incurred for acquiring Asset [Freight, Insurance, loading, unloading] (iii) Expenses incurred in connection with the Instalment of Asset.	xxx	
(iv) FOREX Fluctuations arising in respect of asset acquired from abroad [Sec 43A]	xxx	xx
<b>ACTUAL COST for the purpose of computing Depreciation</b>		xx

**Note:** Any **Expenditure** for **Acquisition** of any Asset for which the aggregate payments made to a person in a day, **otherwise than by A/c Payee Cheque or A/c Payee Draft or Electronic clearing system exceeds Rs. 10,000**, such expenditure shall **not be included** in Cost of such asset.

### “ACTUAL COST” IN SPECIAL CASES [Explanation to Section 43(1)]

	Cases	Actual Cost
1.	Scientific Asset/Specified business Asset u/s 35AD brought into business.	Actual cost – deduction allowed u/s 35 = <b>Nil</b>
1A	Conversion of Capital Asset into SIT	<b>FMV</b> of Capital Asset on the <b>date of conversion</b> of capital asset into SIT
	Conversion of SIT into Capital asset & used into business	<b>FMV</b> of SIT on the <b>date of conversion</b> of SIT into capital asset.
2.	Asset acquired by Gift, Will or Inheritance	<b>WDV</b> to the <b>previous owner</b> .
3	Second hand asset	If <b>AO</b> is satisfied that main purpose was to reduce the Income Tax Liability by claiming depreciation on enhanced cost, he may, with the <b>previous approval</b> of <b>JCIT</b> , <b>determine the Actual Cost</b> having regard to all the circumstances of the case.

**Q9.** Mr. A transfers P&M used in his business for several years for Rs. 20,00,000 to Mr. B. WDV in the books of Mr. A of the said asset was Rs. 5,00,000. FMV of the asset on the date of transfer was Rs. 4,00,000. Determine the Actual cost of asset in the case of Mr. B for computing depreciation u/s. 32.

**Answer:** According to Explanation 3 to Sec. 43(6), where any asset has been acquired from another person, who has been using the asset for his business, AO has the power to determine the actual cost of the asset to act as a deterrent against excess depreciation to be claimed on the enhanced cost.

In this case, as FMV of the asset as on the date of acquisition is only Rs. 4,00,000, AO may determine the same as cost of acquisition instead of Rs. 20,00,000 being the purchase consideration.

4	Re-acquisition of asset used for Business/profession earlier.	(a) <b>WDV</b> at the time of <b>original transfer</b> or (b) <b>Cost of re-acquisition</b> , whichever is <b>Lower</b> .
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**Q10.** Mr. A acquired an assets on 15.4.2017 for Rs. 2,00,000, on which depreciation is charged @ 10%. He sold the asset to Mr. B for Rs. 2,00,000 on 1.4.2018. Again on 16.9.2018, the same asset was reacquired by Mr. A for Rs. 2,00,000. Compute the actual cost in the hands of Mr. A for the AY 2019-20.

**Solution:**

Cost of Asset as on 15.04.2017	2,00,000
<b>Less:</b> Depreciation for the PY 2017-18	(20,000)
WDV on the date transfer of asset (a)	1,80,000
Value of Reacquisition (b)	2,00,000
Cost to be adopted – as per Explanation 4 Sec. 43(1) (a or b whichever is less)	<b>1,80,000</b>



4A	<b>Sale &amp; Leaseback</b> (Assets previously used by transferor for his B&P are acquired by transferee, & let, hired or leased to the transferor.)	WDV of the asset in the hands of transferee = WDV of the asset in the hands of the person to whom it has been leased back.
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**Ex:** Mr. A owns an asset & uses it for the purpose of his business/profession. A has claimed depreciation in respect of such asset. The said asset is transferred by A to Mr. B. Mr. A then acquires the same asset back from B on lease, hire or otherwise. B being the new owner will be entitled to depreciation.

In the above situation, Cost of acquisition of the transferred assets in the hands of B shall be the same as the written down value of the said assets at the time of transfer.

5	<b>Building</b> (now brought into business) which was used for <b>non-business purpose earlier</b> . <b>Note: Only Applicable for Building.</b>	Actual cost of building – Deemed Depreciation @ rate on that date) that would have been allowed had the asset been used for business since the date of acquisition. <b>Note: Other assets should be recorded @ original COA.</b>
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**Q11.** Mr. A Converted the following assets used for personal purposes into his business assets on 01.04.2018.

Particulars	COA	DOA	FMV on 1.4.2018	Value recorded in books on 1.4.2018
<b>Building</b>	20,00,000	1.4.2016	30,00,000	30,00,000
<b>LAND</b>	10,00,000	1.4.2015	50,00,000	10,00,000
<b>Furniture</b>	5,00,000	1.4.2016	2,00,000	3,00,000

**Answer:**

#### Computation of Actual Cost of the asset of Mr. A

Particulars	Rs.
Cost of asset as on 1.4.2016	20,00,000
<b>Less:</b> Notional depreciation @ 5% for the year 2016-17	(1,00,000)
WDV as on 31.03.2017	19,00,000
<b>Less:</b> Notional depreciation @ 5% for the year 2017-18	(95,000)
<b>Cost to be capitalized as per Explanation 5 Sec. 43(1)</b>	<b>18,05,000</b>

Explanation 5 to Sec. 43 requires the notional depreciation to be computed **only in the case of building & not in case of any other asset**. Therefore, the value of other fixed assets namely LAND & Furniture shall get recorded at Rs. 10 Lacs & Rs. 5 Lacs respectively. However, in case of building, cost to be adopted for computing depreciation shall be Rs. 18,05,000 as given above & not at Rs. 30 Lacs as adopted by Mr. A.

**Q12.** Dr. X purchased a house property on 1.12.2016 for Rs. 10 lacs. Till 1.5.2018, the same was self-occupied as a residence. On this date, the said building was brought into use for the purpose of his medical profession. What would be the depreciation allowable for AY 2019-20 assuming that he owns no other building & ROD is 10%. Will your answer be different if the house property had been gifted to him by his mother, who had purchased the same on 01.05.2015 for Rs. 9 lacs?

**Answer:** As per Explanation 5 to Sec. 43(1), depreciation of Rs. 50,000 for the year ending 31.03.2017 & Rs. 95,000 for the year ending 31.03.2018 will be notionally computed & deducted from the cost of Rs. 10 Lacs.

Dr. Binu can claim depreciation at 10% on Rs. 8.55 Lacs which works out to Rs. 85,500 for AY 2019-20.

**Yes, the answer would differ has the building been gifted by his mother.**

Explanation 2 to Sec. 43(1) provided that where an asset is acquired by way of gift or inheritance the actual cost of asset to the assessee will be the WDV to the previous owner.

The depreciation thereafter shall be allowed assuming the asset as the only asset remaining in the block.

Depreciation on the building that would have been allowed/ allowable as under:

Year ending 31.03.2016	90,000
Year ending 31.03.2017	81,000
Year ending 31.03.2018	72,900
<b>Total</b>	<b>2,43,900</b>

Actual cost to the assessee for the purpose of claiming depreciation shall be Rs. 6,56,100 (Rs. 9 Lacs - Rs. 2,43,900) Consequently, assessee can avail Rs. 65,610 as depreciation at 10% for AY 2019-20.

6	Transfer by holding company to its WOS or vice versa	Actual cost of the asset = <b>Same Cost/WDV</b> as it would have been if the <b>transferor company had continued to hold the asset.</b>
7	Transfer in scheme of Amalgamation to Indian amalgamated company	
7A	Transfer in scheme of Demerger to Indian resulting company	
8	<b>Interest</b> on capital borrowed	Interest relating to a period <b>after</b> the asset is first put to use will <b>NOT</b> form part of Actual cost.
9	Adjustments of <b>CENVAT credit</b>	Where <b>CENVAT credit</b> on capital goods has been <b>availed</b> in respect of Excise duty, <b>it shall not form part of cost.</b>
10	<b>Subsidy</b> on capital investment	<b>Specific Subsidy:</b> Deducted from Actual COA. <b>General subsidy:</b> Proportionate Subsidy relatable to the asset shall be deducted from COA.
11	Asset acquired outside India by <b>NR</b> & brought to India & used for the purpose of his business/profession.	<b>Actual cost – depreciation</b> calculated @ rate in force that would have been allowable had the asset been used in India since the date of acquisition.
12	Capital asset is acquired under a scheme for corporatization of RSE	Amount which would have been regarded as actual cost had there been no such corporatization

### WRITTEN DOWN VALUE [SECTION 43(6)]

- WDV for the purpose of charging depreciation of the relevant previous year means:
- Asset acquired during PY: **Actual cost**
  - Asset acquired before PY: **Actual Cost – Depreciation actually allowed.**

### DEPRECIATION VIS-A-VIS CAPITAL GAIN/CASES WHEN NO DEPRECIATION IS ALLOWED

- In the following cases, no depreciation will be allowed to the Assessee during PY:

WDV is Zero but Block is not Empty →	No Depreciation & STCG u/s 50(1) will arise.
Block is empty but WDV is not Zero →	No Depreciation & STCL u/s 50(2) will arise.

### UNABSORBED DEPRECIATION [SECTION 32(2)]

1. Where depreciation is not fully deductible u/h 'PGBP' because of absence or inadequacy of profits, it is deductible from other heads of Income for the same AY.
2. If depreciation is still unabsorbed, it can be c/f to subsequent AY without any time limit.
3. In the subsequent years, unabsorbed depreciation can be set off against any income whether chargeable under the head PGBP or under any other head of income.
4. In the matter of **set off**, the **following priority** is followed in the subsequent years
  - (i) Current year Depreciation
  - (ii) Brought Forward Business Loss
  - (iii) Unabsorbed Depreciation.

**Note:** Set off will be allowed even if the said business to which it related has been discontinued.

## EXPENDITURE ON SCIENTIFIC RESEARCH [SECTION 35]

### A. SCIENTIFIC RESEARCH CARRIED ON BY ASSESSEE [Related to business]

REVENUE EXPENDITURE [SEC 35(1)(i)] - [100 % Deduction]	
<b>Pre-commencement Period Revenue Expenditure</b> [only of 3 years prior to Commencement]	Only the following expenditures incurred within 3 years immediately preceding the commencement of business will be allowed as deduction: (i) Payment of <b>Salary (excluding perquisites)</b> to research personnel engaged in scientific research. (ii) Purchase of <b>Materials</b> used in scientific research.
<b>Post-commencement Period Revenue Expenditure</b>	<b>Any Revenue Expenditure</b> incurred on scientific research will be allowed as deduction
CAPITAL EXPENDITURE [SEC 35(1)(iv) & 35(2)] - [100 % Deduction]	
<b>Pre-commencement Period Capital Expenditure</b> [only of 3 years prior to Commencement]	<b>Any</b> Capital Expenditure incurred will be allowed as deduction ( <b>Except Cost of Land</b> ).
<b>Post-commencement Period Capital Expenditure</b>	<b>Any</b> Capital Expenditure incurred will be allowed as deduction ( <b>Except Cost of Land</b> ).

**Note:** Deduction of **Pre-commencement expenditure** shall be allowed **in the year of commencement of business** to the extent certified by the prescribed authority.

### EXPENDITURE ON IN-HOUSE RESEARCH BY COMPANY ASSESSEE [SEC 35(2AB)]

Assessee	<b>Company only</b>
Eligible Business	Bio-technology or any business of <b>manufacture/production</b> of any articles or thing, <b>not</b> being an article or thing specified in the list of the <b>Eleventh schedule</b> .
Expenditure	Capital & Revenue Expenditure [ <b>Excluding Cost of Land &amp; Building</b> ]
Deductions	<b>150%</b> of Capital & Revenue [ <b>Except cost of Land &amp; Building</b> ]

**PC Note:** For Company → Pre-commencement expenditure & cost of Building is not allowed as deduction u/s 35(2AB). Thus, company will not be able to claim 150% depreciation on them.

But they are allowed as deduction @ 100% u/s 35(1) & 35(2). Hence, company will be entitled to claim 100% deduction on Pre-commencement expenditure & cost of Building u/s 35(1)/(2).

#### **Points to Remember:**

- ❖ Assessee must incur the expenditure on scientific research. Actual payment is not compulsory.
- ❖ The Assessee is not eligible for deduction by mere transfer of asset from business purpose to scientific research purpose [i.e Merely by transfer entry in books of accounts].
- ❖ **No depreciation** will be admissible on any capital asset cost of which has been allowed as a deduction u/s 35.
- ❖ It is not necessary that the capital asset must be complete in all respect & used for scientific purpose in the PY itself. It is also irrelevant that construction of building is not completed & the building has not been used in PY.
- ❖ No deductions u/s 35(2AB) shall be allowed to company accepting donations u/s 35(1)(ia).
- ❖ **UNABSORBED CAPITAL EXPENDITURE ON SCIENTIFIC RESEARCH:** Treated same as unabsorbed depreciation (can be carried forward for infinite years without any time limit).

## B. CONTRIBUTION MADE BY ASSESSEE TO OUSIDER [Related/Not]

Purpose	Sec	Contribution to whom	Deduction
Scientific Research	35 (2AA)	National laboratory/ National university/ IITs/ IIMs	150%
	35 (1)(ii)	Approved Research association/University/College/ Other institution	150%
	35 (1)(iia)	Company Registered in India having scientific research as its main business objective. <b>Note:</b> The recipient company <u>cannot claim weighted deduction</u> u/s 35(2AB) but can claim 100% deduction.	100%
Social or statistical Research	35 (1)(iii)	Approved Research association/University/College/ Other institution	100%

**Note:** (a) Recipient shall be approved by prescribed authority & notified in official gazette by CG.  
(b) Deduction of contribution made shall **not be denied** merely on the ground that the approval granted to such institutions **was withdrawn after payment** of such sum by the assessee to them.

### SALE OF SCIENTIFIC ASSET [SECTION 41(3)]

- Asset may use scientific research asset for his other business purpose after completion of scientific research [Conversion of scientific research asset into normal business asset] **or**
- Assessee may sell scientific research asset without using it for another purpose after completion of scientific research.
- In both the cases, tax liability could arise.

#### 1. Asset is sold after using it for Business:

- Cost of Acquisition = Nil (Since whole of the cost has been allowed as deduction)
- No Depreciation will be allowed on such asset when it is used for other business.

#### 2. Asset is sold without using it for business:

- Taxable Amount = Lower of (i) Sale Price or (ii) Deduction allowed u/s 35.
- Capital Gain = Excess of Sale price over cost of acquisition.

**CQ13.** XYZ Ltd., a paper manufacturing concern, purchases a machine on 1 March 2016 for Rs. 6,10,000 for its laboratory with a view to improving the quality of art paper manufactured by the company.

1. What will be the amount of deduction u/s 35 on account of capital expenditure of Rs. 6,10,000 for PY 2018-19?
2. If the research activity ceases in 2017 & machinery is brought into business on 1.11.2017 (FMV: Rs. 2,30,000); depreciation @ 15%: Depreciated value of relevant block of assets on 1.4.2017 is Rs. 14,07,860; scientific research machine is sold for Rs. 1,90,000 on 4.4.2018, what will be the depreciation for AY 2019-20 & profit u/s 41(3)?
3. If research activity ceases on 1.12.2017 (FMV of the machine: Rs. 2,30,000) & the machine is sold on 1.4.2018 without using it for another purpose [Sale price = Rs. 190000 or Rs. 1500000].

#### Solution:

1. 100% of capital expenditure (Rs. 6,10,000) will be allowed as deduction in AY 2016-17 u/s 35 (PY 2015-16).
2. The machine is brought into business on 1.11.2017. **Tax treatment if depreciation will be as under:**

Depreciated value of the block of assets on 1.4.2017	14,07,860
<b>Add:</b> Cost of machine transferred on 1.11.2017 (since 100% deduction already claimed)	Nil
Written down value of the block after addition of Machinery	14,07,860
<b>Less:</b> Depreciation for PY 2017-18 (15% of Rs. 14,07,860)	(2,11,179)
Depreciated value of the block on April 1, 2018	11,96,681
<b>Less:</b> Sale proceeds of machine sold on 4 April 2018	(1,90,000)

Written down value after sale of machinery	10,06,681
<b>Less:</b> Depreciation for the PY 2018-19 (15% of Rs. 10, 06,681)	(1,51,002)
Depreciated value of the block on April 1, 2019	8,55,679

**Note:** There will be no capital gain or loss in this case since the block is in existence & WDV is also not "Zero"

3. Tax treatment if machine is sold without using it for another purpose:

Particulars	Sold @ 1.9 Lacs	Sold @ 15 Lacs
Taxable amount u/s 41(3) [Lower of (i) Sale proceeds (ii) Deduction allowed u/s 35]	1,90,000	6,10,000
<b>Capital Gain u/s 45</b>		
Sale proceeds	1,90,000	15,00,000
<b>Less:</b> Cost of acquisition [Depreciable Asset & thus always STCA]	6,10,000	6,10,000
<b>Short term capital gain</b>	(-) 4,20,000	8,90,000

**CQ14.** Business income of X Ltd. before allowing expenditure on scientific research for PY 2018-19 is Rs. 5,00,000. The company has incurred following expenditure on scientific research during PY 2018-19.

Revenue expenditure on scientific research	Rs. 5,20,000
Capital expenditure on scientific research	Rs. 10,00,000

Compute the deduction on account of Scientific Research.

**Solution:**

Business Income before claiming expenditure on Scientific Research	Rs. 5,00,000
<b>Less:</b> (i) Revenue expenditure on Scientific Research	Rs. 5,20,000
(ii) Capital expenditure on Scientific Research Rs.10,00,000 (Not allowed Since no profit)	Nil
Business Loss	Rs. 20,000

**Q15.** Mr. Praveen Kumar has furnished the following particulars relating to payments made towards scientific research for the year ended 31.3.2019:

SN	Particulars	(Rs. In Lacs)
(i)	Payments made to K Research Ltd.	20
(ii)	Payment made to LMN College	15
(iii)	Payment made to OPQ College	10
(iv)	Payment made to National Laboratory	8
(v)	Machinery purchased for in-house scientific research	25
(vi)	Salaries to research staff engaged in in-house scientific	12

**Note:** K Research Ltd. & LMN College are approved research institutions & these payments are to be used for the purposes of scientific research. Compute the amount of deduction available u/s 35.

**Solution:**

Particulars	Amount	Sec	% of Deduction	Deduction
<b>Payment for scientific research</b>				
K Research Ltd (WN 2)	20	35(1)(ii)	150%	30.00
LMN College	15	35(1)(ii)	150%	22.50
OPQ College	10	-	Nil	Nil
National Laboratory	8	35(2AA)	150%	12.00
<b>In-house research [WN 2]</b>				
Capital expenditure	25	35(1)(iv) r.w. 35(2)	100%	25.00
Revenue expenditure	12	35(1)(i)	100%	12.00
Deduction allowable u/s 35				101.50

**Notes:**

1. Deduction for in-house research & development: Only company assessee are entitled to weighted deduction @150% u/s 35(2AB) in respect of in-house research & development expenditure incurred. However, in this case, the assessee is an individual. Thus he would be entitled to deduction @100% of the revenue expenditure incurred u/s 35(1)(i) & 100% of the capital expenditure incurred u/s 35(1)(iv) read with section 35(2).

2. Payment to K Research Ltd. (Alternative Answer): Any sum paid to a company registered in India which has as its main object scientific research, as is approved by the prescribed authority, qualifies for a weighted deduction of 100% u/s 35(1)(iia). Therefore, it is also possible to take a view that payment of Rs. 20 lacs to K Research Ltd. qualifies for a weighted deduction of 100% u/s 35(1)(iia) since K Research Ltd. is a company. The weighted deduction u/s 35(1)(iia) would be Rs. 20 lacs (i.e., 100% of Rs. 20 lacs). In such case, total deduction u/s 35 = Rs. 91.50 lacs.



## INVESTMENT IN SPECIFIED BUSINESS [SEC 35AD]

➤ Only **Capital Expenditures** are covered u/s 35AD [Other than Land/GW/Financial Instrument]

Nature of Specified Business	Commenced on/after
1. Setting up & operating a Cold chain facility	01.04.2009
2. Warehousing facility for storage of agricultural produce.	01.04.2009
3. Affordable Housing project	01.04.2011
4. Production of Fertilizer	01.04.2011
5. Hospital (at least 100 Beds)	01.04.2010
6. Cross country pipeline for petroleum or crude oil, natural gas	01.04.2007
7. Hotel (2 Star +)	01.04.2010
8. Slum Re-development Housing	01.04.2010
9. Setting up & operation ICDs or CFS notified or approved under the customs act, 1962	01.04.2012
10. Bee-keeping & production of honey & bees wax	01.04.2012
11. Warehousing facility for storage of sugar	01.04.2012
12. Laying & Operating Slurry Pipeline for the transportation of iron ore.	01.04.2014
13. Setting & operating Semiconductor Wafer Fabrication Manufacturing unit	01.04.2014
14. Developing or maintaining & operating or developing, maintaining & operating a new infrastructure facility.	01.04.2017

### PERMISSIBLE EXPENDITURE FOR DEDUCTION

<b>1. PRIOR PERIOD EXPENSES</b>	If <b>Capitalized</b> in the books of accounts.
<b>2. POST COMMENCEMENT EXPENSES</b>	Any Capital Expenditure incurred during the PY.

**Note:** Any Expenditure for Acquisition of any Asset for which the aggregate payments made to a person in a day, **otherwise than by A/c Payee Cheque** or A/c Payee Draft or Electronic clearing system **exceeds Rs. 10,000** would **not** be **eligible** for deduction.

**Q16.** An assessee, who is already in the business of trading in textiles, commences the business of cold chain facility w.e.f. 01.07.2018 & has incurred the following expenditure:

Machinery purchased on 26.02.2018 & capitalized in the books of accounts	4,00,000
LAND purchased on 1.4.2017 & capitalized	6,00,000
Building constructed on 30.6.2018	10,00,000
Goodwill purchased on 5.6.2018	2,00,000
Machinery purchased on 20.1.2019	3,00,000

Calculate the deduction allowed u/s 35AD for AY 2018-2019.

**Solution:** Deduction of 100% of capital expenditure incurred wholly for cold chain business shall be allowed during the year in which the expenditure is incurred. All capital expenditures are eligible for 100% deduction (except LAND, GW & any financial instrument). Land, Goodwill will not qualify for deduction.

Capital expenditure incurred before commencement shall be deductible in the year of commencement, if expenditure is capitalized in books of account on date of commencement.

Total deduction allowed for PY 2018-19 = **100% of** [Rs. 4L (machinery purchased before commencement of business since capitalized) + Rs. 10 L (building) + Rs. 3 L (machinery)] = Rs. 17,00,000.

### TERMS & CONDITIONS:

- It is **NOT** set up by **Splitting up or reconstruction** of a business already in existence.
- It is **NOT** set up by transfer of **Second-hand** Plant & Machinery.

**Exceptions:** (i) Imported Plant & Machinery will be treated as new for this section &

(ii) Used P&M upto 20% of Total value of P&M shall be allowed under this section.



3. **NO DEDUCTION UNDER ANY OTHER SECTION:** No Deduction for such expenditure is allowed under any other section (u/s 10AA & 80IA-80RRB) in any PY or u/s 35 AD in any other PY.
4. **USE OF ASSET FOR SPECIFIED BUSINESS FOR 8 YEARS:** Where such asset is used for any purpose other than specified business during 8 years, the following amount shall be **deemed** to be the **income** of the assessee of the PY in which the asset is used for Non-Specified purpose.

Total Deduction Claimed & Allowed in one or more PYs	Xxx
<b>Less:</b> Depreciation allowable as if no deduction was allowed u/s 35AD	Xxx

**Exception:** If the company becomes a sick within 8 years, this provision will not be applicable.

5. Transfer of goods/services to Non-Specified Business of the Assessee himself:
  - Where any goods or services held for specified business are transferred to any other business carried on by the assessee, or vice versa, &
  - Consideration for such transfer does not correspond with FMV of the goods or services,
  - Profits & Gains of Specified Business shall be computed as if the transfer was made at FMV.
6. Set-off & carry forward of loss: [To be studied in respective chapter later]
7. Transfer, destruction, demolition, discarding of asset for which deduction was allowed:
  - If any asset on which a deduction u/s 35AD has been claimed & allowed, is demolished, destroyed, discarded or transferred,
  - Sum received on such transfer is taxable u/s 28(vii).

### **SOME OTHER POINTS**

1. Assessee is deemed to be carrying on the specified business of building & operating hotel if:
  - Assessee builds a hotel of two-star or above category;
  - After building the hotel, he transfers the operation of the hotel to another person;
  - However, he should continue to own the hotel.
2. If Business is of Cross-country Natural Gas or Crude/Petroleum oil pipeline network:
  - Such business should be owned by Indian company or by a consortium of Indian companies or authority or board or corporation established/constituted under any Central/State act.
  - Such Business is approved by Petroleum & Natural Gas Regulatory Board & notified by CG.
  - Such Business has made not less than prescribed % of its total pipeline capacity available for use on common carrier basis by any person other than the assessee/an associated person.
3. If Business is of Developing/Operating/Maintaining or developing, operating & Maintaining a new infrastructure facility,
  - Such business should be owned by Indian company or by a consortium of Indian companies or authority or board or corporation established/constituted under any Central/State act.
  - Entity should have entered into an agreement with CG/SG/LA etc. for developing or operating & maintaining or developing, operating & maintaining, a new infrastructure facility.

### **EXPENDITURE ON AGRICULTURAL EXTENSION PROJECT [SEC 35CCC]**

- Deduction = **150%** of such expenditure [**Except cost of Land & Building**]
- Eligible Assessee: **Any Assessee.**
- Project shall have prior approval of ministry of Agriculture, GOI.

Conditions to be fulfilled for approval of Agricultural Extension Project:

- Project shall be undertaken by the assessee for training, education & guidance of farmers.
- Expenditure shall exceed **Rs. 25 lacs.**

## CONTRIBUTION FOR RURAL DEVELOPMENT PROGRAMMES [SEC 35CCA]

- Any sum paid to the following is eligible for **100 % Deduction** u/s 35CCA
  - Associations to be used for carrying out rural development;
  - Associations which trains people for implementation of rural development programme;
  - National Fund for rural development & National Urban Poverty Education Fund.

## EXPENDITURE ON SKILL DEVELOPMENT PROJECT [SEC 35CCD]

- Amount of Deduction: **150%** of such expenditure. **[Except cost of Land & Building]**
- Eligible Assessee → **Company**.
- Expenditure should be incurred on **Public Private Partnership (PPP) Project** for skill development in the ITIs in manufacturing sector.

## AMORTIZATION OF PRELIMINARY EXPENDITURE [SEC 35D]

<b>Assessee</b>	(a) Indian Company or (b) Any other person Resident in India.
<b>Eligible Expenditure</b>	(a) In case of New companies → Expenses for setting up any business. (b) In case of Existing companies → Expenses for Expansion of Business. <ul style="list-style-type: none"> <li>▪ Expenditure on Preparation of feasibility report, Project report, conducting market survey or engineering services relating to the business.</li> <li>▪ Legal charges for drafting any agreement relating to the business.</li> <li>▪ Legal charges for drafting the MOA &amp; AOA of the company.</li> <li>▪ Printing charges of the MOA &amp; AOA of the company.</li> <li>▪ Registration fees of the company.</li> <li>▪ Expenditure on public issue of shares/debenture, underwriting commission, brokerage &amp; charges for drafting, &amp; advertising prospectus.</li> </ul>
<b>Maximum Limit</b>	1. INDIAN COMPANY: Higher of 5% of [Cost of Project OR Capital Employed]. 2. Any other Assessee: 5% of Cost of Project.
<b>Qualifying Expenditure</b>	(i) <b>Eligible expenditure incurred</b> or (ii) <b>Maximum Limit (whichever is Lower)</b>
<b>Deduction</b>	<b>1/5<sup>th</sup></b> of the <b>Qualifying expenditure</b> in 5 successive PYs.
<b>Audit</b>	COMPULSORY AUDIT for the years in which expenditure is incurred.

**Cost of Project** → Actual cost of Fixed assets [L & B, P & M, F & F etc];

**Capital Employed** → Aggregate of Issued share capital, Debentures, Long-term borrowings; (on the last day of PY in which business is commenced).

**Note:** If Indian Co. is amalgamated with another Indian Co. before expiry of 10 years → Above provisions will apply to amalgamated company as if the amalgamation had not taken place.

**CQ17.** X Ltd. is incorporated in Mumbai on 6 September 2018. It commences production on 15 March 2019. The following expenses are incurred by the company before commencement of business-

- a. Expenses on incorporation, issue of shares, etc : Rs. 92,000.
- b. Preparation of feasibility report & conducting market survey: Rs. 1,40,000.
- c. Engineering services (work is carried on by a concern which is unapproved by Board): Rs. 1,30,000.

Determine deduction u/s 35D. Particulars as on last day of PY in which business is commenced are:

Cost of fixed asset	55L
Share capital	40L
Debentures	12L
Long-term borrowing from a financial institution (repayable for not less than 7 years)	8L

**Solution:**

Cost of Project	55,00,000
Capital Employed (i.e. Rs. 40 lacs + Rs. 12 lacs + Rs. 8 lacs)	60,00,000
<b>(i) Eligible Expenditure</b>	
Expenses on incorporation (These are included even if the work is undertaken by a person not approved by the Board)	92,000
Preparation of feasibility report, project report and conducting market survey (these are included only if the work is done by the taxpayer or it is undertaken by a concern approved by the Board)	1,40,000
Engineering services (the expenditure is included only if the work is done by the taxpayer or it is undertaken by a concern approved by the Board; since it is completed by a concern not approved by the Board, it is not included)	Nil
<b>Total Eligible Expenditure</b>	<b>Rs. 2,32,00</b>
<b>(ii) Maximum Limit</b> (5% of Rs. 55 lacs or Rs. 60 lacs, whichever is higher)	Rs. 3,00,000
Qualifying Amount for Deduction Lower of (i) or (ii)	Rs. 2,32,000
<b>Amount deductible in 5 years for AY 2019-20 to 2023-24</b>	<b>Rs. 46,400</b>

**AMORTIZATION OF COMPENSATION PAID UNDER VRS - SECTION 35DDA**

<b>Eligible Assessee</b>	<b>Any Assessee</b>
<b>Eligible Expenditure</b>	Payment of any sum to Employee for his voluntary retirement.
<b>Deduction</b>	<b>1/5<sup>th</sup></b> of Expenditure shall be deductible for <b>5 succeeding PYs</b> . <b>Each Part Payment of VRS is deductible in 5 Instalments.</b> 1 <sup>st</sup> Instalment is deductible in the PY in which such sum is Actually Paid.

**Note:** In case of any **Business Re-organization** → **Deduction** shall be allowed to resulting company (organisation) for **Remaining years**.

**CQ18.** XLtd. made payment of VRS to its employee Y as under:

<b>PY 2018-19:</b> Rs. 4,00,000	<b>PY 2019-20:</b> Rs. 3,00,000	<b>PY 2020-21:</b> Rs. 1,40,000
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How deduction of above expense will be claimed by X Ltd. as per Income Tax Act?

Also calculate how much deduction will be allowed to X Ltd. for AY 2019-20 & 2020-21 in respect of the VRS?

**Solution:****Deduction of VRS Expenditure:**

AY	Payment	1/5 <sup>th</sup> Deduction from PY of payment	Period of 5 years from year of payment
2019-20	4,00,000	80,000	AY 2019-20 to 2023-24
2020-21	3,00,000	60,000	AY 2020-21 to 2024-25
2021-22	1,40,000	28,000	AY 2021-22 to 2025-26

(i) Total Deduction u/s 35DDA for **AY 2019-20** = **Rs. 80,000**.

(ii) Total Deduction u/s 35DDA for **AY 2020-21** = Rs. 80,000 + Rs. 60,000 = **Rs. 1,40,000**.

## MISCELLANEOUS DEDUCTIONS - SECTION 36(1)

### INSURANCE PREMIUM PAID ON:

(i) **Stocks or stores** against risk of damage or destruction.

(ia) **Lives of the Cattles** owned by members of primary milk co-operative society. Premium shall be paid by Federal milk co-operative society.

(ib) **Health of Employees** → Paid by the **employer** [Any mode other than Cash].

### BONUS OR COMMISSION [Sec 43B will Apply]

(ii) Bonus/commission **PAID** to the Employees by the employer. [not payable as profit or dividend]

**Note:** Amount paid to the employees as bonus or commission shall not be payable to them as profits or dividends if it had not been paid as bonus or commission.

It is a provision intended to safeguard escaping tax by distributing a part of its profits by way of bonus amongst the members, or employees of their own concern instead of distributing the money as dividends or profits.

### (iii) INTEREST ON BORROWED CAPITAL FOR BUSINESS

- Interest for the period **after the asset is put to use** is allowed as deduction.

**Note:** Interest payable for the period before the asset is put to use → Capitalized & added to COA of Asset & thus not deductible u/s 36(1)(iii).

#### Points to Remember:

- ❖ Interest on own capital is → Not deductible.
- ❖ Guaranteed interest paid to shareholders on paid-up capital → Not Deductible.
- ❖ Interest paid on money borrowed for payment of dividends → Deductible.
- ❖ **Interest paid on money borrowed for payment of Tax → Not Deductible.**
- ❖ Interest paid by a firm to partners → Deductible; However, Interest paid by AOP to its members → Not Deductible.

### AMORTIZATION OF EXPENDITURE ON ZERO COUPON BOND BY ISSUING COMPANY

(iii)(a) Amortization of Discount on a Zero-Coupon Bond is deductible **over the life of such bond**.

#### Tax Treatment in the hands of Issuing Company

- Discount (Amount payable on Maturity – Issue Price) on ZCB is deductible on Pro rata basis.
- No TDS **u/s 194A** by the payer company.

#### Tax Treatment in the hands of Investor

- Maturity or redemption of ZCB will amount to **transfer** u/s 2(47)(iva).

### EMPLOYER'S CONTRIBUTION towards

(iv) **RPF or Approved SF**, Subject to section 43B.

(iva) **Pension scheme** to the extent of **10% of salary** of the employee in PY.

(v) **Approved Gratuity Fund** subject to Section 43B.

### EMPLOYEE'S CONTRIBUTION

(va) Employee's contribution towards RPF/SF/ESIC, if deposited by the employer before DD.

**Note:** Employee's contribution is **first included** in **total income** of the employer. Then **deduction** is given under this section if the sum received is **deposited before due date of filing ROI u/s 139(1)**.

**(vi) ANIMAL ALLOWANCE**

- An Allowance for dead/Permanently useless animals which were used in the business.
- **Amount of Deduction** = Purchase Price of animals – Sum realized on sale of death body.
- **When Allowed:** PY in which animal dies or becomes permanently useless for business.

**(vii) BAD DEBTS (EXCLUDING PROVISIONS FOR BAD DEBT)**

**Conditions:**

- Debt (Loan) must be incidental to the business.
- Such debt must be **charged as income** in computing the income if the assessee of any PY
- Must be **written off** in books of accounts.
- Debt may be money lent in the ordinary course of banking or money lending business

**Second Proviso inserted by FA, 2015:**

If whole or part of Debt has been included in the income of PY in which it becomes irrevocable or earlier PYs without recording the same in the books of accounts; such Debt amount shall be allowed in PY in which, it becomes irrevocable and it shall be deemed that such amount has been written off in the accounts.

**Other points:**

1. In case of succession → Successor is entitled to claim the deduction when a debt originally due to the predecessor is written off as bad debt by the successor in his books of accounts.
2. **Recovery of Bad debts** is **taxable** as **business income** in the **PY of recovery**. [sec 41(4)]

**(ix) EXPENSES ON FAMILY PLANNING**

- Any expenditure incurred by the company for promoting family planning amongst employees will be allowed as deduction in the hands of company.

**Amount of Deduction will be as follows:**

- Revenue Expenditure: Fully allowed in the PY in which it is incurred.
- Capital Expenditure: **1/5<sup>th</sup> of the expenditure allowed in 5 PY's.**

**Note: Treatment of Unabsorbed expenditure** is same as treatment of unabsorbed depreciation.

<b>(xv)</b>	<b>Securities Transaction Tax [STT] paid</b> by the assessee is deductible if the income arising from such a taxable securities transaction is included u/h "PGBP"
<b>(xvi)</b>	<b>Commodity Transaction Tax [CTT] paid</b> by the assessee is deductible if the income arising from such a taxable commodities transaction is included u/h "PGBP".

**Q19.** The profit & loss account for the year ending March 31, 2019 is as follows- **[Section 36(1)(va)]**

Cost of goods sold	75,000	Salary proceeds of goods	2,30,000
Salary to employees	99,000		
Other expenses	10,000		
Net profit	46,000		

Salary of Rs. 99,000 comprises Rs. 9,000 as employee's contribution towards RPF. Out of Rs. 9,000, Rs. 6,000 is credited in employees' PF within Due Date & Rs. 3,000 is credited after the Due Date. Compute the net income of X for AY 2019-20.

**Solution:**

Net profit	46,000
<b>Add:</b> Employees contribution towards PF [it is first included in income - Section 2(24)(x)]	9,000
<b>Total</b>	<b>55,000</b>
<b>Less:</b> Employees contribution towards PF if credited on a date before DD [Section 36(1)(va)]	(6,000)
<b>Net income</b>	<b>49,000</b>

## GENERAL DEDUCTIONS - SECTION 37

- Section 30-36 provides for **Specific deductions** in respect of certain expenditures.
- But still there can be Certain Expenditures which might not get covered in Section 30-36.
- Thus **Section 37** provides for **General deductions**.
- **Only Business Expenditure is Allowable u/s 37.**
- Business losses such as those arising out of embezzlement, theft, destruction of assets, misappropriation by employees etc are allowable u/s 29 as losses incidental to the business.
- Deduction u/s 37 is limited only to the amount actually expended & does not extend to a reserve created against a contingent liability.

### **CONDITIONS FOR ALLOWANCE U/S 37:** Such expenditure shall

1. Not covered in Sec 30 to 36.
2. **Not a capital expenditure** (Only revenue expenditure is deductible u/s 37).
3. Incurred during the PY.
4. It must have been incurred after the business was set up.
5. Incurred wholly & exclusively for business (**Personal Expenditure** is **NOT** deductible).
6. **Legal Purpose only:** Expenditure should not be for any purpose which is an offence, or which is prohibited by law.

### **Points to Remember:**

1. There should be Nexus between Expenses & business.
2. Exclusive benefit may or may not be derived by the assessee. Section 37 requires that the expenditure should be wholly & exclusively incurred for purpose of the business. AO cannot question the necessity of the expenditure in allowing the deduction for such expense which was incurred for the purpose of the business but was unnecessary.

### **Some Important Decisions based on Case Laws:**

Particulars	Deduction u/s 37(1)
Penalties imposed for Infraction of Laws	Not Allowed
Penalty paid for failure to deduct TDS	Not Allowed
Any interest or penalty paid under Direct tax laws	Not Allowed
Interest paid to Sales tax Department on Arrears of Sales tax	Allowed
Penalty levied under CST Act.	Not Allowed
Demurrage paid to port authorities for releasing confiscated goods.	Allowed as it is not a fine.
Interest paid under Employees PF & Misc. provision Act, 1952.	Allowed
Penalty paid by the assessee (contractor) for non-completion of contract within stipulated time.	Allowed as it is not a fine paid for infraction of law.

### **Some Important Circulars:**

1. **Expenditure incurred on keyman insurance policy:** Premium paid on the Keyman Insurance Policy is allowable as **business expenditure**.
2. **Expenditure incurred on CSR:** Not deemed to be incurred for Business & thus **not deductible**.
3. **Expenses incurred in providing freebies to medical practitioner:** CBDT noticed that any expense incurred in providing freebies to medical practitioner is in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette & Ethics) Regulations, 2002. Thus value of freebies enjoyed by the aforesaid medical practitioner or professional associations is also **taxable as business income or IFOS**, as the case may be, depending on the facts of each case.

### **CONTRIBUTION TO POLITICAL PARTIES [SEC 37(2B)]**

- Any expenditure on advertisement in any souvenir, brochure, tract, pamphlet published by Political parties is **not deductible**.
- However it can be claimed as deduction **u/s 80GGB & 80GGC** as **"Donations to PP"**.



## B. SPECIFIC DISALLOWANCES

### INTEREST, ROYALTY, FEES FOR TECHNICAL SERVICES or ANY OTHER SUM (On which Tax is Deductible at Source) [Section 40(a)(i)]

- Payable out of India (to any person) or
- Payable in India (to any NR or Foreign Company)

<b>Conditions for Disallowance</b>	(i) Tax is <b>not deducted</b> before the end of the PY. <b>OR</b> (ii) Tax is deducted but <b>not paid</b> before due date of filing ROI u/s 139(1).
<b>Consequences</b>	<b>100 %</b> of such amount paid/payable is <b>disallowed in that PY</b> .
<b>Deduction or Payment in Subsequent PY</b>	(i) Where tax has been deducted in any subsequent PY <b>OR</b> (ii) has been deducted during the PY but paid after the Due date; then <b>100%</b> of such sum shall be <b>allowed as deduction</b> in computing the income of the <b>PY in which such tax has been paid</b> .

It is to be noted that to get deduction of any sum paid on which tax is deductible;

- (i) Tax should be **deducted** before the end of PY (i.e before 31<sup>st</sup> march of the relevant PY) **AND**
  - (ii) Such deducted tax should be **paid to government before due date of filing ROI u/s 139(1)**.
- Both the conditions** should be satisfied together to get deduction in the relevant PY.

There may exist a situation when tax is deducted after 31<sup>st</sup> march of the relevant PY but such tax is paid to government before due date of filing ROI. In such case, the amount paid shall be disallowed in the PY since tax has not been deducted before 31<sup>st</sup> march. However it will be allowed as deduction in next PY. Both the conditions given above goes hand in hand – [Refer case 5 Below]

**Ex:** For PY 2018-19; Due date of filing ROI u/s 139(1) is 30.09.2019;

Case	Date of TDS	Date of Payment of TDS	Deductible in PY
1	26.07.2018	2.9.2019	PY 2018-19
2	31.03.2019	13.10.2019	PY 2019-20
3	16.05.2018	Not deposited	Not Deductible
4	20.04.2019	20.7.2021	PY 2021-22
5	30.04.2018	10.05.2018	PY 2019-20

### PAYMENTS TO RESIDENT (on which Tax is Deductible at Source) [Sec 40(a)(ia)]

<b>Conditions for disallowance</b>	(i) Such tax is <b>not deducted</b> before the end of PY <b>OR</b> (ii) Tax is <b>deducted but not paid before Due Date</b> of ROI u/s 139(1)
<b>Consequences</b>	<b>30%</b> of such amount paid/ payable is disallowed as deduction in that PY.
<b>Deduction or payment in Subsequent PY</b>	(i) Where tax has been deducted in any subsequent PY <b>OR</b> (ii) has been deducted during the PY but paid after the said DD, <b>30%</b> of such sum shall be <b>allowed as deduction</b> in computing the income of <b>the PY in which such tax has been paid</b> .
<b>Payment of Tax by Resident Payee of such sum [Sec 201]</b>	<ul style="list-style-type: none"> <li>▪ <b>Resident Payee only</b> → If Tax on such income has been <b>paid by the payee</b> by showing such sum as his income in his ROI, then it shall be deemed that Assessee has deducted &amp; paid tax &amp; thus <b>No disallowance</b> under this section.</li> <li>▪ <b>Deemed Date of TDS &amp; Payment of tax</b> → Date of filing ROI by the payee.</li> </ul>

Since date of filing ROI by resident payee is deemed to be the date on which the payer has deducted & paid tax → 30% of such expenditure/payment shall be disallowed u/s 40(a)(ia) in the year in which the said expenditure is incurred. However, 30% of such expenditure will be allowed as deduction in the subsequent year in which ROI is furnished by the resident payee.

- ❖ **INCOME TAX PAID:** on business income is not deductible - Section 40(a)(ii)/(iia)
- ❖ Amount paid by way of **Royalty, License Fee, Service Fee, Privilege Fee** etc. levied exclusively on or appropriated ☒ FROM → SG Undertakings; ☒ BY → SG is **not deductible**. [Sec 40(a)(iib)]

### **SALARY PAID OUTSIDE INDIA/ TO NON-RESIDENT [SEC 40(a)(iii)]**

- Payment of Salary on which tax has been **neither deducted** before the end of PY **nor paid** before DD of filing ROI u/s 139(1).
  - Payable out of India (to any person) or
  - In India (**to any NR**)

**Example:**

SN	Date of TDS	Date of Payment	PY in which Salary is Deductible
1	31/07/2018	10/11/2018	2018-19
2	31/03/2019	30/04/2019	2018-19
3	Not Deducted	12/05/2019	2018-19
4	31/03/2019	Not Deposited	2018-19
5	Not Deducted	Not Deposited	Not Deductible

### **TAX PAID BY EMPLOYER ON NON-MONETARY PERQUISITES [Sec 40(a)(v)]**

- Tax paid on non-monetary perquisites by the employer → **Not Deductible to Employer**.
- Such tax will be **exempt** in the **hands of employee** – [Sec 10(10CC)]

### **DISALLOWANCE IN CASE OF PARTNERSHIP FIRM/LLP [SECTION 40(b)]**

#### **A. REMUNERATION TO PARTNER** [Salary/Bonus/Commission/by whatever name]

Following payments to partners are **disallowed** in the hands of Partnership firm:

1. Remuneration to **Non- Working Partner**.
2. Remuneration to Working Partner if:
  - (a) **Not Authorized** by Partnership deed.
  - (b) **Not in Accordance with T&C** of partnership deed.
  - (c) For the **period prior** to the date of agreement.
  - (d) Exceeding the limit given below ↓

Book Profit	Amount of Remuneration
Book Loss OR Upto <b>Rs. 3 Lacs</b> of Book Profit	Rs 1.5 Lacs OR 90% of Book Profit <b>[Higher]</b>
On the balance of Book Profit <b>[Above 3 Lacs]</b>	60% of the Book Profit

#### **B. INTEREST PAID TO PARTNERS**

Interest paid to partners is disallowed in following cases:

- (a) **Not Authorized** by Partnership deed
- (b) For the **period prior** to the date of Partnership Deed.
- (c) At a Rate **Exceeding 12% p.a.**

#### **Explanation**

- I. Where an Individual is a Partner in the Firm in Representative Capacity.
  - Interest paid by firm to such individual in Individual capacity shall **NOT** be considered.
  - Interest paid by firm to such individual in Representative capacity shall be considered.
- II. Where an Individual is a Partner in the Firm in Individual Capacity
  - Interest paid by firm to such individual on behalf of any other person is not considered.

**CQ20.** A firm has paid Rs. 7,50,000 as remuneration to its partners for the PY 2018-19, in accordance with its partnership deed, and it has a book profit of Rs. 10 lacs. What is the remuneration allowable as deduction?

**Solution:** The allowable remuneration calculated as per the limits specified in section 40(b)(v) would be

Particulars	Rs.
On first Rs. 3 lacs of book profit [Rs. 3,00,000 × 90%]	2,70,000
On balance Rs. 7 lacs of book profit [Rs. 7,00,000 × 60%]	4,20,000
Total	6,90,000

The excess amount of Rs. 60,000 (i.e., Rs. 7,50,000 – Rs. 6,90,000) would be disallowed as per section 40(b)(v).

## REMUNERATION PAID BY AOP/BOI TO ITS MEMBER [Section 40(ba)]

➤ Salary, Bonus, Commission paid by AOP/BOI to its Member → **Not Deductible.**

### **Explanation**

- Where interest is paid by AOP/BOI to a member who has paid interest to AOP/BOI, amount of interest to be **disallowed** shall be **net amount** of interest paid by AOP/BOI to the partner.
- Where an Individual is a Member in AOP/BOI in Representative Capacity;
  - Interest paid by AOP/BOI to such individual in Individual capacity shall **NOT** be considered.
  - Interest paid by AOP/BOI to such individual in Representative capacity shall be considered.
- Where an Individual is a Member in AOP/BOI in Individual Capacity
  - Interest paid by AOP/BOI to such individual on behalf of any other person is not considered.

## SEC 40A(2) : PAYMENT TO RELATIVES

**Applicability:** This section is applicable if:

- Payment** for any Expenditure is made to a **related person** &
- Such payment is considered to be **excessive or unreasonable by AO.**

**Disallowance:** Expenditure to the extent it is **Excessive or unreasonable** is **Disallowed.**

### **Meaning of Relatives:**

Payer	Payments made to / received by ( Payee)
Individual	(i) Relative, (ii) Person in whose business individual or his relative has a substantial interest.
Company	(i) Director, (ii) Relative of the director, (iii) Person in whose business Company, Director or his relative has substantial interest. (iv) Relative of such Director/ Partner/ Member or any other Company carrying on business or profession in which the first mentioned Company has substantial interest.
Firm	(i) Partner, (ii) Relative of the partner, (iii) Person in whose business the firm, any partner or any other relative of such a partner has substantial interest.
AOP	(i) Member, (ii) Relative of the member, (iii) Person in whose business the AOP, any member or any other relative of such a member has substantial interest.
HUF	(i) Member, (ii) Relative of the member, (iii) Person in whose business the HUF, any member or any other relative of such a member has substantial interest.
Any other Assessee	(i) Individual who has a substantial interest in the Assessee's business/profession, or relatives of such individual, or (ii) Company/ firm/ AOP/ HUF/ having substantial interest in the assessee's business or profession, or any director/ partner/ Member of such company/ firm/ AOP/ HUF, or any relative of such director/ Partner/ Member.

## PAYMENT IN CASH [OTHER THAN A/C PAYEE CHEQUE ETC] [SEC 40A(3)]

### Conditions for Disallowance u/s 40A(3):

1. Assessee incurs any expenditure exceeding Rs. 10,000 which is **deductible** u/h PGBP.
2. A Payment or **Aggregate of Payments** made to **A Person** in **A Day** for **An Expenditure exceeds Rs. 10,000** [Rs. 35,000 in case of payment made for Plying, Hiring, Leasing Goods Carriages].
3. Above Payment is made **otherwise than by A/c payee cheque/draft/Internet Banking**.

Then → **NO DEDUCTION** shall be allowed for such expenditure.

**Ex:** If for an expenditure of Rs. 32,000 incurred by X Ltd, 4 cash payments of Rs. 8,000 each are made on a particular day to Mr. Y as: (1) Morning at 10 AM; (2) @ 12 Noon; (3) @ 3 PM & (4) @ 6 PM, Entire expenditure of Rs. 32,000 would be disallowed u/s 40A(3), since Aggregate cash payments made during a day to Mr. Y > Rs. 10,000.

### Points to Remember:

1. If the expenditure has been allowed as deduction in any earlier PY on accrual basis (if assessee is following accrual basis) & payment for such expenditure has been made in any subsequent PY exceeding Rs. 10,000/35,000 in cash to a person in a day, then such payment shall be deemed to be the income of the PY in which payment is made.
2. Repayment of Loans → Sec 40A(3) doesn't Apply.

But it applies to interest payments since interest is a deductible expenditure.

### CQ21. Determine the amount of disallowance in the cases given below –

- |  |
|--|
| 1. Generally X pays salary to his employees by A/c payee cheque. Salary of December 2018 is, however, paid to three employees A, B & C by Bearer cheque (payment of Rs. 6,000, Rs. 10,000 & Rs. 12,500, respectively). |
| 2. X Ltd. Purchases goods on credit from Y Ltd. on 6.5.2018 for Rs. 76,000 which is paid as follows:<br>(a) Rs. 5,000 in cash on 1.5.2018 (b) Rs. 30,000 by a bearer cheque on 5.5.2018 & remaining with netbanking.   |
| 3. Z Ltd. Purchases goods on credit from A Ltd. on 10.5.2018 for Rs. 6,000 & on 30.5.2018 for Rs. 5,000. The total amount is paid on 1.7.2017 in cash.   |
| 4. A Ltd. purchases goods on credit from a relative of a director on 20.6.2018 for Rs. 50,000 (Market value; Rs. 42,000). The amount is paid in cash on 25.6.2018.   |
| 5. A Ltd purchase raw material on credit from B Ltd. in which A Ltd. holds 20% equity shares, (amount of bill being Rs. 26,000, market price being Rs. 9,000). It is paid in cash on 26.07.2018.                       |

### Solution:

- |  |
|--|
| 1. Rs. 12,500, being 100% of salary paid by bearer cheque to C, will be disallowed.  |
| 2. Nothing will be disallowed out of the payment of Rs. 5,000 cash on 11.05.2018, as the payment does not exceed Rs. 10,000. 100% of Rs. 30,000 will be disallowed. Nothing will be disallowed in case of Netbanking.  |
| 3. Though the amount of payment exceeds Rs. 10,000, nothing shall be disallowed. To attract disallowance, <b>the amount of bill as well as the amount of payment</b> should be more than Rs. 10,000.   |
| 4. Out of the payment of Rs. 50,000 Rs. 8,000 (being the excess payment to relative) shall be disallowed u/s 40(A)(2). As the payment is made in cash & remaining amount exceeds Rs. 10,000, 100% of the balance (i.e. Rs. 42,000) shall be disallowed u/s 40A(3).                             |
| 5. Out of the payment of Rs. 36,000, Rs. 17,000 (being the excess payment to person holding a substantial interest) shall be disallowed u/s 40A(2). Remaining amount (i.e., Rs. 9,000) does not exceed Rs. 10,000. Nothing shall be disallowed u/s 40A(3) even if the payment is made in cash. |

**Exceptions:** [In the following cases, NO Disallowance even if amount paid > Rs. 10,000]

- |   |
|---|
| 1. Payment made to <b>Banks</b> (including Private & Co-operative Bank, Credit Societies & LIC.)  |
| 2. Payment made to <b>Government</b> when such payment is required to be made in legal tender.  |
| 3. Payment through <b>Banking System</b> .  |
| 4. Payment by <b>Book Adjustments</b> against any liability incurred.   |
| 5. Payments made to the <b>Cultivator, Grower or Producer</b> of agricultural, forest, animal husbandry or dairy or poultry, fish, horticulture, apiculture products. |

6. Payment to the <b>producers</b> of goods in <b>cottage industry without</b> the aid of <b>power</b> .
7. Payment made at the <b>place</b> which on the date of payments is <b>not served</b> by <b>bank</b> .
8. Any <b>terminal benefits</b> [Ex: Retirement or gratuity etc.] <b>≤ Rs. 50,000</b> .
9. Payment to Employees on <b>temporary posting for a continuous period of 15 days or more</b> if such payment is made after TDS & such employee <b>does not maintain any bank account</b> at such place.
10. Payment made on a day on which <b>Banks</b> were <b>closed</b> due to <b>holiday or strike</b> .
11. Payments made by any person to his <b>commission agent</b> who is required to make payment in cash for goods or services on behalf of such person.
12. Payment made by <b>Authorized Dealer or Money changer</b> against <b>purchase of Foreign currency</b> or Traveller's cheque in the normal course of his business.

**CQ22.** Please advise whether sec. 40A(3) will apply to cases given as below

- (i) Advance for purchase of material was paid in cash Rs. 60,000 on 15.06.2018. Material was delivered on 7.8.2018. Balance payment of Rs. 2,00,000 was made by crossed cheque.
- (ii) Donations paid in cash Rs. 35,000.
- (iii) Cash payment of Rs. 80,000 made to a farmer for purchase of agriculture produce in a village which is served by bank.
- (iv) Purchase of Raw Material of Rs. 40,000 was made on 10.10.2018 from nephew, market price is rated Rs. 30,000. Mode & date of payment:
  - (a) 1.11.2018: Cash payment Rs. 5,000.
  - (b) 1.12.2018: Payment by bearer cheque Rs. 10,000.
  - (c) 15.01.2019: Cash payment Rs. 25,000.
- (v) Cash purchase of land Rs. 10,00,000 held as stock-in-trade by an estate dealer.
- (vi) Cash payment of Rs. 70,000 made by the consignee for the goods received on consignment.
- (vii) Cash payment of Rs. 5,00,000 made by an authorized dealer against travelers cheque.

**Answer:**

- (i) Cash advance given against purchase of raw material is also an outgoing expenditure. 100% of Rs. 60,000 will be disallowed. Also, 100% of Rs. 2,00,000 is disallowed as payment is not made by an account payee cheque.
- (ii) Section 40A(3) does not apply to cash donations as it is not deductible u/s 30 to 37. [Check 80G conditions]
- (iii) Cash payment exceeding Rs. 10,000 for the purchase of agriculture produce to the cultivator has been excluded from the ambit of Sec. 40A(3) vide rule 6DD. Hence, there will be no disallowance even though the payment has been made in a village served by banking facilities.
- (iv) Section 40A(2) does not apply in the instant case as nephew is not relative. Section 2(41) includes brother within the meaning of relative but not brother's son.  
Thus, Cash payment of Rs. 25,000 on 15.1.2019 shall be covered by the disallowance u/s 40A(3).
- (v) Rs. 10,00,000 will be disallowed as purchase of stock-in-trade is a business revenue expenditure.
- (vi) Section 40A(3) is not applicable to consignee as he has not purchased the goods on his account.
- (vii) Section 40A(3) does not apply to an authorised dealer or money changer.

**CQ23.** Examine the following payments made by cash for disallowance u/s. 40A(3).

- (a) Payment of Rs. 1,40,000 from a village which doesn't hold a bank account.
- (b) Payment of premium for employees' life insurance to LIC for Rs. 78,000.
- (c) Purchase of stock amounting to Rs. 67,000 due for payment on the day of Telangana strike.
- (d) Payment made to son of a deceased employee on account of gratuity amounting to Rs. 95,000.

**Answer:** In respect of situation in (a) to (c), exceptional cases provided u/R 6 DD applies. Thus, no disallowance warranted u/s. 40A(3) even though the payment is made by cash.

In respect of situation (d), Rule 6DD provides for payment of gratuity or retrenchment compensation paid to legal heir of deceased employee not exceeding Rs. 50,000 shall not be disallowed.

In the given case, the sum paid exceeds Rs. 50,000 & thus entire expenditure of Rs. 95,000 shall be disallowed.



## PROVISION FOR UNAPPROVED GRATUITY TO EMPLOYEES - SEC 40A(7)

- Any Provision made in the books of A/c for payment of unapproved gratuity which is **Not yet due** → **Not Deductible**.

### Exceptions:

1. Contribution towards **Approved Gratuity Fund**.
2. Provision for Gratuity that has **become Due & Payable during PY** by virtue of the Employee's Retirement, Death, Termination of service etc.

### CQ24. Discuss the amount deductible in the following cases

(i) X retires from the services of Y Ltd. on May 31, 2018. The company pays gratuity of Rs. 1,60,000, according to the provisions of the Payment of Gratuity Act, 1972. Y Ltd. does not maintain any provision for gratuity account.

(ii) Z Ltd. maintains an approved gratuity fund. A sum of Rs. 1,00,000 being employer's contribution towards the gratuity fund, is debited to the P & L A/c ending March 31, 2019.

### Solution:

(i) Where gratuity is paid during the PY or where gratuity has become payable during the PY, it is deductible if NO deduction has been claimed on the basis of Provisions earlier. Consequently, Rs. 1,60,000 is allowed as deduction for AY 2019-20.

(ii) Where any provision is made for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, it is allowed as deduction. It is assumed that provisions of section 43B are satisfied.

## CONTRIBUTION BY EMPLOYER TO UNRECOGNIZED PF [SEC 40A(9)]

- Contribution to Any Fund which is not required by Law (Non-Statutory).

**Note:** Contribution to SPF/SF/GF, Pension Fund is deductible as they are required by Law.

**CQ25.** X Ltd. contributes 20% of basic salary to the account of each employee under a pension scheme referred to in section 80CCD. DA = 40% of basic salary & it forms part of pay of the employees. Compute the deduction allowable u/s 36(1)(iva), if the basic salary of the employee = Rs. 10 lacs. Would disallowance u/s 40A(9) be attracted, & if so, to what extent?

**Solution:** Computation of deduction u/s 36(1)(iva) & disallowance u/s 40A(9)

Particulars	Rs.
Basic Salary	10,00,000
Dearness Allowance@40% of basic salary [DA forms part of pay]	4,00,000
Salary for the purpose of section 36(1)(iva) (Basic Salary + DA)	14,00,000
Actual contribution (20% of basic salary i.e., 20% of Rs. 10 lacs)	2,00,000
Less: Permissible deduction(10% of basic salary + DA) = 10% of Rs. 14,00,000 = Rs. 1,40,000)	1,40,000
Excess contribution disallowed u/s 40A(9)	60,000



## DEEMED PROFIT & THEIR TREATMENT [SECTION 41]

<b>Sec 41(1)</b>	<p style="text-align: center;"><b><u>RECOVERY AGAINST ANY DEDUCTION</u></b></p> <ul style="list-style-type: none"> <li>➤ Deduction of any Loss, Expenditure or Trading Liability was allowed in any earlier year; &amp;</li> <li>➤ During the current PY, the assessee has obtained: <ul style="list-style-type: none"> <li>▪ Refund of such expenditure OR</li> <li>▪ Some Benefits in respect of such Trading liability. (Remission/Cessation of such liability; then</li> </ul> </li> <li>➤ Such refunded expenditure or remitted/ceased liability shall be deemed to be the income of the Assessee.</li> <li>➤ Year of Taxability → <b>PY in which Amount is Recovered OR Liability is Remitted.</b></li> </ul>
<p><b>Examples:</b></p> <ol style="list-style-type: none"> <li>Rs. 1,50,000 is paid as sales tax by X during PY 2016-17 &amp; same is allowed as deduction. Mr. X claims a refund of Rs. 10,000 on 16/06/2018 from sales tax department after getting a favourable verdict from Delhi High Court. Rs. 10,000 is taxable for the PY 2018-19.</li> <li>Suppose before the verdict of Delhi High Court, X dies &amp; the business is continued by his son Y who gets a refund of Rs. 10,000 from the sales tax department, Rs. 10,000 is taxable as business income of Y.</li> <li>An assessee is allowed deduction for PY 2016-17 in respect of Rs. 42,000 misappropriated by his cashier. In PY 2018-19 Rs. 8,000 (out of the sum so misappropriated) is recovered by the assessee. Rs. 8,000 is chargeable to tax as business income for PY 2018-19.</li> <li>X pays Rs. 80,000 as excise duty &amp; claims it as deduction in PY 2013-14. Later on in PY 2018-19 he gets a refund Rs. 20,000 from CBDT after obtaining a favourable verdict from Delhi HC. CBDT files the suit in SC &amp; the matter is still pending. In this case, Rs. 20,000 is taxable in PY 2018-19. If SC decides the appeal against the assessee, the amount, which will be paid back, will be deductible in the year of payment as per sec. 43B.</li> </ol>	
<b>Sec 41(2)</b>	<p style="text-align: center;"><b><u>BALANCING CHARGE</u></b></p> <ul style="list-style-type: none"> <li>➤ Balancing Charge on assets on which depreciation is charged on SLM basis, in case of power generating/distributing undertakings.</li> <li>➤ Year of Taxability: <b>Year of transfer/sale.</b></li> </ul>
<b>Sec 41(3)</b>	<p style="text-align: center;"><b><u>SALE OF ASSET USED FOR SCIENTIFIC RESEARCH</u></b></p> <ul style="list-style-type: none"> <li>➤ Taxable Amount = <b>LOWER OF (1) OR (2).</b> <ul style="list-style-type: none"> <li>(a) Deduction Allowed OR</li> <li>(b) Surplus (Sale Proceeds + deduction allowed – cost of asset).</li> </ul> </li> <li>➤ Year of Taxability: <b>Year of transfer/sale.</b></li> </ul>
<b>Sec 41(4)</b>	<p style="text-align: center;"><b><u>RECOVERY OF BAD DEBT ALLOWED AS DEDUCTION U/S 36(1)(vii)</u></b></p> <ul style="list-style-type: none"> <li>➤ Year of Taxability: <b>Year of Recovery.</b></li> </ul>
<b>Sec 41(5)</b>	<p style="text-align: center;"><b><u>ADJUSTMENT OF LOSS - SECTION 41(5)</u></b></p> <ul style="list-style-type: none"> <li>➤ Generally, loss from business <b>cannot be c/f after 8 years.</b></li> <li>➤ However, loss suffered in the <b>year of Discontinuance</b> (only) can be <b>set off</b> against any income taxable u/s 41(1), (3), (4), (4A) [Above deemed Incomes].</li> </ul>
<p><b>CQ26.</b> A business (not being a speculation business) is discontinued on December 10, 1986. At the time there is unadjusted business loss of Rs. 35,000 (i.e., Rs. 10,000 of PY 1985-86 &amp; Rs. 25,000 pertaining to the period commencing on April 1, 1986 &amp; ending on December 10, 1986). On 20 May 2018, the assessee recovers a debt of Rs. 48,000 from a debtor which was allowed as bad debt in PY 1985-86 (or may be in some other year). Find out the taxable notional profit for PY 2018-19 u/s 41.</p> <p><b>Solution:</b> Bad debt recovered in PY 2018-19 will be taxable u/s 41(4). However such deemed income can be set off (adjusted) against the unabsorbed loss of the year of discontinuance. Thus loss of Rs. 25,000 can be set off against such deemed Income. Thus taxable income for PY 2018-19 = Rs. 48,000 – Rs. 25,000 = Rs. 21,000. It is to be noted that loss of the earlier years of discontinuance cannot be adjusted against such deemed income.</p>	

## EXPENDITURES DEDUCTIBLE ON PAYMENT BASIS ONLY [SEC 43B]

➤ **Conditions for Applicability of 43B:** Assessee following **Mercantile Basis** of Accounting **only**.

Following Expenses (which are deductible in normal circumstances) are **deductible** in the relevant **PY only** if they are **paid before due date of filing ROI** of such PY u/s 139(1).

1. Tax, Duty, Cess or Fee (by whatever name called) levied under any law.
2. Employer's Contribution to any PF/SF/Gratuity Fund or any recognized welfare fund.
3. Bonus or Commission to employees [Arrears of salary & other benefits → not covered in 43B].
4. Interest on any Loan or borrowing from any PFI/SFC/SIIC.
5. Interest on any Loan or advances from a Scheduled Bank (including co-operative bank).
6. Sum payable by the employer in lieu of any Leave standing at the credit of his employee.
7. Any sum Payable to Indian Railways for the use of Railways Assets.

### Points to Remember:

- ❖ **Conversion of unpaid interest into Fresh Loan by Bank / FI** → If unpaid Interest is converted into Loan/Advances, it shall not be deemed to be paid & thus **no deduction** shall be allowed.
- ❖ **Conversion of unpaid Sales tax into Loan by State Government** → If unpaid sales tax is converted into loan by State Government, it shall be deemed to have been paid & thus **deduction** shall be **allowed**.

**CQ27.** An analysis of the P & L A/c & balance sheet of X as on 31.03.2019 reveal that the following expenses which were due, were debited to P&L A/c but have been paid after 31.03.2019.

Service Tax	Rs. 1,00,000	Rs. 80,000 paid on 1.4.2019 & Rs. 20,000 paid on 25.4.2020
Interest on loan taken from PFI	Rs. 80,000	Rs. 70,000 paid on 30.6.2019 & Rs. 10,000 paid on 8.7.2019
Commission to staff	Rs. 40,000	Paid on 1.8.2019
Employer's contribution to ESI	Rs. 15,000	Rs. 10,000 paid on 28.6.2019 & Rs. 5,000 paid on 8.9.2019

DD of filing ROI is 31.7.2019. In which AYs can the above payments be claimed as a deduction?

**Solution:**

Nature of Payment	AY 2019-20	AY 2020-21	AY 2021-22
Service Tax	Rs. 80,000	----	Rs. 20,000
Interest on loan taken from PFI	Rs. 70,000 & Rs. 10,000	----	-----
Commission to Staff	----	Rs. 40,000	-----
Employer's contribution to ESI	Rs. 10,000	Rs. 5,000	-----
<b>Total deduction allowed</b>	<b>Rs. 1,70,000</b>	<b>Rs. 45,000</b>	<b>Rs. 20,000</b>

## ADJUSTMENT IN COA OF ASSET DUE TO CHANGE IN FOREX RATE [SEC 43A]

- If any business asset is acquired/Loan is taken in Foreign Currency;
- At the time of payment, there is a change in Foreign exchange rates (as compared to the rates on the date of loan), Such difference [**Increase/decrease in liability**] shall be adjusted to the cost of acquisition of Asset to the extent of amount paid. [Change in outstanding amount shall be ignored]
- Such **Increased/Decreased** cost shall be **taken into consideration** for all purposes of Tax.

**Note:** Consider Profit/loss only on the amount actually paid during the year & Ignore loss/profit on outstanding amount.

## FULL VALUE OF CONSIDERATION IN CASE OF TRANSFER OF L&B HELD AS SIT [SECTION 43CA] → To be Studied with Section 50C u/h "Capital Gains"

## COMPULSORY MAINTENANCE OF BOOKS OF ACCOUNTS - SECTION 44AA

### A. SPECIFIED PROFESSIONS

GR > Rs. 1,50,000 in <b>All</b> of the last 3 PYs.	Books prescribed u/r 6F.
GR ≤ 1,50,000 in <b>Any</b> of the last 3 PYs.	Such books of account & documents which enable AO to compute their taxable income.

**Specified Profession:** Specified Profession include persons carrying on Legal, Medical, Engineering, Architectural, Accountancy, Technical consultancy or Interior Decoration or any other NOTIFIED profession. *Authorised representatives, film artists & company secretaries & Information Technology have been notified for this purpose till date.*

### B. FOLLOWING PERSON WILL BE REQUIRED TO MAINTAIN SUCH BOOKS OF ACCOUNTS WHICH WILL ENABLE AO TO COMPUTE THEIR TAXABLE INCOME

<b>1. INDIVIDUAL/HUF</b> carrying Non-Specified Business or Profession: <ul style="list-style-type: none"> <li>Income &gt; Rs. 2,50,000 <b>OR</b> Sale, T/O or GR &gt; 25,00,000 in ANY ONE of the last 3 PY.</li> </ul>
<b>2. OTHER THAN INDIVIDUAL/HUF</b> carrying non – specified profession or business: <ul style="list-style-type: none"> <li>Income ≤ 1,20,000 <b>OR</b> Sales, T/O or GR ≤ 10,00,000 in ANY ONE of the last 3 PY.</li> </ul>
<b>3.</b> Person showing <b>Lower Income</b> than Income computed on <b>Presumptive basis</b> u/s 44AE.
<b>4. If Sec 44AD(4) is applicable to him &amp; his income exceeds BEL in any of those PY:</b> <ul style="list-style-type: none"> <li>If Any assessee is NOT Eligible to claim the benefit of the provisions of Sec. 44AD(1) for 5 AYs subsequent to the PY in which the profit has not been declared on presumptive basis as per 44AD(1) &amp; his Income exceeds BEL during the PY.</li> </ul>

**CQ28.** Mr. X carrying on profession as film artist gives the details of his gross receipts from profession:

PY 2015-16: Rs. 1,15,000	PY 2016-17: Rs. 1,80,000	PY 2017-18: Rs. 2,10,000
--------------------------	--------------------------	--------------------------

Is he required to maintain any books of account u/s. 44AA? If so, what are these books?

**Answer:** Gross receipts from profession should be > Rs. 1,50,000 in all 3 immediately preceding previous years. In the given case, though in the immediately preceding 2 years, the gross receipts have exceeded Rs. 1, 50,000 but for PY 2015-16, GRs has not exceeded Rs. 1,50,000. Thus X is not required to maintain books of accounts u/s. 44AA. He will maintain such books of account so as to enable AO to compute his income.

### SOME OTHER PROVISIONS:

[To be Read once]

#### (i) Place at which books are to be kept & maintained:

- Place where the person is carrying on the profession, or where there is more than one place, at the principal place of his profession.
- However, if he maintains separate set of books for each place of his profession, such books & documents may be kept & maintained at the respective places.

#### (ii) Minimum period of maintenance of books of A/Cs & other documents:

- Minimum of 6 years from the end of the relevant AY.

#### (iii) Books of accounts & documents prescribed in Rule 6F:

[To be Read once]

- Cash book; Ledgers
  - Journal, if accounts are maintained on mercantile basis;
  - Carbon copies of Bills & Receipts issued (serially numbered) for Amount > Rs. 25;
  - Original Bills & Receipts issued to the person in respect of expenditure incurred by the person, or where such bills & receipts are not issued, payment voucher prepared & signed by the person, provided the amount < Rs. 50.
- Where the cash book contains adequate particulars, the preparation & signing of payment voucher is not required.

#### Additional requirement in case of person carrying on Medical Profession:

- Daily case registers in Forms 3C.
- Inventory under broad heads of the stock of drugs, medicines & other consumable accessories as on the First & last day of the PY used for his profession.

## COMPULSORY AUDIT OF BOOKS OF ACCOUNTS [SECTION 44AB]

Different Taxpayer	Circumstances when audit is compulsory
Business Person	If Total Sale, Turnover or Gross Receipt for PY > <b>Rs. 1 Crore</b> . **
Professionals	If his Gross Receipts for PY > <b>Rs. 50 Lacs</b> .
Person covered u/s 44AE	If such person claims that his income is LOWER than Income computed on Presumptive basis. (Such Audit have nothing to do with their turnover)
Person covered u/s 44AD & Sec 44ADA	If such person claims that his income is LOWER than Income computed on Presumptive basis & his Income Exceeds BEL.
Person covered u/s 44AD(4)	If his Income Exceeds BEL.

\*\* Requirement of Compulsory Audit u/s 44AB **does not** apply to a person who declared profit u/s 44AD on presumptive basis & his Total Sales, Turnover, or Gross Receipts ≤ **Rs. 2 Crores**.

**CQ29.** Mr. Ram is having three businesses. State whether he has to get his books of account audited u/s. 44AB?

Particulars	Turnover during PY 2018-19
Business 1	60 Lacs
Business 2	35 Lacs
Business 3(44AE)	8 Lacs

**Answer:** Though Aggregate turnover of all the three businesses exceeds Rs. 1 Crore, according to Sec 44AE, for the purpose of computing monetary limit, the gross receipts from the business referred to in Sec. 44AE shall be excluded. Accordingly, Rs. 8 lacs shall not form part of the computation of limits for the purpose of Sec. 44AB. The aggregate turnover of other two businesses is less than Rs. 1 Crore (Rs. 95 lacs in the given case.). Thus the books of account of Mr. Ram is not subject to tax audit u/s. 44 AB.

## PRESUMPTIVE INCOME OF ELIGIBLE BUSINESS [SEC 44AD]

<b>Eligible Assessee</b>	<ul style="list-style-type: none"> <li>Resident Individual/HUF/Partnership Firm (not being a LLP) &amp;</li> <li>Assessee has not claimed deduction u/s 10A/AA/B/BA, 80HH to 80RRB in the relevant AY.</li> <li>Such assessee should carry any business (other than Negative Listed).</li> <li><b>Turnover in the PY of such business does not exceed Rs 2 Crores</b></li> </ul>
<b>Negative list</b>	<ul style="list-style-type: none"> <li>The provisions of Sec. 44AD are NOT applicable to: <ul style="list-style-type: none"> <li>(a) Person carrying on specified profession as referred in Sec. 44AA(1),</li> <li>(b) Person earning income in the nature of Commission or brokerage, or</li> <li>(c) Person carrying on any Agency business.</li> <li><b>(d) Business of plying, hiring, or leasing goods carriages specified u/s 44AE.</b></li> </ul> </li> </ul>
<b>Income</b>	<ul style="list-style-type: none"> <li><b>Income = 8% of Turnover.</b></li> <li>However, <b>Income = 6% of Turnover/GR</b> for amount received by <b>A/c Payee cheque</b>/draft/Netbanking during PY or before DD of Filing ROI u/s 139(1)</li> </ul>
<b>No Deduction</b>	<ul style="list-style-type: none"> <li>No Deduction u/s 30 - 38 shall be available.</li> </ul>
<b>Maintenance of Books</b>	<ul style="list-style-type: none"> <li>Not required.</li> </ul>
<b>Audit</b>	<ul style="list-style-type: none"> <li>Not required.</li> </ul>

<b>Chapter VI-A Deductions</b>	<ul style="list-style-type: none"> <li>Deduction u/s 80C to 80U shall be <b>available</b> to the Assessee.</li> </ul>
<b>Advance Tax</b>	<ul style="list-style-type: none"> <li>He is required to pay Advance Tax in <b>1 installment on/before 15th March</b>.</li> </ul>
<b>Depreciation</b>	<ul style="list-style-type: none"> <li>Depreciation for subsequent PY when he ceases to be eligible assessee for section 44AD → WDV of the Assets shall be computed, as if Depreciation had been allowed in earlier year.</li> </ul>

#### Q. Can Assessee declares Lower Income? YES

1. He will have to maintain books of accounts. &
2. If the declared income exceeds BEL, he will have to get his books of accounts audited.

**CQ30.** Mr. Ramanshu is an eligible assessee business u/s 44AD. Particulars are as under:

Gross receipt	Rs. 80,00,000
Expenditure deductible u/s 30 to 37	Rs. 76,60,000
Net Profit	Rs. 3,40,000
Deduction u/s 80C	Rs. 1,00,000

Calculate total taxable income if he opts for sec 44AD. Can the assessee claim lower profits.

**Solution:** If an assessee opts for Section 44AD, profit from his business whose turnover does not exceed Rs.2 crores shall be presumed to be 8% of the turnover, Thus, in the given case, 8% of Rs. 80,00,000 i.e. Rs. 6,40,000 shall be presumed to be his profit from his business & no further deduction shall be allowed to him u/s 30 to 38. His total taxable income will be Rs. 5,40,000 (Rs. 6,40,000 - Rs. 1,00,000 80C Deduction) & assessee is not required to maintain books of account.

However, if the assessee wants to claim the lower profit of Rs. 3,40,000 from PGBP, then he can do so without maintaining the books of accounts as required u/s 44AA & without getting his accounts audited u/s 44AB, since in that case his total taxable income shall be Rs. 2,40,000 (Rs. 3,40,000 - Rs. 1,00,000 80C Deduction) which is < BEL.

#### Note:

(i) In above case, if deduction was not available to assessee & he wants to claim lower profit, then he is required to maintain the books of accounts & others document referred to in sec 44AA & get his accounts audited u/s 44AB.

(ii) Also, as per the amendment made by the Finance Act, 2016, if Mr. Ramenshu wants to claim profits lower than the presumptive profits within the period of 5 years from the year he was first covered u/s 44AD, then shall not be eligible for claiming presumptive income u/s 44AD for next five A.Y & required to maintain books of A/cs & other document & get his accounts audited in the years in which his total income exceeds the BEL.

**SECTION 44AD(4):** If an eligible assessee declares profit for any PY as per 44AD on presumptive basis & he **does not declare profit on presumptive basis** as per section 44AD(1) **for any of the next 5 consecutive PY**, he **becomes ineligible** to claim the **benefit of presumptive income** as per AD(1) for next 5 AYs subsequent to PY in which profit has not been declared as per 44 AD.

**Ex.** Mr. A, being an eligible assessee u/s 44AD whose GR do not exceed Rs. 2 crores in any of the AYs between AY 2019-20 to AY 2021-22

Particulars	AY 2019-20	AY 2020-21	AY 2021-22
Gross receipts	Rs. 1,80,00,000	Rs. 1,90,00,000	Rs. 2,00,00,000
Income offered for taxation	Rs. 14,40,000	Rs. 15,20,000	Rs. 10,00,000
% of gross receipts	8%	8%	5%
Income offered as per 44AD	Yes	Yes	No

In above case, Mr. A opts for presumptive taxation u/s 44AD for AY 2019-20 & AY 2020-21 & offers income of Rs. 14.40 lacs & Rs. 15.20 lacs on GR of Rs. 1.80 crore & Rs. 1.90 crore respectively.

However, for AY 2020-21, he offers income of only Rs. 10 lacs on GR of Rs. 2 crores, which amounts to 5% of his GR. He maintains books of accounts u/s 44AA & gets the same audited u/s 44AB. Since he has not offered income as per the provisions of sec 44AD(1) for 5 consecutive AYs after AY 2019-20, he will not be eligible to claim benefit of sec 44AD for next 5 AYs succeeding AY 2021-22 i.e., for AY 2022-23 to AY 2026-27.

## PRESUMPTIVE INCOME OF ELIGIBLE PROFESSIONALS [SEC 44ADA]

<b>Eligible Assessee</b>	<ul style="list-style-type: none"> <li>▪ <b>Resident Person</b> engaged Legal, Medical, Engineering, Architectural, Accountancy, Technical consultancy or Interior Decoration or any other NOTIFIED profession. Authorised representatives, film artists &amp; company secretaries &amp; Information Technology have been notified for this purpose till date &amp;</li> <li>▪ <b>Gross Receipt does not exceed 50 Lacs.</b></li> </ul>
<b>Income</b>	▪ <b>50% of Gross Receipt.</b> However, Assessee can declare Higher Income.
<b>No Deduction</b>	▪ <b>No</b> Deduction u/s 30 - 38 shall be available.
<b>Maintenance of Books</b>	▪ Not required.
<b>Audit</b>	▪ Not required.
<b>Chapter VI-A Deductions</b>	▪ Deduction u/s 80C to 80U shall be <b>available</b> to the Assessee.
<b>Advance Tax</b>	▪ He is required to pay Advance Tax in <b>1 installment on/before 15<sup>th</sup> March.</b>
<b>Depreciation</b>	▪ Depreciation for subsequent PY when he ceases to be eligible assessee for section 44AE → WDV of the Assets shall be computed, as if Depreciation had been allowed in earlier year.

### Q. Can Assessee declares Lower Income? YES.

1. He will have to maintain books of accounts &
2. If the declared income exceeds BEL, he will have to get his books of accounts Audited.

## PRESUMPTIVE INCOME OF TRANSPORT ASSESSEES [SEC 44AE]

<b>Eligible Assessee</b>	<ul style="list-style-type: none"> <li>▪ Persons carrying on business of plying, hiring, &amp; leasing goods carriages &amp; <b>not owning more than 10 Goods Carriages at any time during the PY.</b></li> </ul>	
<b>Income</b>	<b>Heavy Goods Vehicles</b>	<b>Rs. 10,000 per ton</b> of gross vehicle weight or unladen weight <b>for every month or part</b> of it.
	<b>Other than Heavy Vehicles</b>	<b>Rs. 7,500 per ton</b> of gross vehicle weight or unladen weight <b>for every month or part</b> of it.
	<p><i>only for the period during which vehicle is owned by Assessee in the PY.</i></p> <ul style="list-style-type: none"> <li>▪ However, assessee can declare higher income.</li> </ul>	
<b>No Deduction</b>	<ul style="list-style-type: none"> <li>▪ No Deduction u/s 30 - 38 shall be available.</li> <li>▪ However, <b>Salary &amp; Interest paid by firm to partner → Deductible. {Amd}</b></li> </ul>	
<b>Maintenance of Books &amp; Audit</b>	▪ Not required.	
<b>Chapter VI-A Deductions</b>	▪ Deduction u/s 80C to 80U shall be <b>available</b> to the Assessee.	
<b>Advance Tax</b>	▪ He is required to pay Advance Tax in <b>1 installment on/before 15<sup>th</sup> March.</b>	
<b>Depreciation</b>	▪ Depreciation for subsequent PY when he ceases to be eligible assessee for section 44AE → WDV of the Assets shall be computed, as if Depreciation had been allowed in earlier year.	



**Q. Can Assessee declares Lower Income? YES.**

1. He will have to maintain books of accounts &
2. If the declared income exceeds BEL, he will have to get his books of accounts audited.

**Meaning of Some terms:**

1. **Heavy Vehicle:** Any goods carriage whose gross vehicle weight > 12,000 kgs.
2. Gross vehicle weight: Total weight of the vehicle & load certified & registered by the authority.
3. Unladen weight: Weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working but excluding (i) Weight of driver/attendant and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative body or part.

**CQ31.** Mr. X commenced the business of operating goods vehicles on 1.4.2018. He purchased the following vehicles during the PY 2018-19. Compute his income u/s 44AE for AY 2019-20.

	Gross Vehicle Weight (in kilograms)	Number	Date of purchase
(1)	7,000	2	10.04.2018
(2)	6,500	1	15.03.2019
(3)	10,000	3	16.07.2018
(4)	11,000	1	02.01.2019
(5)	15,000	2	29.08.2018
(6)	15,000	1	23.02.2019

Would your answer change if the goods vehicles purchased in April, 2018 were put to use only in July, 2018?

**Solution:** Since Mr. X does not own more than 10 vehicles at any time during PY 2018-19, he is eligible to opt for presumptive taxation scheme u/s 44AE.

Heavy goods vehicle means any goods carriage, the gross vehicle weight of which exceeds 12,000 kg.

(1)	(2)	(3)	(4)
No. of Vehicles	Purchase Date	No. of months for which vehicle is owned	No. of months × No. of vehicles [(1) × (3)]
<b>For Heavy goods vehicle</b>			
2	29.08.2018	8	16
1	23.02.2019	2	2
			<b>18</b>
<b>For goods vehicle other than heavy goods vehicle</b>			
2	10.4.2018	12	24
1	15.3.2019	1	1
3	16.7.2018	9	27
1	2.1.2019	3	3
			<b>55</b>

The presumptive income of Mr. X u/s 44AE for AY 2019-20 = Rs. 6,82,500, i.e., 55 × Rs. 7,500, being for other than heavy goods vehicle + 18 × Rs. 1,000 × 15 ton being for heavy goods vehicle.

The answer would remain the same even if the two vehicles purchased in April, 2018 were put to use only in July, 2018, since the presumptive income has to be calculated per month or part for which vehicle is owned by Mr. X.

## 4D. INCOME U/H “CAPITAL GAINS”

### BASIS OF CHARGE - SECTION 45

1. There should be a Capital Asset.
2. It should be transferred by the assessee.
3. Such transfer should take place during the PY.
4. Any Profit/Gains should arise from such transfer.
5. Such Capital Gain should NOT be exempted under Section 54 series.

If all the above conditions are satisfied, Capital Gain shall arise & shall be deemed to be the income of the **PY in which transfer took place** & taxed accordingly.

### DEFINITION OF CAPITAL ASSET - SECTION 2(14)

Capital Asset means:

- (a) **Any Property** (Movable/immovable), connected with assessee's business/profession or not.
- (b) Any Securities held by **FIIs** (invested as per SEBI regulations) **[Always CA → Even if held as SIT]**
- (c) Any Rights in Indian Company including Right of Management or control.

#### EXCEPTIONS: [Following are NOT CAPITAL ASSETS]

1. **SIT/RM/Consumables stores** held for business/profession; (**Except** Securities held by FIIs as SIT).  
**Note:** Securities held by FIIs will be Capital Asset even if they are held as SIT.
2. **Movable Personal effects** (including wearing apparel & furniture) held for his/his family member's personal use **but excludes ↓**

- (a) Jewellery,
- (b) Archaeological collections;
- (c) Drawings;
- (d) Paints;
- (e) Sculptures
- (f) Any other work of Art

Capital Assets even if held for personal use

**Note:** To constitute Personal Effect, Asset should be **used by** the assessee. **Daily use is not necessary.**

- ❖ **Definition of Jewellery:** Jewellery is a capital asset & the profits/gains arising from the transfer of jewellery held for personal use are taxable u/h “capital gains”.
- ❖ If **Precious stones/metals are sewn/worked/set into Wearing Apparel/ furniture**, it is classified into the category of jewellery & thus it is a **Capital Asset**.

**Ex:** Throne made of Gold/Platinum/Diamonds; Shirt with diamond buttons sewn into it.

#### 3. **Rural Agricultural Land in INDIA**

[Urban Agricultural land → Capital Asset]

- ❖ **Rural Land** means land outside the following Specified limits:

Population	Distance from Municipality/Cantonment Board
≤ 10,000	0 Kms
> 10,000 & ≤ 1,00,000	2 Kms
> 1,00,000 & ≤ 10,00,000	6 Kms
Above 10,00,000	8 Kms

- ❖ **Agricultural Land:** Land must be used for agricultural purposes for 2 yrs prior to transfer.

**What about Urban Land?** Capital Gain on Transfer of Urban Agricultural Land → **Not** treated as **Agricultural Income** & thus it is **not exempt** u/s 10(1). Capital Gains arising from such transfer would be taxable u/s 45.

4. **Gold Deposit bonds/Certificates** issued under Gold Deposit Scheme, 1999 or Gold Monetisation Scheme, 2015.

**CQ1. Discuss the Tax treatment in the following cases: [CA - Capital Asset & SIT - Stock in Trade]**

Sale of Flats by a construction company	Not a CA since flat is a SIT for construction company.
Sale of Flats held by Mr. X as an investment	CA since Mr. X has held it as an investment.
Sale of Securities in Indian Company held by FIIs as investment	CA since specifically included in definition of Capital Asset u/s sec 2(14).
Sale of Securities in Indian Company held by FIIs as SIT	CA since specifically included in definition of Capital Asset u/s sec 2(14) even if held as SIT.
Sale of car by Mr. AC for Rs 10 lacs which was used for his business purpose	CA used for business is not excluded u/s 2(14) & thus it is a CA.
Sale of Personal Jewels (Diamond) for Rs 3 cr	CA since it is included u/s 2(14) even if movable PE.
Sale of Painting by Miss Jacqueline for Rs 10 cr	CA since it is included u/s 2(14) even if movable PE.
House property used for personal purpose	CA since PE does not include immovable property.
Agricultural Land situated in Urban Area	Capital Asset
Non-Agricultural Land situated in Rural Area	Capital Asset
Agricultural Land situated in Rural Area used for non-agricultural purpose permanently	Capital Asset
Rural Agricultural land used permanently for agricultural purpose situated in Europe	Capital Asset since situated Outside India.

**CQ2. Determine which of the lands will be Capital Assets:**

Land	Population	Shortest aerial Distance	Rural Land?	CA?
A	9,000	1 km	Yes	No
B	12,000	1.5 kms	No	Yes
C	11,00,000	2 kms	No	Yes
D	80,000	3 kms	Yes	No
E	3,00,000	4 kms	No	Yes
F	12,00,000	5 kms	No	Yes
G	8,000	6 kms	Yes	No
H	4,00,000	7 kms	Yes	No
I	10,50,000	8 kms	No	Yes
J	15,00,000	9 kms	Yes	No

**CQ3.** Mrs. X contends that sale of a work of art held by her is not liable to capital gains. Is she correct?

**Answer:** "Personal effects" excludes any work of art. As a result, any work of art will be considered as a capital asset & thus sale will attract capital gains tax. Thus Mrs. X is not correct.

**CQ4. State whether the capital gains will arise in following independent cases for AY 2019-20.**

Profit on Sale of jewellery by Mr. A, a jewellery dealer.	<b>Yes</b>
Profit on Sale of personal furniture/car/bike by Mr. B.	<b>No</b>
Profit on Sale of Residential house	<b>Yes</b>
Profit on Sale of drawings & paintings made by a painter.	<b>Yes</b>
Profit on Sale of drawings & paintings by Mr. PC to a National Musuem	<b>No*</b>
Profit on Sale of Gold Deposit Bonds	<b>No</b>

\* However transfer of a capital asset to National Museum is exempt u/s 47.

## TYPES OF CAPITAL ASSET – SECTION 2(42A)

1. **STCA:** If **Period of Holding** (POH) of Asset  $\leq 36$  months immediately before the date of transfer.
2. **LTCA:** If **Period of Holding** (POH) of Asset  $>36$  months immediately before the date of transfer.

**Exceptions:** Following assets become **LTCA** if POH is more than 12/24 Months.

### A. LTCG if POH > 12 Months

- (i) Listed Equity/Preference shares in a company.
- (ii) Listed Securities (Debentures/bonds) **other than units**.
- (iii) Units of UTI/ Equity oriented mutual fund.
- (iv) Zero Coupon Bonds.

### B. LTCG if POH > 24 Months

- (i) Unlisted Equity or Preference shares. [Shares in private/unlisted public companies].
- (ii) Immovable property, **being Land or Building** or both.

**Ex:** State the period required for the Capital Asset to become LTCA.

Nature of Asset	Minimum Period to become LTCA
Units of Equity Oriented Mutual Fund	12 Months
Units of Debt Oriented Mutual Fund	36 Months
Units of UTI	12 Months
Zero Coupon Bonds	12 Months
Listed Debentures / Bonds / Govt Securities	12 Months
Unlisted Debentures / Bonds/ Govt Securities	36 Months
Listed shares in a company	12 Months
Unlisted shares in a company	24 Months
Land or building	24 Months
Other Assets	36 Months

### Why CAPITAL ASSETS are divided into STCA & LTCA?

[To be read once]

- Tax incidence under Capital Gains depends upon whether asset is LTCA or STCA.
- If asset is STCA, capital gain will be Short- term capital gains.
- If asset is LTCA, capital gain will be Long- term capital gains.
- In **case of DEPRECIABLE ASSET**, always **STCG** will arise irrespective of POH.

## DEFINITION OF TRANSFER OF CAPITAL ASSET - [SEC 2(47)]

1. Sale, exchange or relinquishment of the asset.
2. Extinguishment of any rights in the asset.
3. Compulsory Acquisition of any Capital Asset under any law.
4. Conversion of Capital Asset into Stock in trade.
5. Maturity/Redemption of ZCB.
6. Giving possession of IMMOVABLE PROPERTY under Part performance of a contract.  <b>Ex:</b> A enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to A. 'A' hand over complete rights of possession to the purchaser since he has realised the entire sale consideration. However some legal formalities are left to be done.  Under Income Tax Act, the above transaction is considered as transfer by applying 'substance over form'.
7. Transactions which have the effect of transferring the enjoyment of Immovable property.  <b>Ex:</b> A person may become a member of a co-operative society which may be a house/flat. When he pays an agreed amount, the society etc. hands over possession of the house to the person concerned. No conveyance is registered. Such transaction is a transfer under Income Tax Act.  Even power of attorney transactions are regarded as transfer.

## DATE OF COMPLETION OF TRANSFER

<b>MOVABLE PROPERTY</b>	<ul style="list-style-type: none"> <li><b>Date</b> on which <b>property is delivered</b> after the contract of sell.</li> <li><b>Entries</b> in Books of A/c → <b>Irrelevant</b> for determining date of transfer.</li> </ul>
<b>IMMOVABLE PROPERTY</b>	<p><b>(i) Documents are registered</b> → Date on which <b>deed</b> is executed or <b>registered</b>.</p> <p><b>(ii) Documents are not registered</b> → If the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>There should be a <b>contract in writing</b>;</li> <li><b>Transferee</b> has <b>paid consideration</b>/is willing to perform his part of the contract;</li> <li>Transferee should have <b>taken the possession</b> of the property.</li> </ul>

## HOW TO COMPUTE CAPITAL GAINS – SECTION 48

Full Value of Consideration	(Sec 50C may be applicable for L&B)		Xxx
<b>Less:</b> Expenses of Transfer		(xxx)	
<b>Less:</b> Cost of Acquisition	(Indexation available if Capital Asset is LTCA)	(xxx)	
<b>Less:</b> Cost of Improvement	(Indexation available if Capital Asset is LTCA)	(xxx)	(xxx)
<b>SHORT/LONG TERM CAPITAL GAIN</b>			<b>XXX</b>

**Note:** STT levied on purchase/sale of Equity shares & units of EOMF → **Not deductible u/h CG.**

## FULL VALUE OF CONSIDERATION (FVC) [SECTION 48]

- **Meaning:** Consideration received/receivable by the transferor for the transferred capital asset.
- It may be in **cash/ kind**. [If the consideration is received in kind, then FMV = Full value of consideration].
- Adequacy of Consideration & Receipt of Consideration → **IRRELEVANT** for determining FVC.

**Note:** Where ESOP Shares, debentures or warrants (allotted by a company directly/indirectly to its employees) are transferred under a gift or irrecoverable trust → FVC = FMV on date of transfer.

## EXPENSES OF TRANSFER

- Expenditure incurred wholly & exclusively in connection with transfer of capital asset.
- Such expenses of transfer are **deductible from FVC**.  
**Ex:** Brokerage, stamp fees, registration fees, legal expenses, commission paid for securing a purchaser, cost of stamp, litigation expenditure etc.

**Note:** STT paid on purchase/sale of Equity shares & units of EOMF → **Not deductible u/h CG**.

## COST OF ACQUISITION

- The value for which the asset was acquired by the assessee.
- **Only capital expenditures** for completing/acquiring title to the property are **includible in COA**.
- Any Revenue expenditure incurred → will not form part of COA.
- Amount paid for discharge of mortgage is part of 'COA' if mortgage was not created by transferor.

## COST OF IMPROVEMENT

- **Capital expenditure** incurred in making any additions/improvements/protect capital asset.
- **Routine expenditure** on repairs or maintenance will **NOT** be included in Cost of improvement.

### Points to Remember:

1. In case of **Goodwill of Business** (whether Self-generated/Purchased) → **COI = Nil**.
2. COI → Considered **only if incurred on/after 1.4.2001**.
3. COI incurred by **Previous Owner** → **Considered** if incurred on/after 1.4.2001.

## INDEXATION

- Sale consideration is the price at which the asset is sold in the PY. However asset may be purchased in some earlier year.
- The money spent years before & the sale consideration received in PY cannot be compared.
- Thus deducting the cost of acquisition that has been incurred many years earlier from the sale consideration that has been received in this PY is unfair for the assessee.
- Thus Indexation is given for the Long-term capital assets.
- Thus Indexation of COA means bringing into line COA with that of Sale Consideration.

### Meaning of Indexed COA:

- As per Section 48, COA will be increased by applying the cost inflation Index (CII).
- Once the Cost Inflation Index is applied to COA, it becomes **Indexed COA**.



### Steps to Calculate Indexed COA:

1. Find out the type of asset on the basis of POH (whether the asset is STCA/LTCA)
2. Apply Indexation to Cost of Acquisition only if asset is Long Term Capital Asset.

### INDEXED COST OF ACQUISITION

$\frac{\text{Cost of acquisition}}{\text{CII of the year in which asset was first held by Assessee **}} \times \text{CII of year of Transfer of Asset}$ <p><b>OR CII of 2001 – 2002 (whichever is Later)</b></p>
<b>** Note:</b> CII of year of acquisition of asset by Previous owner [For Transfer u/s 49(1).]

### COST INFLATION INDEX for Different FYs

PY	CII	PY	CII	PY	CII	PY	CII	PY	CII
2001-02	100	2005-06	117	2009-10	148	2013-14	220	2017-18	272
2002-03	105	2006-07	122	2010-11	167	2014-15	240	2018-19	280
2003-04	109	2007-08	129	2011-12	184	2015-16	254		
2004-05	113	2008-09	137	2012-13	200	2016-17	264		

### NO INDEXATION IS AVAILABLE IN FOLLOWING CASES [EVEN IF ASSETS ARE LTCA]

1. Zero Coupon Bonds
2. **Debentures/ Bonds** [Except Capital Indexed Bonds/ Sovereign Gold Bonds issues by RBI]
3. Slump Sale [Section 50B]
4. **Depreciable Assets** [Since capital gain arising on depreciable asset is always STCG]
5. Share/Debentures acquired by NR in foreign currency in Indian company. (1<sup>st</sup> Proviso to sec 48)
6. Long term capital assets specified u/s 112A. [AY 2019-20].

### OPTION TO TAKE FMV ON 1.4.2001 AS COST OF ACQUISITION

- If Capital Asset is acquired before 1.4.2001 → Assessee have the **option** to take FMV of the Asset on 1.4.2001 as COA of the Asset. [Exercised when FMV on 1.4.2001 > Original COA of asset].
- This option is **not** available in case of **Depreciable Assets; Goodwill of Business/other like assets;**

**CQ5.** During PY 2018-19, Mr. Ramesh sells the following capital assets:

Capital Assets	Sale proceeds	COA	Date of Acquisition	FMV on 1.4.2001
Land	40,00,000	10,00,000	31.5.1997	14,00,000
Gold	9,86,000	2,40,000	1.4.2007	NA
Listed debentures	1,57,000	75,000	12.9.1995	40,000

Compute the Capital Gains for the AY 2019-20.

**Solution:**

Particulars	Land	Gold	Listed Debentures
Full Value of Consideration	40,00,000	9,86,000	1,57,000
<b>Less:</b> COA/Indexed COA	(39,20,000) [14L × 280/100] (Note 1)	(5,20,930) [2.4L × 280/129]	(75,000) (Note 2)
<b>LTCG/LTCL</b>	3,23,84,00	4,65,070	82,000

**Note:**

- (1) Since FMV on 1.4.2001 > Original COA, FMV is taken as COA for computing Capital Gain.
- (2) No indexation is allowed in case of debentures. Since COA > FMV on 1.4.2001, option will not be exercised.

## INDEXED COST OF IMPROVEMENT

$$\frac{\text{Cost of Improvement}}{\text{CII of the year of Improvement}} \times \text{CII of year of transfer of Asset}$$

### Q. How to decide whether to take Indexation of Cost of Improvement or not?

- ❖ It should be decided from the nature of the asset.
- ❖ If Asset is LTCA → Take Indexed COI &
- ❖ If Asset is STCA → Take COI (**without Indexation**).

**Note:** Year in which Improvement is done in the Asset → **Not Relevant**.

**CQ6.** Mr. PC purchases a house property for Rs. 1,06,000 on 15<sup>th</sup> May 1995. The following expenses are incurred by him for making addition/alternation to the house property:

Cost of construction of first floor in 1997-98	Rs. 3,10,000
Cost of construction of the second floor in 2002-03	Rs. 7,35,000
Reconstruction of the property in PY 2017-18	Rs. 5,50,000

FMV of the property on 1.4.2001 is Rs. 8,50,000. House property is sold by Mr. C on 10<sup>th</sup> August 2018 for Rs. 68 lacs. Expenses incurred on transfer: Rs. 50,000. Compute Capital Gain for AY 2019-20.

[CII: FY 2002-03: 105; 2017-18: 272; FY 2018-19: 280]

**Solution:** **Computation of capital gain of Mr. C for AY 2019-20**

Particulars	Rs.	Rs.
Gross sale consideration	68,00,000	
Less: Expenses on transfer	(50,000)	
Net sale consideration		67,50,000
Less: Indexed cost of Acquisition [Rs. 8,50,000 × 280/100]		(23,80,000)
<b>Less: Indexed cost of Improvement</b>		(25,26,180)
(i) Construction of 1 <sup>st</sup> Floor in 1997-98 → Ignored Since incurred before 1.4.2001	(Nil)	
(ii) Construction of 2nd floor in 2002-03 (Rs. 7,35,000 × 280/105).	(19,60,000)	
(iii) Alternation/reconstruction in 2017-18 (Rs. 5,50,000 × 280/272)	(5,66,180)	
Long Term Capital Gain		18,43,420

## FULL VALUE OF CONSIDERATION IN CASE OF TRANSFER OF LAND & BUILDING HELD AS CAPITAL ASSET – [SECTION 50C]

Circumstances	Full value of consideration
A. Actual Sale Consideration > Stamp Duty value	Actual Sale Consideration
B. Actual Sale Consideration < Stamp Duty value	Stamp Duty value

- ❖ **BUT If SDV ≤ 105% of Actual sale consideration → Actual Sale Consideration will be taken as full value of the consideration for computing capital gain. [AY 2019-20]**

**WHEN DATE OF AGREEMENT (DoA) & DATE OF REGISTRATION (DoR) ARE NOT SAME:**

- (a) If Payment (Full/Part) has been received by A/c payee cheque/draft/Netbanking on/before DoA  
→ Full Value of Consideration = Stamp Duty Value on Date of Agreement.
- (b) If NO Payment is received by A/c payee cheque/draft/Netbanking on/before DoA,  
→ Full Value of Consideration = Stamp Duty Value on Date of Registration.

**CRUX:**

Whether Payment (Full/part) is received on/before DOA by A/c Payee cheque etc.	FVC = SDV
YES	on DOA
NO	on DOR

**Example:**

Transfer	SC	SDV on DOA	SDV on DOR	FVC
1.5.2018	100 Lacs (10 Lacs received by cheque on 1.9.2017)	120 (1.9.17)	210 (1.5.18)	120
1.5.2018	100 Lacs (10 Lacs received by cash on 1.9.2017)	120 (1.9.17)	210 (1.5.18)	210
31.3.2019	100 Lacs (Full amount received on DOR)	120 (1.5.18)	210 (31.3.19)	210

**Note:** If SDV has been taken as full value of consideration & subsequently value is revised in any appeal or revision → Full value of consideration = Value so revised in such appeal or revision

**VALUATION BY VALUATION OFFICER**

Circumstances	Full value of consideration
(I) Value by VO > SDV	Stamp Duty Value
(II) Value by VO > Actual Sale Consideration but < SDV	Value by Valuation officer

**Example:**

SN	Actual SC	SDV	Value by VO	Full Value of Consideration
1	50	45	-	50
2	50	75	-	75
3	50	75	85	75
4	50	75	55	55
5	50	75	45	50

**CQ7.** Miss Mohini transferred a house to her friend Ms. Ragini for Rs. 35 lacs on 1.10.2018. The sub-registrar valued the land @ Rs. 48 Lacs. Miss Mohini contested the valuation and the matter was referred to divisional revenue officer who valued the house @ Rs. 41 lacs. Ms. Mohini had purchased the house on 15 May, 2011 for Rs. 25 lacs & registration expenses were Rs 1,50,000. [CII: FY 2011-12: 184; FY 2018-19: 280]

**Solution:** **Computation of Capital Gain in the hands of Miss Mohini for AY 2019-20**

Full Value of Consideration [Refer Note Below]	48,00,000
<b>Less:</b> Expenses on transfer	(1,50,000)
<b>Net Sale Consideration</b>	46,50,000
<b>Less:</b> Cost of acquisition [25,00,000 × 280/184]	(38,04,350)
Long- Term Capital Gain	8,45,650

**Note:** If Value by VO > Actual Sale Consideration but < SDV, then FVC = Value by Valuation officer.

## FULL VALUE OF CONSIDERATION ON TRANSFER OF UNLISTED SHARES [SECTION 50CA]

- If Sale consideration < FMV of such share, **FMV** shall be deemed to be full value of consideration.

### FMV → Deemed to be Full Value of Consideration – [Section 50D]

- If **Consideration is not determinable** → FVC = FMV of the capital asset on the date of transfer.

## REFERENCE TO VALUATION OFFICER [SEC 55A]

AO may refer valuation officer with a view to ascertain FMV of a capital asset in following cases:

- (i) Where the value of the asset claimed by the assessee is in accordance with valuation made by the registered valuer, but AO is of the opinion that value so claimed is less than FMV of the Asset.
  - AO can make a reference to VO in cases where FMV is taken to be sale consideration.
  - If FMV on 1.4.2001 is taken as COA, AO can make a reference to VO if he is of the view that there is any variation between FMV on 1.4.2001 claimed by assessee & FMV on that date.
- (ii) Where the AO is of the opinion that FMV of the asset exceeds the value claimed by
  - **More than 15% of the value claimed** by the assessee **or**
  - **Rs. 25,000 (whichever is less).**
- (iii) Where the AO thinks that it is necessary to do so having regards to the nature of the asset & relevant circumstances.

## TREATMENT OF ADVANCE MONEY RECEIVED & FORFEITED – [Sec 51]

- It is possible for an assessee to receive some advance in regard to the transfer of capital asset.
- Due to the break-down of the negotiation, the assessee may have retained the advance.

### TAX TREATMENT FOR SUCH ADVANCE MONEY FORFEITED

1. Advance Money Forfeited **Before** 1.4.2014 → **Reduce** from **Original** COA.
2. Advance Money Forfeited **on/After** 1.4.2014 → **Taxable u/h IFOS** u/s 56(2)(ix).

### Points to Remember:

- (i) Forfeited Advance shall be **reduced** from **original COA before Indexation & NOT after Indexation**.
- (ii) **Date of Forfeiture of Advance** should be **considered** & NOT the date of Receipt of Advance.
- (iii) Amount Received & Forfeited by **Previous owner** → **Not to be considered**.

### Examples:

SN	Date of Receipt of Advance	Date of Adv. Forfeited	Taxable	Treatment
1	15.06.2012	10.08.2013	AY 14-15	Reduce from COA of asset
2	20.05.2014	30.09.2014	AY 15-16	IFOS
3	08.03.2011	05.04.2014	AY 15-16	IFOS

**CQ8.** A house was purchased on 1.05.2001 for Rs. 2 Lacs & was used as a residence by the owner. The owner had contracted to sell this property in June 2012 for Rs. 8 lacs & he had received an advance of Rs. 50,000 towards sale. The deal was not finalized & hence the amount was forfeited on August 2012. He again contracted to sell this property & received an advance on 24.02.2015. However this deal was also not finalized & hence the amount was forfeited on 30.04.2015. The property was sold in June 2018 to another buyer for Rs. 10 Lacs. Owner paid 2% brokerage on sale of the house. Find the capital gain. [CII: FY 2001-02: 100; FY 2018-19: 280]

**Solution:** **Computation of Capital Gain in the hands of owner for AY 2018-19**

Full Value of consideration	10,00,000
<b>Less:</b> Expenses on transfer [Brokerage @ 2% of Sale Value]	(20,000)
<b>Net Sale Consideration</b>	9,80,000
<b>Less:</b> (Cost of acquisition - Forfeited Advance) = (2L – 50,000) × 280/100	(4,20,000)
Long- Term Capital Gain	5,60,000

**Note:** Advance forfeited on or after 1.4.2001 shall be taxed u/h “IFOS” u/s 56(2)(ix).

## A. CAPITAL GAINS IN CASE OF DEEMED SALE [SEC 45]

### DESTRUCTION OF CAPITAL ASSET [SPECIAL CHARGING SECTION - SEC 45(1A)]

CIRCUMSTANCES for Destruction or Damage of Capital Asset	(i) Natural activities/causes. (ii) Riot/civil disturbances. (iii) Accidental fire/explosion (iv) Action of Enemy (war/without declaration of war)
Sale Consideration	Insurance Compensation (Money + FMV of replaced Asset).
Year of Taxability	Capital Gain is taxable in PY of Receipt of Insurance Money.
Period of Holding	From Date of Acquisition till the Date of Destruction.
Indexation	Indexation is available till the year of destruction & not till receipt of Compensation.

**CQ9.** Mr. X owns a House which was purchased by him on 1.5.1999 for Rs 3 lacs. The said house was destroyed by fire on 3.4.2018 & Mr. X received Rs. 48 lacs on 5.5.2019 from the Insurance Company. FMV of the property on 1.4.2001 was Rs. 4 lacs. The Stamp Duty Value was Rs. 60 lacs. Find the Capital Gain of Mr. X for AY 2019-20.

**Solution:** POH: 1.5.1999 – 3.4.2018 > 24 Months & Thus LTCA & Indexation will be Available.

Sale Consideration [Insurance compensation as per section 45(1A)]	48,00,000
<b>Less:</b> Indexed cost of acquisition [ 4,00,000 × 280/100]	11,20,000
Long-term Capital Gain	36,80,000

**Note:** Sale Consideration = Insurance compensation & Capital Gain is chargeable to tax in the PY in which Insurance money is received. Indexation of COI will be done till the year of destruction.

### CAPITAL GAIN ON CONVERSION OF CAPITAL ASSET INTO SIT- [SEC 45(2)]

Sale Consideration	FMV of the asset on the date of conversion.
Year of Taxability	Year in which SIT is sold/ transferred & not in year of conversion into SIT.
Period of Holding	From Date of Acquisition till the Date of conversion into SIT.
Indexation	Only till the PY in which conversion took place.

**CQ10.** A is the owner of a car. On 1.4.2018, he starts a business of purchase & sale of motor cars. He treats the above car as part of SIT of his new business. He sell it on 31.3.2019 & gets a profit of Rs. 1 lac. Discuss the tax treatment.

**Solution:** Since car is a personal asset, conversion into SIT of his business will not be trapped by the provisions of section 45(2). Hence, A is not liable to capital gains tax.

**CQ11.** X purchased Gold ornaments of Rs. 1 Lac on 4.1.2009 for Investment. On 12.1.2015 he started a business of dealing in Jewellery & converts the gold into SIT. FMV of the gold ornaments on the date of conversion was Rs. 5 Lacs. These gold ornaments were sold in PY 2018-19 for Rs. 6 Lacs. (a) Compute Capital Gain & Business Income. (b) What would be the answer if the gold ornaments are held by the assessee till 31.3.2019?

**Solution:**

**(a)** Conversion of Capital Asset into SIT is treated as a transfer u/s 2(47). In this case, conversion took place on 12.1.2015 (PY 2014-15). Therefore, it will be treated as transfer of PY 2014-15. But Capital Gain will be taxable in the PY in which such asset is sold i.e. PY 2018-19.

#### Capital Gain of AY 2019-20

Full Value of Consideration	5,00,000
<b>Less:</b> Indexed cost of acquisition $[1,00,000 \times 240/137]$	(1,75,180)
Long-term capital gain	3,24,820

#### Business Income for AY 2019-20

Sale Price	6,00,000
<b>Less:</b> FMV on the date of conversion	(5,00,000)
Business Income	1,00,000

**(b) If the gold ornaments are still held:** There will neither be business income nor capital gain because the converted asset has not yet been sold or otherwise transferred.

### CAPITAL GAIN ON TRANSFER OF CAPITAL ASSET

Section →	45(3)	45(4)
By way of →	<b>Capital Contribution</b>	<b>On Dissolution/Retirement of partners</b>
From	<ul style="list-style-type: none"> <li>Partners → Firm</li> <li>Members → AOP/BOI</li> </ul>	<ul style="list-style-type: none"> <li>Firm → Partners</li> <li>AOP/BOI → Members</li> </ul>
Sale consideration	Value of Asset recorded in books of firm	FMV of the asset on the date of transfer
Taxed in	PY of Transfer	
POH	From PY of Acquisition till PY of transfer.	

**CQ12.** A & B formed a partnership firm during PY 2018-19. 'A' brings following assets as his capital contribution.

Particulars	Gold	Building
FMV on the date of transfer	4,40,000	12,00,000
Amount recorded in the books of the firm	6,00,000	9,50,000
Actual cost	80,000	2,40,000
Year of acquisition	PY 2000-01	PY 2010-11
FMV on 1.4.2001	1,50,000	2,50,000

**Solution:**

#### Computation of Capital Gain in the hands of Mr. A

<b>Gold</b>	Sale consideration [Value recorded in the books of firm]	6,00,000
	<b>Less:</b> Indexed COA $[1,50,000 \times 280/100]$	(4,20,000)
	LTCG	(1,80,000)
<b>Building</b>	Sale Price [Value recorded in the books of firm]	9,50,000
	<b>Less:</b> Indexed COA $[2,40,000 \times 280/167]$	(4,02,400)
	LTCG	5,47,600

**CQ13.** XYZ & Company is a partnership firm, consisting of 3 partners X, Y & Z. The firm is dissolved on 31.3.2019. The assets of the firm were distributed to the partners on distribution as follows:

Particulars	Block of P&M (Given to X)	Stock (Given to Y)	LAND (Given to Z)
Year of Acquisition	2009-10	2011-12	1997-98
Cost of Acquisition	7,20,000	4 Lacs	1,10,000
Fair Market value on 31.3.2019	5 Lacs	5 Lacs	5 Lacs
WDV as on 31.3.2019	4,40,000	-	-
Value at which given to partners	3 Lacs	4,10,000	3 Lacs
Fair Market value as on 1.4.2001	-	-	1,70,000

(i) Compute the income taxable in the hands of the firm for the AY 2019-20.

(ii) What shall be the cost of acquisition of such assets to the partners of the firm.



**Solution: (i) Income Taxable in the hands of the Firm****Capital Gain on the Block of P&M [Depreciable Asset & thus STCG always]**

Sale Consideration [FMV on the date of Transfer]	5,00,000
Less: Cost of Acquisition (WDV of block)	(4,40,000)
Short Term Capital Gain	60,000

**Capital Gain on Land**

Sale consideration [FMV on the date of Transfer]	5,00,000
Less: Indexed cost of acquisition $[1,70,000 \times 280/100]$	(4,76,000)
Long Term Capital Gain	24,000

**Business Income on transfer of stock** = Market value – Cost of Stock = 5 Lacs – 4 Lacs = **1 Lac.**

**(ii) Cost of acquisition of assets in the hands of Partners**

- (a) Partner 'X' = Rs. 3 Lacs for block of machinery;
- (b) Partner 'Y' = Rs. 4,10,000 for stock.
- (c) Partner 'Z' = Rs. 3 Lacs for land.

**COMPULSORY ACQUISITION OF CAPITAL ASSET [SEC 45(5)]**

<ul style="list-style-type: none"> <li>Given provisions are applicable when the asset has been compulsorily acquired by government.</li> <li>However, these rules are also applicable when consideration is approved by RBI/CG (Even if there is no compulsory acquisition).</li> </ul>		
<b>INITIAL COMPENSATION</b>	SC	Amount of Initial Compensation
	Taxed in	PY of Receipt of Initial Compensation (either Whole/Part) ➤ If compensation is received in Instalments, <u>ENTIRE Capital gain</u> on <u>Total Compensation</u> is taxable in PY of receipt of 1 <sup>st</sup> Instalment.
	POH	From: Date of Acquisition of asset. Till: Date of Compulsory Acquisition.
	Indexation	Upto the year of Compulsory Acquisition of the Asset & NOT till the year of payment.
<b>ENHANCED COMPENSATION</b>	SC	Amount of Enhanced Compensation.
	Taxed in	<b>Enhance compensation is taxable in PY of Receipt.</b> ➤ Enhanced Compensation is received in Instalments → only Proportionate Capital Gain to the amount of Instalment received during PY, shall be taxable in that PY. <b>Note:</b> Enhanced compensation received under interim order will be taxable in the PY in which final order of court is passed.
	COA/COI	<b>Nil.</b> However Litigation expenses are allowed as deduction.

**Reduction of Enhanced Compensation:** Where capital gain has been charged on the compensation received by the assessee & subsequently such compensation is reduced by any court, tribunal or any authority, the assessed **capital gain of that year shall be recomputed** by taking into consideration the reduced amount.

### Points to Remember:

1. **Interest on compensation** will be taxable in **PY of Receipt** irrespective of the year for which it has been paid. Such interest is deductible to the extent of 50% of amount received u/s 57.
2. **Enhanced Compensation is taxable in the hands of recipient** → If assessee is dead on the date of receipt of enhanced compensation, enhanced compensation received by his legal heir shall be taxable in the hands of legal heir.

**CQ14.** X acquired a house for Rs. 20,000 in 1997-98. On his death in October 2006, the house was acquired by his son Y. FMV of the house on 1.4.2001 was Rs. 80,000. This house was acquired by the Government on 15.3.2010 for Rs. 3 Lacs & a compensation of Rs. 2,20,000 is paid to him on 25.03.2019 & the balance Rs. 80,000 on 15.04.2019. Y filed a suit against the Government challenging the quantum of compensation & the court ordered additional compensation of Rs. 1 Lacs. He incurred an expenditure of Rs. 2,000. Half of the enhanced compensation is received on 14.2.2021 & other half is received in PY 2023-24. Compute Capital Gains in the hands of Mr. X.

**Solution:** (i) Capital gain on Initial Compensation [Taxable in AY 2019-20 (for PY 2018-19)] during which part of the compensation was actually received by him, although the balance of Rs. 80,000 was received in PY 2019-20.

- POH (Including POH of previous owner): PY 1997-98 to PY 2009-10. Indexation only upto PY 2009-10

Sale Consideration [Total Initial Compensation]	3,00,000
Less: Indexed cost of acquisition: [ 80,000 × 148/100]	(1,18,400)
Long-term capital loss	1,81,600

Capital Gain for AY 2021-22 as half of enhanced compensation was received on 14.2.2021

Sale Consideration	1,00,000
Less: Cost of acquisition/COI	Nil
Less: Expenses of transfer i.e., Litigation Expenses	(2,000)
Long-term capital Gain	98,000

**Note:** In AY 2021-22, Capital gain tax on half of enhanced compensation only shall be payable. Remaining tax shall be payable in AY 2024-25 when the other half is received.

### CAPITAL GAINS IN CASE OF SPECIFIED AGREEMENT [SECTION 45(5A)]

Applicability	Individual & HUF.
Transaction	Capital Gain on Transfer of <b>Land &amp; Building</b> or Both under Specified Agreement.
Year of Taxability	CG arising from such transfer shall be taxable as income of the PY in which the <b>Certificate of Completion</b> for the whole/part of the project is issued by the competent authority.
Sale Consideration	Stamp Duty Value of his share ( <i>being land or building or both</i> ) in the project on the date of issue of certificate of completion + Consideration received in cash.
Meaning of Specified Agreement	Registered agreement in which a person owing land/building or both agrees to allow another person to develop a real estate project on such land/building in consideration of a share, being land/building or both in such project with/without payment of part of the consideration in cash.
<b>Consequences of Transfer before Date of Issue of Completion Certificate:</b> <ul style="list-style-type: none"><li>▪ Benefit u/s 45(5A) is Not available if assessee transfers his share in the project on/before issue of completion certificate to any person. In such case, CG shall arise in the year of such transfer.</li><li>▪ In such case, section 45(5A) will not apply for determining full value of consideration.</li><li>▪ Thus, Higher of (i) SDV on the date of transfer of his share or (ii) Actual consideration shall be full value of consideration.</li></ul>	

## CAPITAL GAINS ON BUYBACK OF LISTED SHARES [SECTION 46(A)]

Sale Consideration	Amount given by the company to Shareholder on buy-back of shares.
COA	Amount at which shares were Purchased by the shareholder.

### Tax Treatment

Assessee	Listed Shares	Unlisted Shares
Shareholder	Taxable as Capital Gain u/s 46A	Exempt u/s 10(34A).
Company	Not Taxable to company.	Additional Income-tax @ <b>23.296%</b> . [20% + 12% SC + 4% HEC]

**CQ15.** Mr. X has acquired 10,000 equity share of ABC Ltd on 1.04.2007 @ 300 per share. The company buybacks 10,000 shares on 30.1.2019 @ 750 per share. Compute the capital gain taxable in his hands.

**Solution:** **Capital Gains on buyback in the hands of Mr. X**

Sale Consideration [Buyback price] $(10,000 \times 750 \text{ per share})$	75,00,000
Less: Indexed COA $[10,000 \times 300 \times 280/129]$	(65,11,630)
<b>Long Term Capital Gain</b>	<b>9,88,370</b>

## B. COST OF ACQUISITION IN SPECIAL CASES

### GOODWILL/TRADEMARK/BRAND NAME etc. [SEC 55(2)(A)]

Nature of Assets	(i) Goodwill of a business/ Tenancy Rights; (ii) Trademark or Brand name associated with a business; (iii) Right to manufacture/produce any article or thing; (iv) Right to carry any business.
Cost of Acquisition	1. Self-Generated Assets: Nil 2. Purchased: Actual COA (purchase price)

#### Points to Remember:

- Option to take FMV on 1.4.2001 → Not Available in case of Above Assets.
- If **COA** of asset is **NOT Ascertainable** → **No TAX**. [Ex: Self-generated Goodwill of a profession].
- In case of **Goodwill** of a business (whether Self-generated/Purchased) → **COI** will always be **Nil**.

**CQ17(a).** P commenced a business on 15.4.2002. The said business is sold by P on 18.4.2018 & he received Rs.9 Lacs towards goodwill. (b) What if P had acquired the goodwill for this business for a consideration of Rs. 2 Lacs.

**Solution: (a)** **Capital Gain of AY 2019-20**

Sale Consideration	9,00,000
Less: Indexed cost of acquisition (Self – Generated)	Nil
Long-term capital gain	9,00,000

**(b)**

Sale Consideration	9,00,000
Less: Indexed cost of acquisition (Purchased) $[2,00,000 \times 280/105]$	(5,33,333)
Long-term capital gain	3,66,667

**CQ18.** R purchased tenancy right on 1.04.1999 for Rs. 1,60,000. The same was sold by him on 14.8.2018 for Rs. 15 Lacs. FMV of tenancy right as on 1.4.2001 was Rs. 2,50,000. Compute the Capital Gain for AY 2019-20.

**Solution:**

Sale Consideration	15,00,000
<b>Less:</b> Indexed cost of acquisition (Purchased) $[1,60,000 \times 280/100]$	(4,48,000)
Long-term capital gain	10,52,000

**Note:** In case of tenancy right, option to take FMV on 1.4.2001 as COA is not available.

**CQ19.** On 31 January 2019, Mr. A has transferred self-generated goodwill of his profession for Rs. 70,000 & incurred expenses of Rs. 5,000 for such transfer. Compute Capital Gain taxable in the hands of Mr. A for AY 19-20.

**Solution:** COA of Self-generated Goodwill is NOT Ascertainable. Thus Transfer of Self-generated Goodwill of Profession is not taxable. [CIT vs. B.C. Srinivasa Shetty].

### RIGHT SHARES/BONUS SHARES [SEC 55(2)(aa)]

Particulars	Cost of Acquisition
<b>1. Bonus Shares</b>	
➤ If Bonus shares acquired <b>before 1.4.2001</b>	<b>FMV as on 1.4.2001</b>
➤ If Bonus shares acquired <b>on/after 1.4.2001</b>	<b>Nil</b> since no option is available
<b>2. Right Shares</b>	
➤ Purchased <b>by Original Shareholder</b>	<b>Issue Price</b>
➤ Purchased <b>by Purchaser of Right</b>	<b>Issue price + Cost of Right</b>
<b>3. Right</b>	Always <b>Nil</b> & always STCG

**Indexation:** Indexation is available from **date of allotment of Right/Bonus Shares**.

**CQ20.** X purchased 1200 listed shares of Rs. 10 each on 15.4.2005 for Rs. 60,000. Company declared a right issue in the ratio of 2:1 at Rs. 30 per share in October, 2018. He was allotted bonus shares on 1<sup>st</sup> January 2019 in the ratio of 1:1. He sold the right for 300 shares against Rs. 20 per share & remaining 300 shares were purchased by him which were allotted on 5.11.2018. He sold all the shares @ Rs. 90 each on 15.3.2019 through RSE. Compute taxable capital gains for AY 2019-20.

**Solution:** Mr. X is allotted 600 shares in October 2018. Bonus shares =  $1200 + 600 = 1800$  shares.

<b>Capital Gain on Sale of "Right of 300 shares"</b>	
Full Value of Consideration $[300 \times 20]$	6,000
Less: Cost of acquisition	Nil
Short-term capital gain	6,000
<b>Capital Gain on Sale of "300 Right Shares"</b>	
Full Value of Consideration $[300 \times 90]$	27,000
<b>Less:</b> Cost of acquisition $[300 \times 20]$	6,000
<b>Short-term capital gain</b>	<b>21,000</b>
<b>Capital gain on Sale of Original Shares</b>	
Full Value of Consideration $[1200 \times 90]$	1,08,000
<b>Less:</b> Indexed cost of acquisition $[60,000 \times 280/117]$	(1,43,590)
<b>Long term capital loss</b>	<b>(35,590)</b>
<b>Capital Gain on sale of "1800 Bonus shares"</b>	
<b>Sale Consideration</b> $[1800 \times 90]$	1,62,000
<b>Less:</b> Indexed cost of acquisition	Nil
<b>Long term Capital Gain</b>	<b>1,62,000</b>

### SWEAT EQUITY SHARES/ ESOP [SEC 49(2AA)]

Sale Consideration	Amount received on sale of shares.
COA	FMV on the date of exercising ESOP option.

## C. MISCELLANEOUS CASES OF COMPUTING CAPITAL GAIN

### CAPITAL GAINS ON TRANSFER OF DEPRECIABLE ASSET [SECTION 50]

➤ Capital gain arising on depreciable asset will **always be STCG** irrespective of POH.

#### Conditions for Claiming Depreciation u/s 32

1. There must be **at least one asset** in the block
2. There must be **some WDV for the block** on which prescribed rate of Depreciation can be applied.

If any of the two conditions are not satisfied, Sec 32 ceases to apply & automatically Section 50 becomes applicable resulting in STCG.

#### Section 50: Capital Gain on Depreciable Assets will arise only in the following two cases:

- (1) **WDV of block is ZERO** on the last day of the PY
- (2) **Block is Empty** on the last day of PY (Even if there is WDV in the block).

<b>1. STCG</b>	<ul style="list-style-type: none"><li>▪ If Sale Consideration received on transfer of one or more capital asset &gt; WDV of Block, WDV of the block will be Zero &amp; therefore no Depreciation can be claimed.</li><li>▪ In such case, <b>STCG = Sale consideration – WDV of the block.</b></li></ul>
<b>2. STCL</b>	<ul style="list-style-type: none"><li>▪ If all the assets in the block are sold, Block is empty &amp; thus no depreciation can be claimed even if there is WDV left in the block.</li><li>▪ In such case, Short term capital loss will arise to the extent of remaining WDV.</li><li>▪ <b>CRUX: If Sale consideration of all the assets in Block &lt; WDV of the Block, STCL = Sale consideration of all the assets – WDV of the block.</b></li></ul>

**CQ23.** Singhania & Co., a sole proprietorship owns 6 machines, put in use for business in March 2018. Rate of Depreciation is 15%. WDV of these machines as on 1<sup>st</sup> April 2018 was Rs. 8,50,000. Three of the old machines were sold on 10<sup>th</sup> June 2018 for Rs. 11,00,000. A second-hand plant was bought for Rs. 8,50,000 on 30<sup>th</sup> November 2018. You are required to: (i) Determine depreciation for AY 2019-20; (ii) Compute Capital Gains for AY 2019-20. (iii) If 3 machines are sold in June 2018 for Rs. 21 lacs, will there be any difference in your above workings?

**Solution:** (i) **Computation of depreciation for AY 2019-20**

Particulars	Rs.
W.D.V. of the block as on 1.4.2018	8,50,000
Add: Purchase of second-hand plant during the year	8,50,000
Less: Sale consideration of old machinery during the year	11,00,000
W.D.V of the block as on 31.03.2019	6,00,000

Since, Second-hand machinery was put to use for less than 180 days, depreciation is restricted to 50% of 15%. Therefore, depreciation for the year = Rs. 45,000, being 7.5 % of Rs. 6,00,000. **[Refer PGBP if required]**

- (ii) Section 50 on Capital Gains in case of depreciable assets is applicable only in the following circumstances:
- (a) When one or some of the assets in the block are sold for consideration more than the value of the block.
  - (b) When all the assets are transferred for a consideration more than the value of the block.
  - (c) When all the assets are transferred for a consideration less than the value of the block.

Since in 1 & 2, Sale consideration > WDV of the block, short term capital gains would arise.

In 3, Since SC < WDV of block, short term capital loss would arise.

**In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block.**

(iii) If 3 machines are sold in June 2018 for Rs. 21,00,000, short term capital gains would arise since sale consideration is more than the aggregate of opening WDV of the block + Additions made during the year.

Particulars	Rs.	Rs.
Sale consideration		21,00,000
Less: WDV of the machines as on 1.4.2018	8,50,000	
Purchase of second plant during the year	8,50,000	17,00,000
Short term capital gains		4,00,000

## CAPITAL GAIN IN CASE OF POWER GENERATING UNDERTAKINGS [SEC 50A]

Applicability	Only for undertakings engaged in Generation/Generation & distribution of power.
Option	Such undertakings have option to use SLM method for depreciation.
COA	<b>COA of the asset shall be WDV of Asset</b> as appropriately adjusted.

### TABLE FOR COMPUTATION

Conditions	Treatment
1. SC < WDV	<ul style="list-style-type: none"> <li>➤ Terminal Depreciation (Loss) = WDV – SC.</li> <li>➤ It is Deductible u/s 32 u/h PGBP.</li> </ul>
2. SC > WDV but < Original COA	<ul style="list-style-type: none"> <li>➤ Balancing Charge (Profit) = SC – WDV.</li> <li>➤ It is Taxable u/s 41(2) u/h PGBP.</li> </ul>
3. SC > Original COA	<ul style="list-style-type: none"> <li>➤ <b>Capital Gain</b> = SC - Original COA.</li> <li>➤ <b>Balancing Charge (Profit)</b> = SC- WDV.</li> <li>➤ <b>It is</b> Taxable u/s 41(2) u/h PGBP.</li> </ul>

**Note:** Question on the same provision has been given in PGBP. [Question starting with Bijli Ltd].

## CAPITAL GAIN IN CASE OF SLUMP SALE [SECTION 50B]

MEANING	Sale of whole undertaking/ unit for lumpsum consideration. In slump sale, whole undertaking/division is transferred for the lumpsum consideration. Individual assets are not transferred & thus sale consideration for the individual assets is not known. Therefore Sale consideration of whole undertaking/division is compared with the NET WORTH of the undertaking to find out the Capital gain.				
COA & COI	<ul style="list-style-type: none"> <li>❖ COA &amp; COI = Net worth of the undertaking/ division.</li> <li>❖ <b>Net worth shall be calculated as follow:</b> <table border="1" style="margin-left: 20px;"> <tr> <td>Total value of <b>All Assets</b> of an undertaking/ division</td><td style="text-align: right;"><b>[Note 1]</b></td></tr> <tr> <td><b>Less:</b> Total value of All Liabilities of such undertaking/division.</td><td style="text-align: right;"><b>[Note 2]</b></td></tr> </table> </li> <li>❖ Any change in the value of assets on account of REVALUATION of Assets shall <b>NOT</b> be considered for this purpose.</li> </ul>	Total value of <b>All Assets</b> of an undertaking/ division	<b>[Note 1]</b>	<b>Less:</b> Total value of All Liabilities of such undertaking/division.	<b>[Note 2]</b>
Total value of <b>All Assets</b> of an undertaking/ division	<b>[Note 1]</b>				
<b>Less:</b> Total value of All Liabilities of such undertaking/division.	<b>[Note 2]</b>				
INDEXATION	<b>No Indexation</b> shall be allowed on COA/COI.				
NATURE OF CAP. GAIN	<ul style="list-style-type: none"> <li>❖ If POH of the undertaking/division ≤ 36 Months → STCG would arise.</li> <li>❖ If POH of the undertaking/division &gt; 36 Months → LTCG would arise.</li> </ul>				

**Note:**

- Aggregate value of total assets shall be calculated as follows:
  - **Depreciable Assets:** WDV of block of assets determined in accordance with sec 43(6)
  - **Sec 35AD Assets:** Nil
  - **All other Assets:** Book value.
- All Liabilities should be assumed to be paid off in full unless otherwise specified.



**CQ24.** X Ltd. has several undertakings carrying on several businesses. During PY 2018-19, company sold one of its undertakings (as it was continuously generating loss since last 5 years) for a lump sum value of Rs. 300 lacs without assigning value to individual asset & liabilities. Brokerage on transfer paid @ 5%. Compute capital gain.

Book value of sundry assets & liabilities of the undertaking as on the date of sale is as under:

Items	Book Value	FMV
LAND	Rs. 50 lacs (Stamp duty Value = Rs.7000000)	Rs.100 lacs
Machinery	Rs. 30 lacs (WDV as per IT Act Rs.60 lacs)	Rs.100 lacs
Furniture	Rs. 50 lacs (WDV as per IT Act Rs.90 lacs)	Rs.75 lacs
Stock	Rs. 30 lacs	Rs.35 lacs
Debtors	Rs. 40 lacs	Rs.40 lacs
Creditors	Rs. 50 lacs	-

**Solution:** Since the undertaking is owned by the company for more than 3 year hence the gain on transfer shall be liable to long term. Calculation of cost of acquisition (i.e. Net worth)

Calculation of Net Worth		
<b>A. Value of Assets taken over:</b>		
<b>Asset</b>	<b>Value</b>	<b>Basis</b>
Land	Rs. 50 Lacs	Book Value
Machinery	Rs. 60 Lacs	WDV
Furniture	Rs. 90 Lacs	WDV
Stock	Rs. 30 Lacs	Book Value
Debtors	Rs. 40 Lacs	Book Value
<b>TOTAL</b>	<b>Rs. 270 Lacs</b>	
<b>B. Value of liabilities taken over:</b>		
(i) Creditors = Rs. 50 Lacs – Basis of Book Value.		
<b>NET WORTH = Assets – Liabilities = A - B =</b>		
<b>Rs. 270 Lacs – Rs. 50 Lacs = Rs. 220 Lacs</b>		

#### Computation of capital gains in the hands of X Ltd. for AY 2019-20

Sale consideration	Rs. 300 lacs
Less: Expenses on transfer = (5% of Rs.300 lacs)	Rs. 15 Lacs
Net sale consideration	Rs. 285 lacs
Less: Cost of acquisition i.e. Net Worth: Calculated above	(Rs. 220 lacs)
Less: Cost of improvement	(Rs. Nil)
Long Term Capital Gain	Rs. 65 Lacs

### CAPITAL GAINS ON SHARES & DEBENTURES ACQUIRED IN FOREIGN CURRENCY BY A NON-RESIDENT [1<sup>st</sup> Proviso to Sec 48]

- If a NR acquires Shares or debentures of an Indian Company by utilizing foreign Currency, **then the capital gain shall be computed in same foreign currency.** After calculating capital gains in foreign currency, it will be converted into Indian Currency.
- Benefit of **INDEXATION** is **NOT AVAILABLE.**

#### STEPS TO COMPUTE CAPITAL GAINS

1. Sale Consideration, Expenses of Transfer & Cost of Acquisition will be given in Rupees in the question as the shares/debentures were acquired by utilizing foreign currency.
2. So we need to convert them into Foreign Currency by using AVERAGE BUYING RATE on the date of TRANSFER/ ACQUISITION.
3. Calculate CAPITAL GAINS in FOREIGN CURRENCY.
4. Capital Gain in Foreign Currency shall be **Re-converted** into INDIAN CURRENCY by applying **BUYING Rate** on the date of transfer.

**CQ25.** R, a NRI, remits US\$ 40,000 to India on 16.9.2009. The amount is partly utilized on 3.10.2009 for purchasing 10,000 shares in A Ltd., an Indian company at the rate of Rs.12 per share. These shares are sold for Rs. 36 per share on 30.3.2019. The telegraphic transfer buying & selling rate of US dollars adopted by the State Bank of India is:

Date	TT Buying Rate	TT Selling Rate	Average TT Rate [ Buying + Selling]/2
16.9.2009	18	20	19.5
3.10.2009	19	21	20
30.3.2019	44	46	45

Compute capital gain chargeable to tax for the AY 2019-20 on the assumption that:

(a) These shares have not been sold through RSE. (b) These shares have been sold through RSE & STT was paid.

**Solution:** (a) Where shares are not sold through recognised stock exchange

Sale consideration (Rs. 3,60,000/45)	US\$ 8,000
Less: Cost of acquisition (Rs. 1,20,000/20)	(US\$ 6,000)
Long-term capital gain	US\$ 2,000
Long term Capital gain covered into Rupees (US\$ 2,000 x Rs. 44/US\$)	Rs. 88,000

(b) Where shares are sold through a recognised stock exchange: Entire LTCG is exempt since it is < 10 Lacs.

### TRANSFER OF SECURITIES HELD IN DEMAT FORM- [SEC 45(2A)]

<b>COA &amp; POH</b>	➤ Determine using <b>FIFO</b> Method on the basis of <b>Date of Entry in DEMAT A/C</b> .
<b>CONVERSION OF OLD PHYSICAL STOCK INTO DEMATERIALISED FORM</b>	
In case of conversion of shares (originally held in physical form) into DEMAT form:	
<ul style="list-style-type: none"> <li>▪ <b>For SALE:</b> Date of Entry in DEMAT A/C should be considered.</li> <li>▪ <b>For POH:</b> Original Date of acquisition should be considered.</li> </ul>	
❖ Where an investor has more than one account, FIFO will be applied account wise.	

**CQ26.** Raju acquired & transferred the shares of X ltd in his Demat a/c as given below. Compute Capital Gains.

#### Details of DEMAT A/c

**Acquisitions:**

Date of Entry in Demat A/c	No of shares	Cost
1.1.2007	1000 share	120 per share
1.12.2009	3000 share	136 per share
1.4.2013 (Acquired on 1.1.2002)	5000 share	45 per share

**Transfers:**

Date of transfer	No of shares	Sale consideration
1.04.2011	2,500 shares	189 per share
1.08.2015	5,000 shares	260 per share
1.10.2018	1,500 shares	340 per share

**Solution:**

Capital Gain on Transfer of 2,500 shares on 1.4.2011		
Sale Consideration (2500 × 189)		4,72,500
Less: Indexed COA: (1000 × 120 × 184/122)	(1,80,980)	
(1500 × 136 × 184/148)	(2,53,620)	(4,34,600)
<b>Long term Capital gain</b>		<b>37,900</b>
Capital Gain on Transfer of 5,000 shares on 1.8.2015		
Sale Consideration (5,000 × 260)		13,00,0000
Less: Indexed COA: (1500 × 136 × 254/148)	(3,50,110)	
(3500 × 45 × 254/100)	(1,57,500)	(5,07,610)
<b>Long term Capital gain</b>		<b>7,92,390</b>
Capital Gain on Transfer of 1500 shares on 1.10.2018		
Sale Consideration (1500 × 340)		5,10,000
Less: Indexed COA: (1500 × 45 × 280/100)		(1,89,000)
<b>Long term Capital gain</b>		<b>3,21,000</b>

## ASCERTAINMENT OF COST IN SPECIFIED CIRCUMSTANCES [SEC 49(1)]

In the following cases, the cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property acquired it. To this cost, the cost of improvement to the asset incurred by the previous owner or the assessee must be added:

Where the capital asset became the property of the assessee:

- (a) on any distribution of assets on the total or partition of a HUF;
- (b) under a gift or will;
- (c) by succession, inheritance or devolution;
- (d) on any distribution of assets on the liquidation of a company;
- (e) under a transfer to revocable or an irrevocable trust;
- (f) under any transfer of capital asset by a holding company to its wholly owned subsidiary Indian company or by a subsidiary company to its 100% holding Indian company, referred to in section 47(iv) and 47(v) respectively;
- (g) under any transfer referred to in section 47(vi) of a capital asset by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation;
- (h) under any transfer referred to in section 47(vib), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger;
- (i) by conversion by an individual of his separate property into a HUF property, by the mode referred to in section 64(2).

### Case Law: Bombay High Court in *CIT v. Manjula J. Shah* 16 Taxman 42 (Bom.)

The Bombay High Court held that the Indexed cost of acquisition in case of gifted asset has to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset.

Section 2(42A) provides that in all such cases, for determining the period for which the capital asset is held by the transferee, the period of holding of the asset by the previous owner shall also be considered.

**Note:** In case of mode of acquisition of asset specified u/s 49(1), Period of holding of the previous owner shall also be considered for the purpose of taking Indexation of Cost of Acquisition.

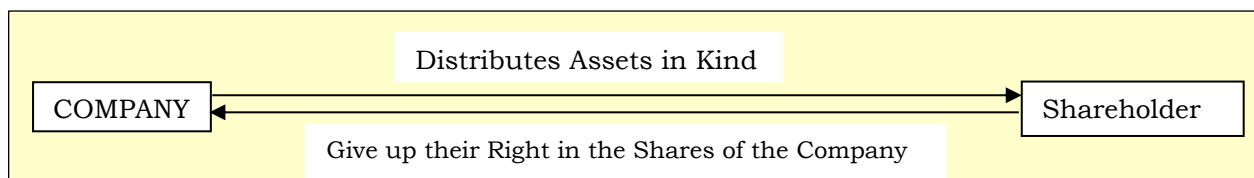
## DETERMINATION OF PERIOD OF HOLDING IN SPECIAL CIRCUMSTANCES

Circumstances	Period of holding
Shares held in a company in liquidation	Exclude the period subsequent to the date of liquidation
Asset becomes property of the assessee by virtue of sec 49(1).	Include POH of previous owner
Allotment of shares in the scheme of amalgamation/Demerger	Include POH of shares in Amalgamating/Demerged Co.
Right shares / securities, Bonus shares	From the date of allotment of such share or security
Right to subscribe to any share or security	From the date of offer of right.
Units become property of assessee in consideration of transfer of units in consolidated scheme of MF referred u/s 47(xviii).	Include POH of units in consolidating scheme of MF.
Where share/s of a company is acquired by NR assessee on redemption of GDRs held by such assessee	Period from the date on which redemption request was made.
Equity share becomes property of the assessee by way of conversion of preference shares into equity shares u/s 47(xb)	Include POH of preference shares.
Units become property of the assessee in consideration of transfer of units in the consolidated plan referred u/s 47(xix).	Include POH of units in the consolidating plan of MF.
ESOP or sweat equity shares allotted by employer free/@ concessional rate to his employees/ former employees.	Period from the date of allotment or transfer.

## D. TRANSACTIONS NOT TREATED AS TRANSFER (SEC 46 & 47)

- In the following cases, **No Capital Gain** would arise **since** they are **NOT** treated as Transfer.
- Thus **NO TAX** will be payable on such transfer by the transferee.

### 1. CAPITAL GAIN ARISING ON “DISTRIBUTION OF ASSETS IN KIND BY COMPANY TO ITS SHAREHOLDERS ON LIQUIDATION [SECTION 46]



#### FOR COMPANY IN LIQUIDATION

- Any Asset distributed in kind by the company to its shareholders on liquidation → shall **NOT** be regarded as a transfer by the company.
- Thus **No Capital Gain** shall arise to company on distribution of such Assets.
- However, if liquidator sells the assets of company & distributes funds so collected, capital gain shall arise on such transfer.

#### FOR SHAREHOLDERS

- Capital Gain shall arise in the hands of Shareholders on transfer of such shares to the company.
- **Sale Consideration = FMV** of Assets received in **Kind – Deemed Dividend u/s 2(22)(c)**.
- **Deemed dividend u/s 2(22)(c)** → Distribution of Accumulated Profits by the company on liquidation is treated as deemed dividend u/s 2(22)(c) & DDT u/s 115 shall be payable by the company & thus such dividend shall **NOT** be taxable in the hands of shareholders & therefore it is deducted from SC.

#### CAPITAL GAIN ON TRANSFER OF ASSETS RECEIVED IN KIND BY THE SHAREHOLDERS

- When the asset received in kind is transferred by the shareholder later, Capital Gain will arise.
- **COA** of such asset = **FMV** of such asset **on date of distribution** by the company.
- **POH** shall be reckoned from the **date of receipt** of asset on liquidation.

**CQ27.** Mr. PC purchased 10,000 equity shares of XYZ Co. Pvt. Ltd on 28.2.2007 for Rs. 1,20,000. The company was wound up on 31.7.2018. The following is the summarized financial position of the company as on 31.7.2018.

Liabilities	Rs.	Assets	Rs.
60,000 Equity shares	6,00,000	Agricultural lands	42,00,000
General Reserve	40,00,000	Cash at bank	6,50,000
Provision for taxation	2,50,000		
	48,50,000		48,50,000

Tax liability (towards DDT) was ascertained at Rs. 3 Lacs, after considering refund due to the company.

The remaining assets were distributed to the shareholders in the proportion of their shareholding.

The market value of the 6 acres of the agriculture land (in an urban area) as on 31.7.2018 is Rs. 10 Lacs per acre. The agriculture land received above was sold by Mr. PC on 29.2.2019 for Rs. 15 Lacs. Discuss tax treatment.

**Solution:**

1. CG arising in hands of company on distribution of asset in kind to shareholders on liquidation is exempt u/s 46.

2. Computation of CG in the hands of Mr. PC

Sale consideration [refer note 1]	4,00,000
<b>Less:</b> Indexed cost of acquisition $[1,20,000 \times 280/122]$	(2,75,410)
<b>Long term capital gain</b>	<b>1,24,590</b>

3. CG arising on Sale of URBAN Agricultural land received in the hands Mr. PC

Sale consideration	Rs. 15 Lacs
Less: COA [deemed to be FMV on date of distribution]	Rs. 10 Lacs
<b>Short term capital gain</b>	<b>Rs. 5 Lacs</b>

**Working Note:**

1. Calculation of Sale Consideration of Shares: Mr. PC holds  $1/6^{\text{th}}$  of shareholding of the company, so

Agriculture land received	(60 Lacs/6)	Rs. 10,00,000
Cash at bank	$(6,50,000 - 3 \text{ Lacs})/6$	Rs. 58,333
<b>Less:</b> Deemed dividend u/s 2 (22)(c)	$(40 \text{ Lacs} - 50,000)/6$ ---- Exempt u/s 10(34)	(6,58,333)
Sale consideration		Rs. 4,00,000

2. Dividend u/s 2 (22)(c) i.e. Rs. 6,58,333 will be exempt.

3. Tax liability has been ascertained at Rs. 3 Lacs as against the provision of Rs. 2,50,000. Therefore Rs. 50,000 (Rs. 3 Lacs - Rs. 2,50,000) has to be reduced from general reserve for calculating deemed dividend u/s 2(22)(c).

## 2. DISTRIBUTION OF CAPITAL ASSET ON TOTAL/PARTIAL PARTITION OF HUF

- Distribution of Capital Asset by HUF to its members on partition of HUF is **NOT** treated as Transfer & thus **NO Capital Gain** shall arise in the hands of **HUF**.
- **However**, Capital Gain shall arise when the asset received on partition, is **sold** by member.
- For computing capital gain in the hands of member on the transfer of said asset ↓

<b>COA in the hands of member of HUF</b>	Cost of Asset to HUF
<b>Period of Holding</b>	From the date of Acquisition of Asset by HUF

**CQ28.** On 18.8.2005, Ramu acquired 1000 debentures of X Ltd. & a house on partition of its HUF. House was acquired by HUF on 1.4.1995 for Rs. 3 lacs & Debentures were acquired on 1.4.2002 for Rs. 2 lacs. FMV of the house on 1.4.2001 is Rs. 4 lacs. COI incurred by HUF on 15.3.2002 was Rs. 2 lacs. On 17.7.2018, Ramu sold the house for Rs. 20 lacs & its debentures are taken by the company at Rs. 2,50,000. Compute capital gain of Ramu for AY 2019-20.

**Solution:****Computation of capital gain in the hands of Ramu for the AY 2018-19**

**I. HOUSE** → POH: 1.4.1995 – 17.7.2018

Sale Consideration	20,00,000
<b>Less:</b> Indexed cost of acquisition $[4,00,000 \times 280/100]$	11,20,000
<b>Less:</b> Indexed cost of improvement $[2,00,000 \times 280/100]$	5,60,000
Long-term capital gain	3,20,000

**II. Debenture** → POH: 1.4.2002 – 17.7.2018

Sale Consideration	2,50,000
<b>Less:</b> cost of acquisition [No indexation is available]	2,00,000
Long-term capital gain	50,000

**Note:** COA = Cost to Previous owner in case of Gift.

### 3. TRANSFER OF CAPITAL ASSET BY WAY OF GIFT/UNDER A WILL OR TRUST

- Transfer of capital asset under a gift or will or irrevocable trust is NOT treated as transfer & thus NO CAPITAL GAIN shall arise in the hands of transferor.
- However, Capital Gain will arise in the hands of Recipient **when he transfers such capital asset.**
- For computing capital gain in the hands of recipient of gifts/will/irrevocable trust.

<b>COA in the hands of Recipient →</b>	Cost to previous owner
<b>Period of Holding/Indexation →</b>	<ul style="list-style-type: none"><li>▪ Includes Period of Holding of previous owner;</li><li>▪ Indexation will be taken from date of acquisition of Asset by <b>Previous owner</b></li></ul>

**Exception:** If Employee transfers share/debenture/warrant allotted to him under ESOP under a Gift or irrevocable trust, capital gain arising on such transfer is NOT Exempt.  
For Determining Capital gain in such case, **Full value of consideration = FMV on date of transfer.**

**Note:** If assets received as gift is made taxable u/s 56 (2)(vii) or (viia), then COA of such assets shall be the value taken into accounts for the purpose of sec 56(2)(vii) or (viia).  
In such case the POH of previous owner shall not be included. [Study with IFOS]

**CQ29.** Mr. A purchased gold in 1970 for Rs. 25,000. FMV on 1.4.2001 was Rs. 1,30,000. In PY 2017-18, he gifted it to his son. FMV on the date of receipt of gift was Rs. 2,00,000. His son sold it PY 2018-19 for Rs. 5,00,000. Discuss the tax implications in the hands of Mr. A & his son.

**Solution:** Gift is exempt by virtue of Section 47 & thus NO capital gain arises in the hands of Mr. A.

#### Computation of Capital Gains in the hands of Son of Mr. A

Sale Consideration	5,00,000
<b>Less:</b> Indexed cost of acquisition $[1,30,000 \times 280/100]$	3,64,000
Long-term capital gain	1,36,000

**Note:** COA = Cost to Previous owner in case of Gift.

### 4. TRANSFER OF CAPITAL ASSET BY HOLDING COMPANY TO WOS COMPANY

<b>COA in the hands of WOS</b>	Cost to Holding company (Previous owner)
<b>POH of Holding company</b>	Includes POH of Holding company (Previous owner)

### 5. TRANSFER OF CAPITAL ASSET BY WOS COMPANY TO ITS HOLDING COMPANY

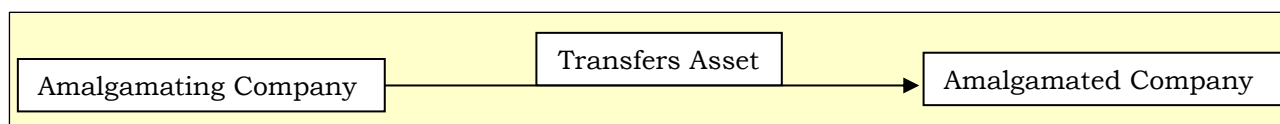
<b>COA in the hands of Holding company</b>	Cost to Holding company (Previous owner)
<b>POH of Wholly owned subsidiary</b>	Includes POH of WOS company (Previous owner)

**Note:** For Point No. 4 & 5

- (a) **Recipient Company** (company receiving capital asset) shall be **Indian Company.**
- (b) Exemption will **NOT apply** if a **Capital Asset is transferred as SIT.**

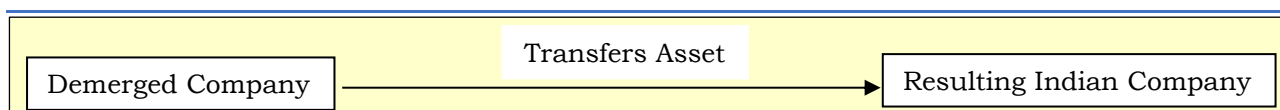


## 6. TRANSFER OF CAPITAL ASSET IN SCHEME OF AMALGAMATION BY AMALGAMATING COMPANY TO AMALGAMATED (INDIAN) COMPANY



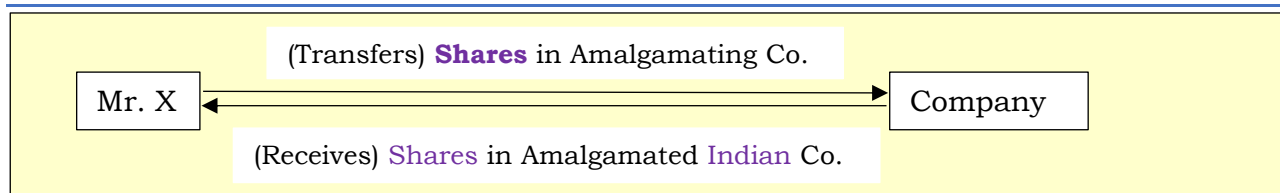
<b>COA to Amalgamated Company</b>	Cost to Amalgamating company (Previous owner)
<b>POH</b>	Include POH of Amalgamating company (Previous owner)
<b>Indexation</b>	From date of acquisition of capital asset by amalgamating company (previous owner)

## 7. TRANSFER OF CAPITAL ASSET IN THE SCHEME OF DEMERGER BY DEMERGED COMPANY TO RESULTING INDIAN COMPANY



<b>COA to Resulting company</b>	Cost to Demerged company (Previous owner)
<b>POH</b>	Include POH of demerged company (Previous owner)
<b>Indexation</b>	From Date of acquisition of capital asset by demerged company (Previous owner)

## 8. ALLOTMENT (ISSUE) OF SHARES BY AMALGAMATED COMPANY IN LIEU OF SHARES HELD IN AMALGAMATING COMPANY



<b>COA of shares in Amalgamated company →</b>	COA of shares in Amalgamating Company
<b>POH of shares in Amalgamating company →</b>	Include POH of shares in Amalgamating Company.

**Note:** In this case, shares in amalgamated company are allotted to the shareholders (of amalgamating company) in exchange of their shares in the amalgamating company, **except where the shareholder itself is amalgamated company.**

**Ex:** A Ltd., an Indian company, holds 60% of shares in B Ltd. B Ltd. amalgamates with A Ltd. Since A Ltd. itself is the shareholder of B Ltd., A Ltd., being the amalgamated company, cannot issue shares to itself. However, A Ltd. has to issue shares to the other shareholders of B Ltd.

**Note:** Same provision would apply in case of conversion of company into LLP – [Sec 47(xiiic)]

❖ **Cost of share in LLP = COA of Shares in the company immediately before its conversion**

## 9. ALLOTMENT OF SHARES BY RESULTING COMPANY TO SHAREHOLDERS OF DEMERGED COMPANY

Assets	Cost of Acquisition
<b>Shares in Resulting Company</b>	COA of shares in Demerged Company $\times \frac{\text{Net BV of Asset in demerged company after demerger}}{\text{Net BV of Asset in demerged company before demerger}}$
<b>Shares in Demerged Company</b>	COA of share in Demerged Co. – Cost apportioned to shares of Resulting Co.

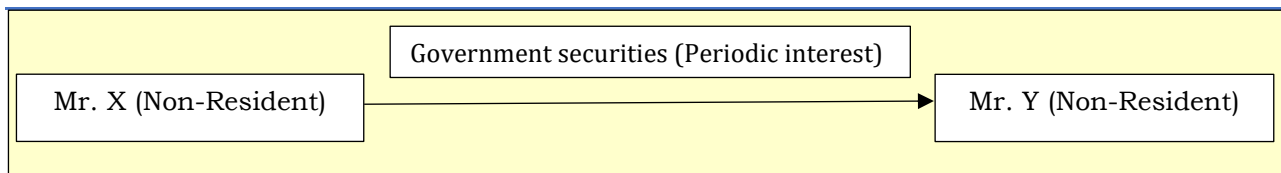
**Note:** For determining POH of Shares in Resulting Co. → Includes POH of Shares in demerged Co.

**CQ30.** Mr A. acquired 1000 shares in XY ltd of Rs. 20,000. XY Ltd. was demerged on 25.09.2018 & the net book value of the asset transferred to Y Ltd (the resulting company) was 30 Lacs. Compute the cost of acquisition of shares of Mr. A in demerged company as well as resulting company assuming the paid up capital & general reserve of XY Ltd before demerger were 1 crore.

**Solution:**

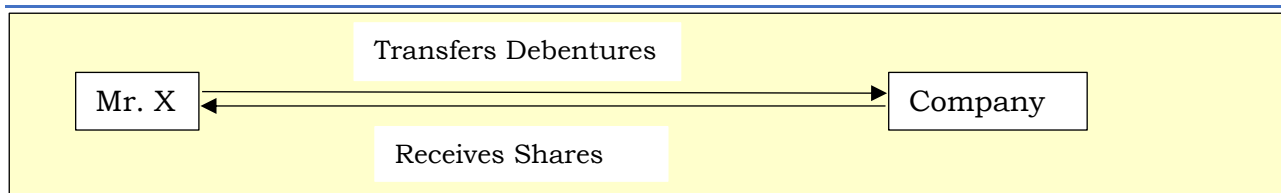
COA of Shares in Resulting Company	COA of shares in Demerged Company $\times \frac{\text{Net BV of Asset in demerged company after demerger}}{\text{Net BV of Asset in demerged company before demerger}}$ $= 20,000 \times \frac{30}{1 \text{ crore}} = \text{Rs. } 6,000.$
Shares in Demerged Company	COA of share in Demerged Co. – Cost apportioned to shares of Resulting Co. $= \text{Rs. } 20,000 - \text{Rs. } 6,000 = \text{Rs. } 14,000.$

## 10. TRANSFER OF GOVERNMENT SECURITY BY A NR TO ANOTHER NR OUTSIDE INDIA THROUGH INTERMEDIARY (SEC 47(VIIB))



**11. TRANSFER OF CAPITAL ASSET BEING ANY WORK OF ART**, Archaeological, Scientific or Art Collection, Book, Manuscript, Drawing, Painting, Photograph or Print to **Government/University/National Museum/National Art Gallery/Any other Public Museum or Institution of National Importance** → **Exempt**

## 12. TRANSFER BY WAY OF CONVERSION OF BONDS/DEBENTURES INTO SHARES



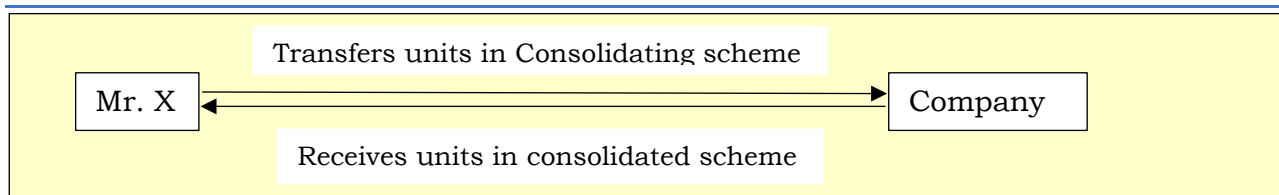
<b>COA of Shares received</b>	Cost of Bonds/Debenture given up
<b>POH of Shares</b>	Include POH of Debentures given up

**CQ31.** Mr. B purchased convertible debentures for Rs. 5,00,000 during August 2001. The debentures were converted into shares in September 2012. These shares were sold for Rs. 15,00,000 in August 2018. The brokerage expenses are Rs. 50,000. You are required to compute the CG in case of Mr. B for AY 2019-20.

**Solution:** **Computation of Capital Gains of Mr. B for AY 2019-20**

Particulars	Rs.
Sale consideration	15,00,000
<b>Less:</b> Expenses on transfer (Brokerage paid)	(50,000)
Net sale consideration	14,50,000
<b>Less:</b> Indexed cost of acquisition (Rs. 5,00,000 × 280/105)	12,95,238
Long term capital gain	1,54,762

### 13. TRANSFER OF UNITS OF MF IN THE SCHEME OF CONSOLIDATION OF MF

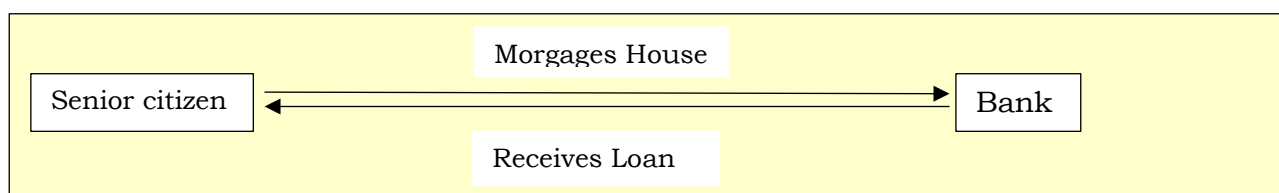


<b>COA of unit in Consolidated scheme →</b>	COA of units in Consolidating Scheme
<b>POH of unit in consolidating scheme →</b>	Includes POH of units in consolidating scheme for determining POH of units in consolidated scheme

**Note:** Consolidation should be of 2 or more schemes of equity-oriented fund or of 2 or more scheme of a fund other than equity-oriented fund.

### 14. TRANSFER OF CAPITAL ASSET IN SCHEME OF REVERSE MORTGAGE

- Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government would not amount to a transfer. [Section 47(xvi)]



**Note:** Sec 10(43) **exempts** any lumpsum amounts or instalments received as a **loan** under a scheme of reverse mortgage from the bank by senior citizens.

### **SOME OTHER TRANSACTIONS WHICH ARE NOT TREATED AS TRANSFER**

**15. Transfer of Rupee denominated bond of Indian company** issued outside India **by NR to another NR** - [Section 47(viaa)].

**16. Redemption of Sovereign Gold Bonds** by Individual issued under Sovereign Gold Bond Scheme, 2015 [Section 47(viic)].

**17. Conversion of Preference shares into Equity shares:** Any transfer by way of conversion of preference shares of a company into equity shares of that company [Section 47(xb)].

## REVERSE MORTGAGE SCHEME

<b>Meaning</b>	<ul style="list-style-type: none"> <li>Reverse Mortgage scheme is for the benefit of senior citizens who own residential house.</li> <li>Senior citizens can mortgage their house property with scheduled bank/housing finance company for lumpsum amount or a regular monthly/quarterly/annual income.</li> </ul>
<b>Scheme</b>	<ul style="list-style-type: none"> <li>Senior citizens can mortgage their house &amp; get the contracted amount.</li> <li>They can continue to live in their house &amp; receive regular income without having to pay back the loan.</li> <li>Borrower can use the loan amount for renovation &amp; extension of residential property, family's medical and emergency expenditure etc., amongst others.</li> <li><b>However, he cannot use the amount for speculative or trading purposes.</b></li> <li>Bank/housing finance company would revalue the property once every 5 years.</li> </ul>
<b>Recovery</b>	<ul style="list-style-type: none"> <li>Bank will recover loan with interest by selling house after the death of the borrower.</li> <li><b>The excess amount will be given to the legal heirs.</b></li> <li>However before selling the house, preference will be given to the legal heirs to repay the loan and interest and get the mortgaged property released.</li> </ul>
<b>Taxation</b>	<ul style="list-style-type: none"> <li>Transfer of capital asset in a transaction of reverse mortgage under a scheme made &amp; notified by CG <b>would not amount to a transfer - Section 47(xvi).</b></li> <li>Amount received by the senior citizen as a loan (Lump sum/Instalments) in a transaction of reverse mortgage would be exempt from income-tax- <b>Section 10(43).</b></li> <li>Capital gains would arise in the hands of senior citizen only when the mortgaged property is sold by the bank/housing finance company for the purposes of recovering the loan.</li> </ul>

**CQ33.** Mr. X a senior citizen, pledged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly instalments. Mr. X did not repay the loan on maturity and hence gave possession of the house to the bank to discharge his loan. How will the treatment of LTCG be on such reverse mortgage transaction?

**Answer:** Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made & notified by CG shall not be considered as a transfer for the purpose of capital gain.

Accordingly pledging of residential house with bank by Mr. X will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, section 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly instalment amounts received by Mr. X would not be taxable.

However, capital gains tax liability would be attracted at the stage of alienation of the mortgaged property by the bank for the purposes of recovering the loan.

## EXEMPTION FROM CAPITAL GAINS

Exemption from Capital Gains is available in two categories:

<b>A. Exemption u/s 10</b>	<ul style="list-style-type: none"> <li>These exemptions are available on Transfer of Notified Capital Assets.</li> <li><b>No Investment</b> in any new capital asset <b>is required</b> to avail these Exemption.</li> </ul>
<b>B. Exemption u/s 54</b>	<ul style="list-style-type: none"> <li>These exemptions are available only if the Specified (New) Capital Asset is Acquired or Constructed.</li> </ul>

### A. EXEMPTIONS U/S 10:

<b>1. Capital Gain on transfer of a Units of Unit Scheme, 1964 (US 64) [Section 10(33)]</b> <ul style="list-style-type: none"> <li>Such transfer should take place on/after 1.4.2002.</li> </ul>
<b>2. Capital Gain arising to Individual/HUF on Compulsory Acquisition of Urban Agricultural Land [Section 10(37)]</b> <ul style="list-style-type: none"> <li>Exemption is available only if compensation is received on/after 1.4.2004.</li> </ul>
<b>3. Capital Gain arising on Buy-back of Unlisted shares of Domestic Company [Sec 10(33)]</b>

**CQ34.** Mr. Kumar has agricultural land (costing Rs. 6 lacs) in Lucknow & has been using it for agricultural purposes since 1.4.2000 till 1.8.2011 when the Government took over compulsory acquisition of this land. Compensation of Rs. 10 lacs was settled. The compensation was received by Mr. Kumar on 1.7.2018. Compute the amount of capital gains taxable in the hands of Mr. Kumar for AY 2019-20.

**Solution:** In the given problem, compulsory acquisition of an urban agricultural land has taken place & the compensation is received after 1.4.2004. This land had also been used for at least 2 years by the assessee himself for agricultural purposes. Thus, as per section 10(37), entire capital gains arising on such compulsory acquisition will be fully exempt & nothing is taxable in the hands of Mr. Kumar in the year of receipt of compensation i.e. AY 2019-20.

**CQ35.** Will your answer be any different if Mr. Kumar had by his own will sold this land to his friend Mr. Sharma? Explain.

**Solution:** As per section 10(37), exemption is available if compulsory acquisition of urban agricultural land takes place. Since the sale is out of own will & desire, the provisions of this section are not attracted & the capital gains arising on such sale will be taxable in the hands of Mr. Kumar.

**CQ36.** Will your answer be different if Mr. Kumar had not used this land for agricultural activities? Explain.

**Solution:** As per section 10(37), exemption is available only when such land has been used for agricultural purposes during the preceding two years by such individual or a parent of his or by such HUF. Since the assessee has not used it for agricultural activities, the provisions of this section are not attracted & the capital gains arising on such compulsory acquisition will be taxable in the hands of Mr. Kumar.

**CQ37.** Will your answer be different if the land belonged to ABC Ltd. & not Mr. Kumar & compensation on compulsory acquisition was received by the company? Explain.

**Solution:** Section 10(37) exempts capital gains arising to an individual or a HUF from transfer of agricultural land by way of compulsory acquisition. If the land belongs to ABC Ltd., a company, the provisions of this section are not attracted & the capital gains arising on such compulsory acquisition will be taxable in the hands of ABC Ltd.

## B. EXEMPTION U/S 54

### CAPITAL GAINS ON TRANSFER OF RESIDENTIAL HOUSE PROPERTY (SEC 54)

<b>Eligible Assessee</b>	Individual or HUF															
Which <b>Asset</b> must be <b>transferred</b>	<b>Residential House Property (LTCA)</b> Income from such house should be chargeable u/h “Income from HP”.															
Which <b>asset</b> must be <b>acquired</b>	<b>One Residential House</b> in India (Purchased/Constructed).															
<b>Time limit</b> for acquiring new asset	<b>Purchase</b> → Within 1 yr before transfer or within 2 years after transfer. <b>Construct</b> → Within 3 years after the date of transfer.															
<b>Quantum</b> of Exemption	Investment in New Asset or Capital Gain (whichever is lower)															
<b>Consequences of transfer</b> of Newly acquired asset <b>within 3 years.</b>	Exemption granted will be taken back.  For computing STCG on transfer of new asset: Cost of New asset = (Cost of acquisition- Capital gains exempted earlier).															
<b>Example</b>	1. CG = Rs. 7 lacs & Cost of New house= Rs.9 lacs; Exemption = 7 lacs.															
	2. CG = Rs. 7 lacs & Cost of New house=Rs.5 lacs; Exemption = 5 lacs.															
	Continuing <b>Ex</b> , if the new house was sold after 2 years for Rs. 12 lacs, then STCG =															
	<table><tr><th>Particulars</th><th>Rs.</th><th>Rs.</th></tr><tr><td>Net Consideration</td><td></td><td>1200000</td></tr><tr><td>Cost of acquisition</td><td>9,00,000</td><td></td></tr><tr><td><b>Less:</b> CG exempt earlier u/s 54</td><td>(7,00,000)</td><td>(200000)</td></tr><tr><td>Taxable STCG</td><td></td><td>1000000</td></tr></table>	Particulars	Rs.	Rs.	Net Consideration		1200000	Cost of acquisition	9,00,000		<b>Less:</b> CG exempt earlier u/s 54	(7,00,000)	(200000)	Taxable STCG		1000000
	Particulars	Rs.	Rs.													
Net Consideration		1200000														
Cost of acquisition	9,00,000															
<b>Less:</b> CG exempt earlier u/s 54	(7,00,000)	(200000)														
Taxable STCG		1000000														

#### Points to Remember:

- **Date of completion of construction is relevant.** Date of commencement of construction is irrelevant. Construction may be commenced even before the transfer of house.
- Allotment of Flat under Self-financing scheme is treated as construction of house for Section 54.
- **Holding of Legal Title → Not Necessary.** If the taxpayer pays whole/part of consideration & gets the possession of new house, exemption available u/s 54 is available.
- Investment → Includes Cost of Purchase of House + Cost incurred to make habitable.
- A person may Sell 2 Houses & Purchase 1 House for the purpose of availing exemption u/s 54.

**CQ38.** Mr. Cee purchased a residential house on July 20, 2017 for Rs. 10,00,000 & made some additions to the house incurring Rs. 2,00,000 in August 2017. He sold the house property in April 2018 for Rs. 20,00,000. Out of the sale proceeds, he spent Rs. 5,00,000 to purchase another house property in September 2018. Find the amount of capital gains taxable in the hands of Mr. Cee for the AY 2019-20?

**Solution:** The house is sold before 24 months from the date of purchase. Hence, the house is a STCA.

Particulars	Rs.
Sale consideration	20,00,000
<b>Less:</b> Cost of acquisition	(10,00,000)
<b>Less:</b> Cost of improvement	(2,00,000)
Short-term capital gains	8,00,000

**Note:** The exemption of capital gains u/s 54 is available only in case of LTCA. As the house is STCA. Mr. Cee cannot claim exemption u/s 54. Thus, the amount of taxable STCA is Rs. 8,00,000.



### CAPITAL GAIN ON TRANSFER OF AGRICULTURAL LAND [SEC 54B]

Eligible <b>Assessee</b>	Individual or HUF
Which asset shall be <b>transferred</b>	<b>Urban Agricultural land (LT/ST).</b> Such land must have been used by Assessee or his parents/HUF for agricultural purposes for <b>2 yrs</b> immediately preceding date of transfer.
Which asset is <b>acquired</b>	Agricultural Land (Rural/Urban)
<b>Time limit</b> for acquiring new asset	Within 2 years from the date of transfer.
<b>Quantum</b> of Exemption	Same as Section 54.
<b>Consequences</b> of transfer within 3 years	Same as Section 54. However, if new agricultural land is a rural agricultural land, there would be no CG on transfer of such land.

### CAPITAL GAIN ON COMPULSORY ACQUISITION OF INDUSTRIAL L & B [SEC 54D]

Eligible <b>Assessee</b>	Any Assessee.
Which asset shall be <b>transferred</b>	<b>Industrial Land or Building (STCA/LTCA)</b> Such Land/building should have been used by assessee for Industrial undertaking for <b>2 years</b> immediately preceding the date of transfer.
Which asset is <b>acquired</b>	Land or Building for Industrial purpose
<b>Time limit</b> for acquiring new asset	Within 3 years from the date of Receipt of compensation.
<b>Quantum</b> of Exemption	Same as Section 54.
<b>Consequences</b> of transfer within 3 years	Same as Section 54

### CAPITAL GAIN ON TRANSFER OF ANY LONG-TERM CAPITAL ASSET ON THE BASIS OF INVESTMENT IN CERTAIN BONDS [SECTION 54EC]

Eligible <b>Assessee</b>	Any Assessee
Which asset shall be <b>transferred</b>	<b>Long-term Capital Asset being Land or Building or both</b> (Even a depreciable asset held for more than 36 months is a LTCA even if they are always regarded as STCA under other sections of the act)
Which asset is <b>acquired</b>	<b>Bonds of National Highways Authority of India (NHAI) &amp; Rural Electrification Corporation Ltd (RECL) redeemable after 5 years.</b>  Bonds issued by <b>Power Finance Corporation Limited</b> on/after 15.06.17 & Bonds issued by <b>Indian Railway Finance Corporation Limited</b> on/after 8.8.17 & redeemable after 3 years.

<b>Time limit</b> for acquiring New Asset	<b>Within 6 months</b> from the date of transfer.
<b>Quantum of Exemption</b>	<b>Capital Gain or Amount Invested in Bonds (whichever is Lower).</b> <b>Note: Maximum Investment</b> that can be made in bonds of NHAI & RECL from CG arising from the transfer of one/more LTCA during the PY of transfer & in subsequent FY <b>cannot exceed Rs. 50 lacs.</b>
<b>Lock-in-period</b>	Bonds should not be transferred for a period of <b>5 Years</b> . Assessee should not transfer/convert or avail loan on security of such bonds for 5 years from the date of acquisition of such bonds. Otherwise exemption granted earlier shall be taken back.

**Note:** Receipt of **money** on liquidation of company is taxable in the hands of shareholders [Section 46(2)]. In such case there is no transfer of capital asset & thus exemption u/s 54EC is not available.

**CQ39.** Capital gain of Rs. 75 lacs arising from transfer of LTCA on 1.5.2018 will be exempt from tax if such capital gain is invested in the bonds redeemable after 5 years, issued by NHAI u/s 54EC. Comment whether true or false.

**Answer: False:** The exemption u/s 54EC has been restricted by limiting the maximum investment in long term specified assets (i.e. bonds of NHAI or RECL redeemable after 3 years) to Rs. 50 lacs whether such investment is made during the relevant PY or subsequent PY or both.

Therefore, in this case, the exemption u/s 54EC can be availed only to the extent of Rs. 50 lacs provided the investment is made before 1.11.2018 (i.e., within 6 months from the date of transfer).

### **CAPITAL GAIN ON TRANSFER OF ANY LONG-TERM CAPITAL ASSET ON THE BASIS OF INVESTMENT IN NOTIFIED UNITS OF SPECIFIED FUND – [SEC 54EE]**

<b>Eligible Assessee</b>	Any Assessee
<b>Which asset shall be transferred</b>	<b>Any Long-term capital asset.</b> ( <b>Even a depreciable asset</b> held for more than 36 months is a LTCA even if they are always regarded as STCA under other sections of the act)
<b>Which asset shall be acquired</b>	Long Term specified asset to be notified by central government to <b>Finance Start-ups</b> (On or after 1.4.2016).
<b>Time limit</b> for acquiring new asset	<b>Within 6 months</b> from the date of transfer.
<b>Quantum of Exemption</b>	<b>Capital gains or amount invested in units (whichever is lower).</b> Maximum investment that can be made in specified units, out of capital gains arising from transfer of one or more LTCA during the PY of transfer & in subsequent FY cannot exceed Rs. 50 lacs in aggregate.
<b>Lock-in-period</b>	Units should <b>not</b> be transferred for a period of <b>3 years</b> .

**Note:** Assessee should **not transfer or convert or avail loan on the security of such bonds** for a period of 3 years from the date of acquisition of such bonds. Otherwise exemption grant earlier shall be taken back.

## CAPITAL GAIN ON TRANSFER OF ANY LONG-TERM CAPITAL ASSET OTHER THAN RESIDENTIAL HOUSE PROPERTY [SECTION 54F]

Eligible assessee	Individual & HUF
Which asset shall be transferred	<b>Transfer of LTCA other than Residential House Property.</b> Thus, Transfer of Vanact Plot of Land → Eligible for Exemption. Provided that assessee should <b>not own more than 1 Residential House</b> on the date of transfer (except the newly acquired house property).
Which asset is acquired	<b>ONE Residential House Property in India</b>
Time limit for acquiring New asset	The assessee should either <ul style="list-style-type: none"> <li>▪ <b>Purchase:</b> Within 1 year before transfer or within 2 years after transfer.</li> <li>▪ <b>Construct:</b> Within 3 years from the date of transfer.</li> </ul>
Quantum of Exemption	<b>Proportionate Exemption.</b> Thus to get the exemption of amount of capital gains, the whole amount of sale consideration shall be invested. $= \text{LTCG} \times \frac{\text{Amount invested in new residential house}}{\text{Net sale consideration}}$
Withdrawal of Exemption	<ul style="list-style-type: none"> <li>▪ If the new house is transferred within 3 years from the date of acquisition.</li> <li>▪ If assessee purchases another residential house within 2 years from the date of transfer of original asset.</li> <li>▪ If assessee completes construction of another residential house in India/ outside India within 3 years from the date of transfer of original asset.</li> </ul>

**CQ40.** Compute the taxable capital gains of Mr. D for AY 2019-20. CII are as follows: FY 2004-05: 113

Cost of jewellery [Purchased in FY 2004-05]	Rs. 4,52,000
Sale price of jewellery sold in January 2019	Rs. 11,50,000
Expenses on transfer	Rs. 7,000
Residential house purchased in March 2019	Rs. 5,00,000

**Solution:** **Computation of taxable capital gains for AY 2019-20**

Particulars	Rs.
Gross consideration	Rs. 11,50,000
Less: Expenses on transfer	Rs. 7,000
Net consideration	Rs. 11,43,000
Less: Indexed cost of acquisition (Rs. 4,52,000 × 280/113)	Rs. 11,20,000
	Rs. 23,000
Less: Exemption u/s 54F (Rs. 23,000 × Rs. 5,00,000/ Rs. 11,43,000)	Rs. 10,061
<b>Taxable capital gains</b>	<b>Rs. 12,939</b>

**CQ41.** R submits you the following particulars:

Capital asset	DOA	COA	FMV as on 1.4.2001	Date of sale	Sale Price
Urban Agricultural land	5.6.1999	90,000	1,80,000	16.8.2018	30,00,000
Rural Agricultural land	5.5.2002	1,80,000	-	17.10.2018	21,60,000
Listed Shares	6.8.2017	1,08,000	-	5.7.2018	1,44,000
Gold	7.9.1995	90,000	81,000	6.3.2019	12,00,000
Residential House	9.7.1984	54,000	10,80,000	1.3.2019	31,00,000

He deposited Rs. 9,20,000 on 25.6.2018 in CGAS as he intends to buy Agricultural Land later. Out of sale proceeds of gold, he purchased residential house property of Rs. 6,00,000 on 15.5.2018. Compute capital gain for AY 19-20.

**Solution:**

	Urban Agri land	Rural Agri Land	Listed Share	Gold	House Property
Sale Consideration	30,00,000	Not a Cap. Asset	1,44,000	12,00,000	31,00,000
Less: Indexed COA /COA	(5,04,000) [1.8L × 280/100]	NA	(1,08,000)	(2,52,000) [90,000 × 280/100]	(30,24,000) [10.8L × 280/100]
LTCG/LTCL	24,96,000	Exempt	-	9,48,000	76,000
STCG	-	-	36,000	-	-
<b>Less: Capital Gain Exempt u/s 54 Series</b>					
U/s 54B	(9,20,000)	-	-	-	-
U/s 54F	-	-	-	(4,74,000)	-
Taxable LTCG/LTCL	15,76,000	NA	-	4,74,000	<b>(50,000)</b>
STCG u/s 111A	-	-	36,000	-	-

**Note:** Exemption u/s 54F = Rs. 9,48,000 × 6L/12L] = Rs. 4,74,000.

### CAPITAL GAINS ACCOUNT SCHEME (CGAS)

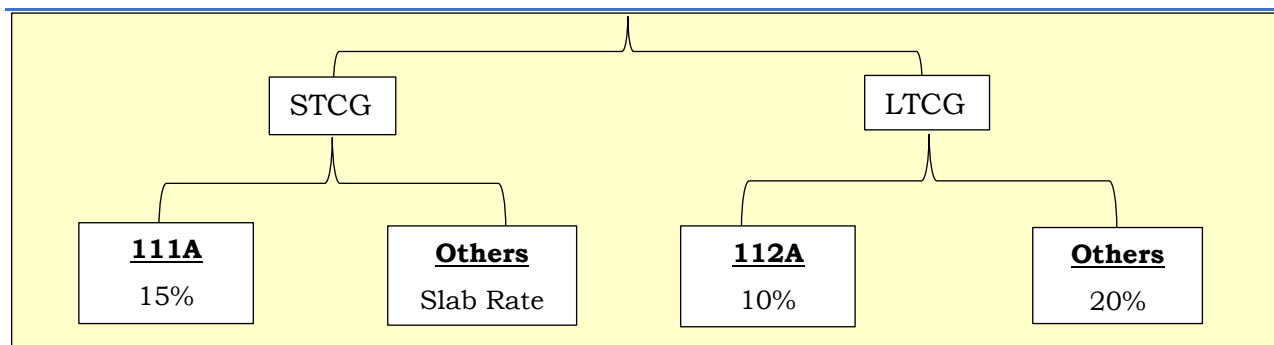
Scheme of deposit	<ul style="list-style-type: none"> <li>For Section 54, 54B, 54D, 54F, Capital Gain is exempt to the extent of Investment of “capital gains/Net Sale Consideration” (for 54F) in specified assets within specified time limit.</li> <li>If such <b>Investment is not made</b> before DD of filing of ROI, then <b>Capital Gain/Net sale consideration (for 54F)</b> has to be deposited under the CGAS to get exemption.</li> </ul>
Time limit for acquiring new asset	<ul style="list-style-type: none"> <li>Such deposit in CGAS should be made before filing ROI or before DD of filing ROI, whichever is earlier.</li> <li>Proof of such deposit should be attached with the return.</li> <li>Deposit can be withdrawn for the specified purposes.</li> </ul>
Consequences of non-utilization	<ul style="list-style-type: none"> <li>If the amount deposited is not utilized for specified purpose within stipulated period, then unutilized amount shall be charged as capital gain of the PY in which specified period expires. <u>For Sec 54F, Proportionate Amount will be Taxable.</u></li> <li>If <b>Individual dies</b> before the stipulated period, <b>unutilized amount is not</b> taxable in the hands of <b>legal heirs</b> of deceased individual because such unutilized amount is not income but is a part of the estate devolving upon them.</li> </ul>

### EXTENSION OF TIME FOR ACQUIRING NEW ASSET OR MAKING DEPOSIT IN CAPITAL GAIN ACCOUNT SCHEME [SEC 54H]

- In case of compulsory acquisition of original asset, time limit for acquiring new asset/making deposit in CGAS is considered from date of receipt of compensation & not from date of transfer.
- For **Determination of Year of Chargeability of Capital Gain:** Whole Capital gain is taxable in the PY in which 1<sup>st</sup> Instalment of Compensation is received.

But for Determining Time Limit for Acquiring the Asset, Dates of Receipt of different Instalments shall be considered.

## RATE OF TAX ON CAPITAL GAINS



### A. SHORT- TERM CAPITAL GAINS [STCG]

#### (I) **STCG u/s 111A: Taxable @ 15%**

- STCG on transfer of **Equity shares/units of EOMF** on which **STT** is paid → Taxed @ 15%
- **Benefit of UNEXHAUSTED BEL** will be **available** for **Resident Individual/HUF**.
- **No deduction** under Chapter VI-A against STCG taxable u/s 111A.
- *STCG arising from transactions undertaken in foreign currency on RSE located in an International Financial Services Centre (IFSC) is taxable @ 15% even if STT is not leviable on such transactions.*

#### (II) **Other STCG:**

- STCG **other than Section 111A** are treated as **Normal Income** & will be taxed @ Slab Rate along with Other Incomes.

### B. LONG - TERM CAPITAL GAINS [LTCG]

#### (I) **LTCG u/s 112A: Taxable @ 10% on LTCG exceeding Rs. 1,00,000**

- LTCG on transfer of **Equity shares/units of EOMF** on which **STT** is paid → Taxed @ 15%
- Benefit of UNEXHAUSTED BEL will be available for **Resident Individual/HUF**.
- **No deduction** under Chapter VI-A against STCG taxable u/s 112A.
- **Rebate u/s 87A** → **Not Available against LTCG taxable u/s 112A**.
- *LTCG arising from transactions undertaken in foreign currency on RSE located in an International Financial Services Centre (IFSC) is taxable @ 10% even if STT is not leviable on such transactions.*

#### **Note:**

1. Equity share → STT is to be paid on acquisition & transfer of such capital asset.
2. **Units of EOMF/Business Trust** → STT is to be paid on transfer of such capital asset. However, CG may specify the nature of acquisition of equity share on which STT is not payable on acquisition.

#### (II) **OTHER LTCG: Taxable @ 20%**

- **No deduction** under Chapter VI-A is available against LTCG.
  - ❖ **Resident Individual & HUF** → **20%**. Benefit of Unexhausted BEL is available.
  - ❖ **Other Person & Domestic Company** → **20%**. No Benefit of Unexhausted BEL.
  - ❖ **Foreign company/ Non-corporate Non-Resident:**

LTCG on unlisted securities/Shares in Private company	10% without Indexation & currency fluctuations under 1 <sup>st</sup> proviso to sec 48.
Other Assets	<b>20%</b>

❖ **LTCG arising from transfer of listed securities (other than units) & ZCBs**

- Assessee will have the option to pay tax @ 10% without Indexation or 20% with Indexation.

❖ **What about Debt-oriented MF or unlisted securities?**

- LTCG on transfer of units of debt-oriented MF & unlisted Securities are not eligible for concessional rate of 10% (without indexation benefit). Thus taxable @ 20% with indexation.

**Benefit of UNEXHAUSTED BEL from LTCG & STCG u/s 111A to Resident Individual/HUF**

- We know that entire LTCG is taxable @ 20% & STCG u/s 111A @ 15% without any exemption.
- But in case of **Resident Individual/HUF**, benefit of BEL is available if BEL is unexhausted.
- Unexhausted BEL means: taxable income (excluding LTCG) is less than the BEL.
- In such case, the **shortfall\*** shall be deducted from LTCG/STCG u/s 111A as the case may be.
- Shortfall = BEL – (Taxable income – LTCG).**

**CQ42.** Calculate the Income Tax Liability for AY 2019-20 in the following cases:

Particulars	A (Age 45)	B (Age 62)	C (Age 81)	D (Age 82)
Status	Resident	NR	Resident	NR
Income other than LTCG	2,40,000	2,80,000	5,90,000	4,80,000
LTCG	15,000 [Sale of Vacant site]	10,000 [Sale of listed Shares (STT paid)]	60,000 [Sale of Rural Agricultural land]	Nil

**Solution:**

**Computation of Income Tax Liability for the AY 2018-19**

Particulars	A (Age 45)	B (Age 62)	C (Age 81)	D (Age 82)
Residential Status	Resident	NR	Resident	NR
BEL	Rs. 2,50,000	Rs. 2,50,000	Rs. 5,00,000	Rs. 2,50,000
Asset sold	Vacant site	Listed shares	Rural Agro. land	-
LTCG	Rs. 15,000 [Taxable @ 20%]	Rs. 10,000 Exempt since < 1 L	Rs. 60,000 [Exempt – Not CA]	-
Other income	Rs. 2,40,000	Rs. 2,80,000	Rs. 5,90,000	Rs. 4,80,000
Tax on LTCG (After Adjusting BEL)	Rs. 1,000 (15,000 – 10,000) × 20%	-	-	-
On Other Income	Nil	Rs. 1,500	Rs. 18,000	Rs. 11,500
Less: Rebate u/s 87A	Rs. 1,000	-	-	-
Tax Payable	Nil	Rs. 1,500	Rs. 18,000	Rs. 11,500
Add: HEC @ 4%	Nil	Rs. 60	Rs. 720	Rs. 460
<b>Total Tax Liability</b>	<b>Nil</b>	<b>Rs. 1,560</b>	<b>Rs. 18,720</b>	<b>Rs. 11,960</b>

**Notes:**

- Since Mrs. B and Mr. D are non-residents, they cannot avail the higher basic exemption limit of Rs. 3,00,000 and Rs. 5,00,000 for persons over the age of 60 years and 80 years, respectively.
- Since Mr. A is a resident whose total income does not exceed Rs. 3,50,000, he is eligible for rebate of Rs. 2,500 or the actual tax payable, whichever is lower, u/s 87A.



## **SOME CLARIFICATION REGARDING SECTION 112A**

**Q1.** What is the point of chargeability of the tax?

**Answer:** Tax will be levied only upon transfer of specified LTCA on or after 1st April 2018.

**Q2.** How do we determine the cost of acquisition for assets acquired on or before 31st Jan 2018?

**Answer:** COA of LTCA specified u/s 112A acquired before 1<sup>st</sup> Feb 2018 shall be HIGHER OF (a) or (b)

(a) Cost of Acquisition OR

(b) Lower of (i) FMV of such asset or (ii) Actual Sale consideration.

**Alternative Explanation as given in study material**

**[Answer will be same]**

Cost of acquisition for specified LTCA acquired on/before 31<sup>st</sup> Jan 2018 → Actual cost.

But if Actual cost < FMV of such asset on 31<sup>st</sup> Jan 2018 → FMV on 31<sup>st</sup> Jan 2018 = COA.

Further, if FVC on transfer < FMV, then Higher of (i) FVC or (ii) Actual COA will be deemed as COA.

**Ex:** An equity share is acquired on 1<sup>st</sup> of Jan 2017 at Rs.100; its FMV is Rs. 200 on 31<sup>st</sup> Jan 2018 & it is sold on 1<sup>st</sup> April 2018 at Rs. 250. As the actual cost of acquisition < FMV on 31<sup>st</sup> Jan 2018, FMV of Rs. 200 will be taken as the cost of acquisition and the long-term capital gain will be Rs. 50 (Rs. 250 – Rs. 200).

**Ex:** An equity share is acquired on 1<sup>st</sup> Jan 2017 at Rs. 100, its FMV is Rs. 200 on 31<sup>st</sup> Jan 2018 & it is sold on 1<sup>st</sup> April 2018 at Rs. 150. In this case, actual cost of acquisition < FMV on 31<sup>st</sup> Jan 2018. However, sale value is also < FMV on 31<sup>st</sup> Jan 2018. Thus sale value of Rs. 150 will be taken as cost of acquisition & LTCG = NIL (Rs.150 – Rs.150).

**Ex:** An equity share is acquired on 1<sup>st</sup> Jan 2017 at Rs. 100, its FMV is Rs. 50 on 31<sup>st</sup> Jan 2018 & it is sold on 1<sup>st</sup> April 2018 at Rs. 150. In this case, FMV on 31<sup>st</sup> Jan 2018 < Actual cost of acquisition & thus actual cost of Rs. 100 will be taken as actual cost of acquisition and LTCG will be Rs. 50 (Rs. 150 – Rs. 100).

**Ex:** An equity share is acquired on 1<sup>st</sup> Jan 2017 at Rs. 100, its FMV is Rs. 200 on 31<sup>st</sup> Jan 2018 & it is sold on 1<sup>st</sup> April 2018 at Rs. 50. In this case, actual cost of acquisition < FMV on 31<sup>st</sup> Jan 2018. Sale value < FMV on 31<sup>st</sup> Jan 2018 and also the actual cost of acquisition. Therefore, the actual cost of Rs. 100 will be taken as the cost of acquisition in this case. Hence, the long-term capital loss will be Rs. 50 (Rs. 50 – Rs. 100) in this case.

**Q3.** Whether the cost of acquisition will be inflation indexed?

**Answer:** No Indexation of Cost of acquisition.

**Q4.** What will be the tax treatment of transfer made on or after 1st April 2018?

**Answer:** LTCG exceeding Rs. 1 Lacs arising from transfer of these assets made on after 1st April, 2018 will be taxed at 10 per cent. However, there will be no tax on gains accrued upto 31st January, 2018.

**Q5.** What is the date from which the holding period will be counted?

**Answer:** The holding period will be counted from the date of acquisition.

**Q6.** Whether tax will be deducted at source in case of gains by resident tax payer?

**Answer:** No. There will be no deduction of tax at source from the payment of LTCG to a resident tax payer.

**Q7.** What will be the cost of acquisition in the case of bonus shares acquired before 1<sup>st</sup> February 2018?

**Answer:** The cost of acquisition of bonus shares acquired before 31st January, 2018 will be determined as per section 55(2)(ac). Therefore, the fair market value of the bonus shares as on 31st January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 5), and hence, the gains accrued upto 31st January, 2018 will continue to be exempt.

**Q8.** What will be the cost of acquisition in the case of right share acquired before 1st February 2018?

**Answer:** The cost of acquisition of right share acquired before 31st January, 2018 will be determined as per section 55(2)(ac). Therefore, the fair market value of right share as on 31st Jan 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans 5), and hence, the gains accrued upto 31st January, 2018 will continue to be exempt.

**Q9.** What will be the treatment of long-term capital loss arising from transfer made on or after 1st April, 2018?

**Answer:** LTCL arising from transfer made on or after 1st April, 2018 will be allowed to be set-off and carried forward in accordance with existing provisions of the Act. Therefore, it can be set-off against any other LTCG and unabsorbed loss can be carried forward to subsequent eight years for set-off against LTCG.

## **CAPITAL GAIN ON CONVERSION OF LLP INTO GENERAL PARTNERSHIP**

- Since the tax treatment of LLP & general partnership is same, conversion from a general Partnership firm to LLP will have no tax implications if the rights & obligations of the partners remain same after conversion and if there is no transfer of any asset or liability after conversion.
- However, if there is a change in rights and obligations of partners or there is a transfer of asset or liability after conversion, then the provisions of section 45 would get attracted.

## 4E. INCOME FROM OTHER SOURCES [IFOS]

- Any Source of Income which do not specifically fall under any other 4 Heads of Income is to be taxed u/h IFOS.
- **IFOS is Residuary Head of Income** & brings within its scope all the taxable incomes which fall outside the scope of all other 4 heads of Income.

### BASIS OF CHARGE [SECTION 56]

- Every Income which Not Taxable under any other heads of Income is taxable u/h IFOS.
- Such Income should not be Exempt from Tax. (i.e it is taxable in the hands of assessee).

### RELEVANCE OF METHOD OF ACCOUNTING

- Income chargeable u/h IFOS has to be computed in accordance with Method of Accounting regularly employed by the assessee.
- Thus if assessee follows cash system of accounting, income shall be taxed on cash basis.
- If assessee follows mercantile method of accounting, income shall be taxed on accrual basis.
- However, Deemed Dividend u/s 2(22)(e) is taxable on Payment Basis u/s 8.

### FOLLOWING INCOMES ARE GENERALLY TAXABLE U/H “IFOS”

▪ Dividends Except Dividend u/s 115-O	▪ <b>Interest on Income Tax Refunds.</b>
▪ <b>Casual</b> & Non-Recurring Income	▪ Winnings from Lotteries, Puzzles, Horse Races, Card Game.
▪ Income from <b>Undisclosed Sources</b>	▪ Rent from vacant piece of Land ( <b>Ground Rent</b> )
▪ Income from <b>Agricultural Land OUTSIDE India</b>	▪ Income from <b>Sub - Letting</b> of House Property
▪ <b>Remuneration</b> received by <b>MPs/MLAs</b>	▪ Examination Fees received by Teacher from Non-Employer
▪ Director's <b>Sitting Fee</b>	▪ Director's Commission from bank for Guarantee
▪ Gratuity received by Director (Not as Employee)	▪ Director's Commission for Underwriting shares.
▪ Interest on Employees Contribution from URPF.	▪ <b>Family Pension</b> received by family of Deceased Person.
▪ <b>Interest</b> received on <b>Compensation</b> for Compulsory Acquisition by Government of India.	
▪ Compensation or any other payment received in connection with termination of his employment or the modification of the terms and conditions of the employment [Section 56(2)(xi)]	

### FOLLOWING INCOMES ARE TAXABLE u/h “IFOS” IF NOT TAXABLE u/h “PGBP”

- **Interest on securities & Interest on Bank Deposits/Deposits with Companies.** [Discussed Later]
- Employee Contribution to PF/SAF etc. received by Employer [If not remitted before Due Date]
- Income from letting out on hire Plant, Machinery, Furniture.
- Income from letting out → When letting of buildings is inseparable from letting of P&M/furniture.
- **Sum received from Keyman Insurance Policy including Bonus if received by any person other than employer & employee.**
- **Insurance Commission.**
- Income from Royalty.

## DIVIDEND [SECTION 56(2)(i)]

- Dividends are always taxable u/h IFOS [whether shares are held as SIT or as Investment].
- **Dividend from Indian company** → **Exempt** in the hands of Shareholders [Subject to 115BBDA].

### YEAR OF TAXABILITY OF DIVIDEND (SECTION 8)

Nature of Dividend	Year of Taxability
Normal Dividend	Year of Declaration
Deemed Dividend	Year of Distribution/Payment
Interim Dividend	Year in which dividend is unconditionally made available to shareholders

- ❖ Method of A/cing employed by the assessee is irrelevant in case of taxability of Dividends since Section 8 specifically give the basis of charge of Dividend Income.
- ❖ **Dividend declared by Indian company outside India** → **Deemed to accrue/arise in India.**

### TYPES OF DIVIDEND & TAXABILITY FOR SHAREHOLDERS

1. Dividend by Indian company	<b>Exempt</b> u/s 10(34); ( <b>Subject to Section 115 BBDA</b> ) [Because company pay DDT u/s 115-O @ 15%].
2. Dividend by Foreign company	Taxable [if (i) Recipient is ROR; (ii) Anyone if Received in India]
3. Dividend by MF/UTI	<b>Exempt</b> u/s 10(35).
4. Deemed Dividend u/s 2(22)(a) - (d)	Company shall DDT u/s 115-0 & thus <b>Exempt</b> in the hands of shareholders.
5. Deemed Dividend u/s 2(22)(e)	<ul style="list-style-type: none"> <li>❖ Upto 31/03/2018 → Taxable to shareholder u/s 56.</li> <li>❖ From 1/4/2018 → <b>Exempt</b> to Shareholders [Because company pay DDT u/s 115-O @ 30%].</li> </ul>

### DEEMED DIVIDEND [Sec 2(22)]

- These Payments are not dividend in reality, but for the purpose of Income tax, they are deemed as dividend so as to check tax avoidance.

Following Payments/Distribution by the company to its shareholders are treated as Dividend to the extent of **ACCUMULATED PROFITS** of the company.

<b>(a) Distribution of Accumulated profit by the company to its shareholders resulting into release of company's asset</b>	
1.	There should be <b>distribution</b> from <b>accumulated profits</b> of the company whether capitalised or not & not from capital.
2.	Such distribution must result in the <b>release of company's asset</b> (In cash/kind).
<b>Note:</b> In case of Issue of Bonus shares to Equity Shareholders → No Assets are released since it is capitalization of profit & thus it is not deemed as dividend. <b>Ex:</b> ABC Ltd. has share capital of Rs. 35 lacs. The company has general reserve of Rs. 25 lacs and has distributed dividends. One of the shareholders Mr. X has received dividend of Rs. 27,000 and is holding 2% of the shares. In this case, entire amount of Rs. 27,000 received by him shall be considered to be dividend.	
<b>(b) Distribution of Accumulated profit by company in form of debentures/ debentures stock or bonus shares to preference shareholders</b>	
Any distribution by a company of:	
➤	<b>Bonus Debentures/Debenture Stock</b> → to any shareholders;
➤	<b>Bonus shares</b> → to Preference shareholders. [No Dividend if given to Equity Shareholders]
<b>Taxable Amount:</b> Bonus shares/Debenture: FMV is taxable in the hands of shareholders.	
<b>Note:</b> In this clause, Release of asset is not necessary.	
<b>Ex:</b> Mr. X is holding 100 preference share in ABC Ltd. The company has issued him 100 bonus shares having market value of Rs. 1,200. It will be deemed as dividend to the extent of accumulated profits.	

<p><b>(c) Distribution of accumulated profit at the time of liquidation</b></p> <p>➤ Any distribution by the company on liquidation shall be deemed as dividend to the extent of accumulated profit (Capitalized/not) <b>immediately before its liquidation.</b></p> <p><b>Note:</b> Distribution made out of Profits after Liquidation → Repayment towards capital.</p>
<p><b>(d) Distribution on reduction of share capital by the company</b></p> <p>➤ Any distribution by the company on Reduction of its share capital to the extent of Accumulated profits (whether capitalized or not) is deemed as Dividend.</p> <p><b>Ex:</b> Mr. X is holding 1000 shares of ABC Ltd. of Rs. 10 each and company has reduced its share capital and has refunded Rs. 5 per share to the shareholders, the amount so received by the shareholders shall be considered to be dividend to the extent of accumulated profit.</p>
<p><b>(e) Distribution of accumulated profits by way of Loan/Advance</b></p> <p>➤ Any payment by <b>Closely held company</b> by way of <b>Advance/Loan</b> to:</p> <ol style="list-style-type: none"> <li><b>Shareholders</b> beneficially holding at least <b>10% Equity shares</b> in the company.</li> <li><b>Any Person</b> on <b>behalf of</b> such <b>shareholders</b>/for benefit of such shareholder.</li> <li><b>Any Concern</b> in which such shareholder has <b>substantial interest</b> (holding atleast 20% shares)</li> <li>Any <b>Concern</b> in which such shareholder is <b>Member/Partner.</b></li> </ol> <p><b>Ex:</b> ABC Pvt. Ltd. a closely held company has general reserves of Rs. 7,00,000 and current profits of Rs. 2,00,000. The company has given a loan of Rs. 3,00,000 to one such shareholder Mr. X. in this case, it will be considered to be dividend in the hands of Mr. X. However, if loan given by the company is Rs. 10,00,000, the amount of dividend shall be Rs. 9,00,000.</p> <p><b>Exception to section 2(22)(e)</b></p> <ol style="list-style-type: none"> <li>Money lending is <b>substantial business</b> of company &amp; loan is given in <b>ordinary course of business.</b></li> <li><b>Set-off of Dividend</b> → Where any payment (loan) has been treated as dividend &amp; subsequently company declares dividend &amp; dividend so paid is adjusted (set-off) by the company <b>against the previous borrowing</b>, adjusted amount will not be again treated as a dividend.</li> </ol>

#### **Following Payments shall not be treated as Deemed Dividend:**

- Payment on Buy-back of shares.
- Dividend does not include any distribution of shares in the scheme of Demerger.
- Trade Advances** in the nature of commercial transactions → **Not a Deemed Dividend.**

#### **MEANING OF ACCUMULATED PROFITS**

- It includes all profits upto the date of Distribution/Liquidation (if company is in liquidation).
- Accumulated profit includes capital profits (Bonus shares issued) only for clause [a-d] & not for clause 'e'. Thus Capitalized profit is not considered for Section 2(22)(e).
- It includes tax-free Income (Agricultural Income). However capital receipts are included in accumulated profits only if they are taxable u/h "Capital Gains" in the hands of recipient company.
- Does not includes Provision for taxation/dividend, depreciation reserves (provisions for outsiders)
- If Government/ Government company has compulsorily acquired the company → Accumulated profits do not include any profits of the company prior to the 3 successive PYs immediately preceding the PY of compulsory acquisition.
- \*6.** In case of Amalgamated company → Accumulated Profits of amalgamating company on the date of amalgamation shall be included in accumulated profits of amalgamated company.

**CQ1.** Rahul holding 28% of equity shares in a company, took a loan of Rs.5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of Rs. 4,00,000. The company is engaged in some manufacturing activity.

(i) Is the amount of loan taxable as deemed dividend in the hands of Rahul, if the company is a company in which the public are substantially interested?

(ii) What would be your answer, if the lending company is a private limited company (i.e. a company in which the public are not substantially interested)?

**Solution:** Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend u/s 2(22)(e), to the extent the company possesses accumulated profits.

(i) The provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend in the hands of Rahul.

(ii) However, if the loan is taken from a private company (i.e. a company in which the public are not substantially interested), which is a manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company.

The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend in the hands of Rahul would be limited to the accumulated profit i.e., Rs.4,00,000 and not the amount of loan which is Rs. 5,00,000.

### TAX ON DIVIDENDS RECEIVED FROM DOMESTIC COMPANIES [SEC 115BBDA]

<b>Eligible Assessee</b>	Any Resident Person <b>OTHER THAN</b> (a) Domestic Company (b) Fund or institution or trust or university or other educational institution or any hospital or other medical institution (c) Trust or institution
<b>Applicability</b>	If <b>Aggregate Dividend</b> received from <b>one or more domestic</b> companies in the <b>PY</b> > Rs. 10,00,000.
<b>Taxable Dividend</b>	<b>Amount of Dividend in excess of Rs. 10,00,000.</b> ❖ Dividend includes Dividend referred u/s 2(22)(a)-(d) but shall not include dividend u/s 2(22)(e).
<b>Rate of Tax</b>	<b>10%</b> (+ SC + HEC).
<b>Deduction</b>	<b>No Deduction</b> is allowed from Dividend Income.

#### STEPS involved in Calculation of Tax in case Dividend Income > Rs. 10 Lacs:

Where the total income includes dividends exceeding Rs 10,00,000 (in aggregate) from domestic companies, the income tax payable shall be aggregate of amount of income-tax calculated-

**(a)** On Dividend Income exceeding Rs. 10,00,000 @ 10%.

**(b)** Amount of Income tax on remaining Income (Total Income – Dividend).

**CQ2.** A Ltd., a domestic company, declared dividend of Rs. 170 lacs for PY 2017-18 & distributed on 10.7.2018. Mr. X, holding 10% shares in A Ltd. receives dividend of Rs. 17 lacs in July 2018. Mr. Y, holding 5% shares in A Ltd., receives dividend of Rs. 8.50 lacs. Discuss tax implications in the hands of Mr. X & Mr. Y for AY 2019-20.

**Solution:**

**In the hands of A Ltd:** Dividend of Rs. 170 lacs declared & distributed in PY 18-19 is subject to DDT u/s 115-O.

**In the hands of Mr. X:** Dividend received upto Rs. 10 lacs would be exempt u/s 10(34). Excess of Rs. 7 lacs would be taxable@10% u/s 115BBDA. Such dividend would not be exempt u/s 10(34). Therefore, tax payable by Mr. X on dividend of Rs. 7 lac u/s 115BBDA would be Rs. 72,800 [i.e., 10% of Rs. 7 lacs + HEC @ 4%].

**In the hands of Mr. Y:** Entire dividend of Rs. 8.50 lacs received would be exempt u/s 10(34).



## CASUAL INCOMES (WINNING FROM LOTTERY etc) [SECTION 56(2)(ib)]

- Taxable @ **30% + SC (if any) + 4% HEC on tax u/s 115BB.**
- **No deduction for any Expenditure** is allowed from such income.
- Deduction under **Chapter VI-A is not allowable** from such income.
- Adjustment of **unexhausted BEL is not permitted** against casual income.
- It includes casual income in the nature of winning from lotteries, crossword puzzles, horse races, card games & other games of any sort, gambling, betting etc.

## INTEREST RECEIVED ON SECURITIES [Sec 56 (2)(id)]

- Securities held as Investment → Interest from such securities is taxable u/h IFOS.
- Securities held as **Stock in Trade** → Interest from such securities is taxable u/h **PGBP**.

### GROSSING UP of Winning from Lottery/Interest on securities

If the net amount is given, then it shall be grossed up. Tax will be levied on Gross Income.

$$\text{Gross amount} = \frac{\text{Net amount}}{[1 - \text{Tax Rate}]}$$

**Exceptions:** Following Interest Income would be EXEMPT U/S 10(15)

- (a) Interest on **Post Office Savings Bank Account** is exempt from tax only to the extent of:
  - Rs. 3,500 → Individual A/c.
  - Rs. 7,000 → Joint A/c.
- (b) Interest on securities held by **“Issue Department of Central Bank of Ceylon”**.
- (c) Interest payable to any Foreign bank on deposit made by it with scheduled bank (with the approval of RBI). Such Foreign bank must be authorized to perform central banking functions.
- (d) Interest payable to Nordic Investment Bank on a loan advanced by it to a project approved by CG.
- (e) Interest payable to European Investment Bank on a loan granted by it in pursuance of the framework agreement for financial co-operation entered into by CG with the Bank.
- (f) Interest payable by-
  - (i) Public sector companies on bonds/debentures notified by CG in the official gazette.  
**Interest from the following bonds is Exempt:** India Infrastructure Company Ltd & tax-free Bonds of Indian Railway Finance Corporation Ltd. (IRFCL), NHAI, RECL, Housing & Urban Development Corporation Ltd. (HUDCL), Power Finance Corporation (PFC), Jawaharlal Nehru Port Trust, Dredging Corporation of India Limited, Ennore Port Limited & Indian Renewable Energy Development Agency Limited.
  - (ii) *GOI on deposit made by employee of CG/SG/public sector company* in accordance with notified scheme of moneys due to him on account of his retirement.
- (g) **Bhopal Gas Victims: Interest on deposits** made for benefit of victims of Bhopal Gas Disaster in account with RBI or any public sector bank notified by CG → Exempt u/s 10(15).
- (h) **Interest on Gold Deposit Bond**/Certificates issued **u/s Gold Monetization Scheme, 2015.**
- (i) Interest on bonds issued by (a) Local authority; (b) State Pooled Finance Entity notified by CG.  
**Interest from “Tax-Free Pooled Finance Development Bonds” → Exempt u/s 10(15).**
- (j) Interest received by NR/RNOR from deposit in Offshore Banking Unit referred u/s 2(u) of SEZ Act, 2005 made on/after 1.4.2005.

### **Interest from non-SLR Securities of Banks:** Whether chargeable u/h PGBP or IFOS?

Investments made by banking concern are part of business of banking. Thus income arising from such investments is attributable to business & thus fall u/h PGBP. Therefore, expenses relating to investment in non-SLR securities shall be allowed as deduction u/s 57(i).



## **RECEIPT OF MONEY/PROPERTY FOR INADEQUATE CONSIDERATION/ WITHOUT CONSIDERATION BY INDIVIDUAL/HUF [SEC 56(2)(x)] → [GIFT]**

Applicability of Section 56(2)(x): Section 56(2)(x) would apply only if Gift (Property) received is a **Capital asset** for recipient. It would not apply the property received is SIT/RM/CS of the recipient. Thus **only transfer of a capital asset** without consideration or for inadequate consideration would attract section 56(2)(x).

	Nature of Gift	Taxability in the hands of Recipient
1	<b>Cash/Cheque/Draft</b> (All Transactions)	If <b>Total Amount of Money received</b> from one or more person during a PY > <b>Rs. 50,000</b> → <b>Whole</b> Amount of Money received is Taxable
	<b>Note:</b> If Money received is less than Rs. 50,000 → Nothing will be taxable.	
2	<b>RECEIPT OF MOVABLE PROPERTY (All Transactions)</b>	
	<b>FREE</b> (Without Consideration)	If <b>Aggregate</b> FMV of all Movable properties received > Rs.50,000 → Whole amount of FMV of Movable Properties received is taxable.
	<b>CONCESSIONAL</b>	If Aggregate Discount on all Movable properties received > Rs.50,000 → then Total Discount received is taxable.
	<b>Note:</b> If Value/Discount received is less than Rs. 50,000 → Nothing will be taxable.	
3	<b>RECEIPT OF IMMOVABLE PROPERTY (Single Transactions)</b>	
	<b>FREE</b>	If SDV > Rs. 50,000 → Whole SDV is taxable.
	<b>CONCESSIONAL</b>	If Discount > Higher of (i) Rs. 50,000 or (ii) 5% of Consideration → Discount is taxable.

### **FOLLOWING GIFTS ARE NOT TAXABLE IRRESPECTIVE OF THEIR AMOUNT**

While calculating the above limit of Rs 50,000, following amount shall not be considered.

▪ Gifts from Relatives	▪ In Contemplation of Death of the payee/donor.
▪ On occasion of marriage.	▪ From Local Authority.
▪ Under a Will/ By Inheritance	▪ From Registered Charitable trust referred u/s 10(23C).
▪ Gift received by a trust from Individual. (Trust must be created for benefit of relative of individual)	
▪ Transaction not regarded as transfer u/s 47(i)/(iv)/(v)/(vi)/(vib)/(vid)/(vii). ✓ Transfer b/w HC & its WOS; or Transfer b/w subsidiary company & its 100% Indian HC.	

### **MEANING OF RELATIVES**

<b>For Individual</b>	<ul style="list-style-type: none"> <li>▪ Spouse/Brother/sister of the individual.</li> <li>▪ Brother/sister of spouse of the individual.</li> <li>▪ Brother/sister of either of the parents of the individual.</li> <li>▪ Any lineal ascendant or descendant of the individual.</li> <li>▪ Any lineal ascendant or descendant of the spouse of the individual.</li> <li>▪ Spouse of any of the persons referred to above.</li> </ul>
<b>For HUF</b>	▪ Any <b>Member of HUF</b>

### Points to Remember:

- (i) Which Value is to be considered if DOA & DOR are different: **Refer Capital Gains.**
- (ii) What if SDV of immovable property is disputed by the assessee: AO may refer VO to value it. If Value by VO is less than SDV, Value by VO would be taken as value of such property.

**CQ3.** Mr. A, a dealer in shares, received the following without consideration during PY 2018-19 from a friend B:

- (i) Cash gift of Rs. 75,000 on his marriage, 15th April, 2018.
- (ii) Bullion, the FMV of which was Rs. 60,000, on his birthday, 19th June, 2018.
- (iii) A plot of land at Faridabad on 1st July, 2018, SDV = Rs. 5 lac on that date. Mr. B had purchased the land in April, 2018.
- (iv) Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ Rs. 400 each on 19th June, 2018, the FMV of which was Rs. 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2018.
- (v) Further, on 1st November, 2018, Mr. A took possession of property (building) booked by him two years back at Rs. 20 lacs. The SDV of the property as on 1st November, 2018 was Rs. 32 lacs and on the date of booking was Rs. 23 lac. He had paid Rs. 1 lac by account payee cheque as down payment on the date of booking. On 1st March, 2019, he sold the plot of land at Faridabad for Rs. 7 lac.

Compute the income of Mr. A chargeable u/h "IFOS" & "Capital Gains" for AY 2019-20.

**Solution:** **Computation of "Income from other sources" of Mr. A for AY 2019-20**

	Particulars	Rs.
(i)	Cash gift is taxable u/s 56(2)(x), since it exceeds Rs. 50,000. But since he has received it on the occasion of his marriage, it will not be taxable.	Nil
(ii)	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, it is taxable since the aggregate FMV > Rs. 50,000	60,000
(iii)	SDV of plot of land at Faridabad, received without consideration, is taxable u/s 56(2)(x)	5,00,000
(iv)	Difference of Rs. 2 lac in the value of shares of X Ltd. purchased from Mr. C, a dealer in shares, is not taxable as it represents SIT of Mr. A.	-
(v)	Difference between the SDV of Rs. 23 lac on the date of booking & actual consideration of Rs. 20 lac paid is taxable u/s 56(2)(x) since the difference exceeds Rs. 1,00,000 being higher of Rs. 50,000 & 5% of consideration. <b>Note:</b> SDV on Date of booking is taken since the amount of Rs. 1 lac was paid by A/c payee cheque on the date of booking.	3,00,000
	<b>Income from other Source</b>	<b>9,35,000</b>

### Computation of "Capital Gains" of Mr. A for AY 2019-20

Particulars	Rs.
Sale Consideration	7,00,000
Less: COA [deemed to be SDV charged to tax u/s 56(2)(x) as per section 49(4)]	5,00,000
<b>Short-term capital gains</b>	<b>2,00,000</b>

**CQ4.** Discuss the taxability or otherwise of the following in the hands of the recipient u/s 56(2)(x).

- (i) Akhil HUF received Rs. 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.
- (ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The SDV of the house property is Rs. 9,00,000.
- (iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. FMV on that date was Rs. 100 per share. He also received jewellery worth Rs. 45,000 (FMV) from his nephew on the same day.
- (iv) Kishan HUF gifted a car to son of Karta for achieving good marks. FMV of the car is Rs. 5,25,000.

**Solution:**

	Treatment	Amount	Reason
(i)	Taxable	75,000	Sum of money exceeding Rs. 50,000 received without consideration from a non-relative is taxable u/s 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
(ii)	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable u/s 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of

			the HUF. However, income from such asset would be included in the hands of Nitisha u/s 64(2).
(iii)	Taxable	55,000	As per section 56(2)(x), if aggregate FMV of immovable property received without consideration exceeds Rs. 50,000, the whole of the aggregate value shall be taxable. In this case, aggregate FMV of shares (Rs. 10,000) & jewellery (Rs. 45,000) exceeds Rs. 50,000. Hence, the entire amount of Rs. 55,000 shall be taxable.
(iv)	Non- taxable	Nil	Car is not a capital asset & therefore, the same shall not be taxable.

**CQ5.** Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts, for Rs. 90 lac on 1.1.2019, when the SDV was Rs. 150 lac. The agreement was, however, entered into on 1.9.2018 when the SDV was Rs. 140 lac. Mr. Hari had received a down payment of Rs. 15 lac by a crossed cheque from Rajesh on the date of agreement. Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for Rs. 75 lac on 12th July, 2017.

Would your answer be different if Hari was a share broker instead of a property dealer?

**Solution:**

**Case 1: Tax implications if Mr. Hari is a property dealer**

In the hands of Mr. Hari	In the hands of Mr. Rajesh
Section 43CA would be attracted, since the building represents his SIT & he has transferred the same for a consideration less than the SDV on the date of agreement. Therefore, Rs. 65 lac, being the difference between the SDV on the date of agreement (i.e., Rs. 140 lac) and the purchase price (i.e., Rs. 75 lac), would be chargeable as business income in the hands of Mr. Hari.	Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration. Therefore, Rs. 60 lac, being the difference between the SDV of the property on the date of registration (i.e., Rs. 150 lac) and the actual consideration (i.e., Rs. 90 lac) would be taxable u/s 56(2)(x) in the hands of Mr. Rajesh, since the payment is made by crossed cheque and not account payee cheque/draft or ECS.

**Case 2: Tax implications if Mr. Hari is a stock broker**

In the hands of Mr. Hari	In the hands of Mr. Rajesh
In case Mr. Hari is a stock broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari and Rs. 75 lac, being the difference between the SDV on the date of registration (i.e., Rs. 150 lac) and the purchase price (i.e., Rs. 75 lac) would be chargeable as short-term capital gains. It may be noted that u/s 50C, the option to adopt the SDV on the date of agreement can be exercised only if whole or part of the consideration has been received on or before the date of agreement by way of account payee cheque or draft or by use of ECS through a bank account on or before the date of agreement. In this case, since the payment is made by crossed cheque, the option cannot be exercised.	There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker. Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration. Therefore, Rs. 60 lac, being the difference between the SDV of the property on the date of registration (i.e., Rs. 150 lac) and the actual consideration (i.e., Rs. 90 lac) would be taxable u/s 56(2)(x) in the hands of Mr. Rajesh.

**Note:** As per section 43CA, SDV on the date of agreement can be adopted, if whole or part of consideration is received otherwise than by way of cash on or before the date of agreement.

However, both section 50C and 56(2)(x) permit adoption of stamp value duty on the date of agreement only if whole or part of consideration is received/paid, as the case may be, by way of account payee cheque or account payee bank draft or by use of ECS through a bank account.

## ISSUE OF SHARES AT PREMIUM BY CLOSELY HELD COMPANY TO RESIDENT [SECTION 56(2)(viib)]

➤ **Taxable Amount:** (in the hands of closely held company) = Issue Price of Share – FMV of share.

**Exceptions:** If consideration for issue of shares is received by:

- Venture Capital Undertaking** from Venture Capital Fund (VCF)/Venture Capital Company (VCC)
- Company from a class of persons as notified by CG for this purpose.

**Ex:** IP - Issue Price; FV – Face Value; FMV – Fair Market Value.

Name	FV	IP	FMV	Applicability of section 56(2)(viib)
A Ltd	100	120	120	IP > FV. Thus shares are issued at premium & thus 56(2)(viib) is attracted. Taxable Amount = IP – FMV = Rs. 120 – Rs. 120 = Nil. <b>Note:</b> Even if Sec 56(2)(viib) is attracted, there is no tax since IP = FMV.
B Ltd	100	100	120	IP = FV. Thus shares are NOT issued at premium & thus 56(2)(viib) is NOT attracted. Thus no tax even if shares are issued above FMV.
C Ltd	100	110	90	IP > FV. Thus shares are issued at premium & thus 56(2)(viib) is attracted. Taxable Amount = IP – FMV = Rs. 110 – Rs. 90 = Rs. 20 per share.
D Ltd	100	98	100	IP < FV. Thus shares are NOT issued at premium & thus 56(2)(viib) is NOT attracted. Thus no tax even if shares are issued above FMV.

## INTEREST RECEIVED ON COMPENSATION/ENHANCED COMPENSATION FOR COMPULSORY ACQUISITION OF LAND & BUILDING [SECTION 56(viii)]

➤ **Taxable in the PY of Receipt** irrespective of the year for which it is paid & irrespective of the method of accounting followed by the assessee – Section 145A.

## ADVANCE FORFEITED DUE TO FAILURE OF NEGOTIATION FOR TRANSFER OF A CAPITAL ASSET [SECTION 56(2)(ix)]

Advance received & forfeited upto 31.3.2014	Reduce from original COA of capital asset.
Advance received & forfeited on/after 1.4.2014	Taxable u/h IFOS & thus such advance would not be reduced from the cost of acquisition for computing capital gains.

## PERMISSIBLE DEDUCTIONS FROM IFOS [SECTION 57]

- Commission & Remuneration:** paid to any person to realise dividend & interest if such income is taxable in the hands of recipient. [**Ex:** Collection charges paid to bank/interest on loan].
- Family Pension** → Deduction = Lower of (a) Rs. 15,000 or (b) 1/3<sup>rd</sup> of Family Pension Received.
- Interest on compensation for Compulsory acquisition** = 50% of amount received during PY.
- In case of income from letting of P&M/furniture on hire with/without building:  
Following items are allowed as deductions in computation of income:
  - Amount paid for current repairs to P&M/furniture.
  - Insurance premium paid against risk of damage/destruction of P&M/furniture.
  - Normal depreciation allowance for P&M/furniture due.
- Employee Contribution remitted before due date by the Employer.**  
Employee contribution to PFs is treated as income in the hands of Employer. Such Employee contribution is allowed as deduction to the Employer if remitted before Due Date.
- Any other Revenue expenditure** incurred wholly & exclusively for earning such Income.

## INADMISSIBLE DEDUCTIONS FROM IFOS [SECTION 58]

<b>Personal Expenses</b>	Any personal expense of the assessee
<b>Casual Income</b>	No deduction from any casual income. <b>Note:</b> Activity of owning & maintaining race horses → Expenses incurred shall be allowed. Such loss shall be allowed to be carried forward in accordance with the provisions of section 74A.
<b>Income Tax</b>	Any Income-tax paid/payable
<b>Interest</b>	<b>Payable outside India</b> if No TDS or after TDS, not paid to government
<b>Salaries</b>	<b>Payable outside India</b> if No TDS or after TDS, not paid to government
<b>Payment to Residents</b>	30% of Sum paid shall be disallowed if <ul style="list-style-type: none"><li>▪ Tax is NOT deducted or;</li><li>▪ Tax after deduction is NOT paid before DD of filing ROI u/s 139(1).</li></ul>
<b>Payment to Relative</b>	Excessive payment shall be disallowed. [Same as 40A(2)]
<b>Cash Payment</b>	Payments to A Person in A day for one Expenditure otherwise than by account payee cheque or draft or ECS through bank account exceeds Rs. 10,000, whole of the expenditure will be disallowed. [Same as 40A(3)]

## TAXABLE DEEMED INCOME

- The provisions of section 41(1) are made applicable to the computation of income u/h IFOS. Thus any income u/s 41(1) which comes under the purview of IFOS shall be taxable u/h IFOS.

## MASTER QUESTION ON INCOME FROM OTHER SOURCES

**MQ.** Mr. X furnishes the following particulars of his incomes for the PY 2018-19. Compute his IFOS.

Dividend on equity shares	Rs. 600
Dividend on preference shares	Rs. 3,200
Dividend from a foreign company	Rs. 5000
Dividend from UTI	Rs. 2,000
Dividends received from Assam Tea Ltd. (60% of income is agricultural Income).	Rs. 3,600
Income from agricultural land in India	Rs. 12000
Income from agricultural land in Pakistan	Rs. 10000
Interest on Securities (Net)	Rs. 18000
Winning from Horse-Race(Gross)	Rs. 13000
Rent from sub-letting a house	Rs. 26250
Rent payable by Mr. Mohan for the sub-let house	Rs. 12000
Other expenses on sub-let-house	Rs. 1000
Income from letting on hire of building & machinery under one composite lease	Rs. 17,000
Interest on Bank Deposits	Rs. 2,500
Directors sitting fees received	Rs. 1,200
Ground rent received from Land in Pathankot	Rs. 600
Income from undisclosed sources	Rs. 10,000
Amount received on account of winnings from lotteries	Rs. 14,000
<b>The following deductions are claimed by him</b>	
(a) Collection charges of preference dividend	Rs. 200
(b) Allowable depreciation on Building & Machinery	Rs. 4,000
(c) Fire Insurance on Building & Machinery	Rs. 100
(d) Amount spent for buying lottery ticket	Rs. 500

**Solution:**

### Computation of Income u/f IFOS in the hands of Mr. X

Dividend on equity & preference shares	Exempt
Dividend from a foreign company	Rs. 5,000
Dividend from UTI	Exempt
Dividends received from Assam Tea Ltd. (Since it is Indian company).	Exempt
Income from agricultural land in India	Exempt
Income from agricultural land in Pakistan	Rs. 10,000
Interest on Securities (after grossing up @ 10%) [18000/90%]	Rs. 20,000
Winning from Horse-Race [Gross amount is given, so no need to gross up again]	Rs. 13,000
Rent from sub-letting a house [Rs 26250-12000 -1000]	Rs. 13,250
Income from letting of machinery & building after Expense [Rs.17,000 - (4,000 + 100)]	Rs. 12,900
Interest on Bank Deposits	Rs. 2,500
Directors sitting fees received	Rs. 1,200
Ground rent received from Land in Pathankot	Rs. 600
Income from undisclosed sources	Rs. 10,000
Amount received on account of winnings from lotteries	Rs. 14,000

**Notes:**

- (i) Amount spent for buying lottery ticket is not deductible. (Winning from lottery is taxable @ 30%)
- (ii) Collection charges of preference dividend are not deductible since dividend income is exempt.
- (iii) Agricultural income from land situated in India is **exempt u/s 10**.



## 5. CLUBBING OF INCOME

### INTRODUCTION

- Total Income of an Individual is taxed on the basis of Slab Rate. As the income goes up, rates of tax also go up. There is a tendency amongst the tax-payers in higher tax brackets to divert a part of their income to the hands of their relatives, in order to reduce the burden of tax.

**Ex:** If a person has an income of Rs. 10,00,000, tax payable by him = Rs. 1,12,500.

If he can divide this income in the hands of 2 persons related to him, Mr. A & Mr. B giving both of them Rs. 2,50,000, combined tax liability = Nil (for A) + Nil (for B) + Rs. 12,500 for Himself.

Thus, we say that tax liability gets reduced by Rs. 1,00,000. [Rs. 1,12,500 – Rs. 12,500].

- In order to **curb such practices of tax avoidance**, Provisions have been incorporated in the Income-tax Act by virtue of which the income arising to certain persons is to be included in the income of another person, for purposes of computation of his tax liability.
- These provisions are enacted to counteract the tendency of the tax-payers to dispose of their property or transfer their income in such a way that their tax liability can be avoided or reduced.

### TRANSFER OF INCOME WITHOUT TRANSFER OF ASSET [SECTION 60]

- If any person transfers the income from any asset without transferring the asset, such **transferred Income is included in Total Income of the transferor.**
- Transfer can be **Revocable or Irrevocable.**

**Ex:** Mr. A confers the right to receive rent in respect of his house property on his wife, Mrs. A, without transferring the house itself to her. In this case, the rent received by Mrs. A will be clubbed with the income of Mr. A.

**CQ1.** Mr. Vatsan has transferred through a duly registered document the income arising from a godown, to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

**Answer:** As per Section 60 of the Act, the rental income from godown will be charged in the hands of Mr. Vatsan. According to Section 60 transfer of income without transfer of asset is chargeable in the hands of the transferor.

### INCOME ARISING FROM REVOCABLE TRANSFER OF ASSETS [SEC 61]

- If any Asset is transferred under “Revocable Trust”, Income from such asset is **included in Total Income of the transferor.**

**Meaning of Revocable Transfer:** A transfer shall be deemed to be **Revocable if Transfer:**

- (a) **Contains ANY Provision for RE-TRANSFER** (directly/indirectly) of whole/part of the Asset or Income to the transferor, **during the Life-Time of Beneficiary or Transferee.** OR

**Ex: (i)** X transfers a house property to a trust for the benefit of A & B. However, X has a right to revoke the trust during the lifetime of A or B. It is a revocable transfer & income arising from house property shall be included in the hands of X.

**(ii)** X transfers a house property to A. However, X has a right to revoke transfer during the lifetime of A. It is a revocable transfer & income arising from the house property is taxable in the hands of X.

**(iii)** X transfers an asset. As per T&C of transfer, he has a right to utilize the income of the asset for his benefit. However, he has not exercised this right as yet. Income of the asset would be taxable in the hands of X, even if he has not exercised the aforesaid right.

- (b) **Gives Right to the Transferor to RE-ASSUME Power** (directly/indirectly) over the whole/part of the Asset or Income **during the Life-Time of Beneficiary or Transferee.**

**Ex:** X transfers an asset. As per T&C of transfer, he has a right to use the asset for the personal benefits of his family members whenever he wants. Till date, he has not exercised this right. It is a revocable transfer. The entire income from the asset would be taxable in the hands of X.

**Exceptions [Section 62]** → Income will NOT be clubbed even in case of revocable Transfer

- ❖ If the Transfer is **not revocable** during **Life-Time of Beneficiary/Transferee**. In such cases, Income shall be taxable in the hands of transferee provided transferor derives no benefit.

**Ex:** R transfers his house property to a trust for the benefit of G till his death. In this case, this transfer is irrevocable till the death of G. Thus, till the death of G, Income from house property is taxable in the hands of Transferee (trust).

However, on death of G, income from such house shall be included in total income of R since on that date the transfer has become revocable.

In the above case, if R had reserved a right to get back house property or its income from G during lifetime of G, then, such transfer shall be revocable & Income from such house shall be taxable in hands of R from the beginning.

**Note:** Income arising from revocable transfer of the asset/income is taxable when the power to revoke the transfer arises **even if the power to revoke has not been exercised by transferor.**

## **CLUBBING OF INCOME ARISING TO SPOUSE [SECTION 64(1)(ii)]**

### **(A) REMUNERATION TO SPOUSE**

- Any Remuneration received by Spouse from a Concern in which other Spouse has Substantial Interest, shall be clubbed in the hands of the spouse who has Substantial Interest.
- **NO CLUBBING** → If Remuneration is received by Spouse due to his/her Qualifications.
- **Substantial Interest:** Individual is deemed to have substantial interest in concern if Individual along with his relatives beneficially holds **20 % or more equity** shares at any time during PY.
- Relative = Husband, wife, brother or sister or Lineal Ascendant or Descendant of the individual.

**Ex:** X is a partner in a partnership concern & is entitled to 50% share of the profit of the firm. Mrs. X is employed as the General Manager of the firm & is getting a salary of 25,000 per month. The taxable salary of Mrs. X will be clubbed with the total income of X u/h 'Income from salaries'. However, if Mrs. X is receiving the salary on account of her technical or professional knowledge or experience, then the salary would not be clubbed.

**CQ2.** Mr. X is a CA in practice. He engages his wife Mrs. X as an employee for audit works & pays a sum of Rs. 20,000 p.m. towards salary. Mrs. X before marriage has completed her CA articleship & is presently awaiting result of the final examination. Examine the tax implication.

**Answer:** Where the spouse of the assessee has qualification, remuneration received will not be clubbed. Thus, Income of Mrs. X should not be clubbed with that of Mr. X.

### **Note:**

1. **Clubbing is Mandatory**, even if such clubbing in some case results into benefit to the assessee.
2. If both Husband & Wife have Substantial Interest & both are in Receipt of Remuneration without qualification from the Same Concern → Remuneration of other spouse will be **clubbed** in total income of Husband/Wife **whose Total Income excluding such remuneration is Greater.**
3. Once the clubbing is done in the hands any spouse (Say X) since his Income was greater in 1<sup>st</sup> year of clubbing than Income of other spouse (Mrs. X), Income of Mrs. X shall be clubbed in the hands of X in subsequent years also even if Income of Mrs. X is greater in subsequent year.

**Ex:** X is a 50% partner in a partnership firm from which his wife is getting salary of Rs. 15,000 p.m. Total Income of X (before clubbing) is Rs. 5,60,000 while total income of Mrs. X (exclusive of such salary) is Rs. 6,00,000.

The clubbing provisions will be applicable & total income of X & Mrs. X will be determined as under:

Particulars	X	Mrs. X
Total Income before Clubbing	5,60,000	6,00,000
<b>Add:</b> Income to be clubbed [Salary Income of Mrs. X in the hands of X]	1,80,000	
Total Income	7,40,000	6,00,000

**CQ3.** A & Mrs. A, whose other incomes are Rs. 5,60,000 & Rs. 5,80,000 respectively are both employed in X Ltd & getting remuneration of Rs. 20,000 p.m. & Rs. 18,000 p.m. respectively. Their shareholding in the company along with relatives are Mr. A - 10%, Mrs. A - 5%, Mr. A's brother - 6%, Mrs. A's brother - 8%.

In this case A & Mrs. A both have substantial interest determined as:

**A:** His own share 10% + 5% (Mrs A's share) + 6% (A's brother's share) = 21%.

**Mrs. A:** Her own share 5% + 10% (A's share) + 8% A's brother's share = 23%.

Thus, the income of Mr. A from X Ltd. will be clubbed in the hands of Mrs. A

**Mrs. A's Total Income**

Salary Income (18,000x 12)	2,16,000	
A's Salary Income (20,000 x 12 = 1,20,000)	2,40,000	4,56,000
Other Income		5,80,000
Gross total income		10,36,000

**A's Total Income**

Other incomes		5,60,000
Gross Total Income		5,60,000

**(B) INCOME FROM ASSETS TRANSFERRED TO THE SPOUSE [SECTION 64(1)(iv)]**

- If Individual transfer any **Asset (other than House Property)** to his/her spouse **for Inadequate Consideration**, Income from such Asset shall be included in Total Income of the transferor.

**Ex:** Mr. PC transfers debentures of X ltd to his wife for inadequate consideration. Interest income on such debentures shall be clubbed in the hands of Mr. PC.

**Points to Remember:**

<p><b>1.</b> Transfer of House Property by Individual to Spouse for Inadequate Consideration → Transferor shall be <b>deemed as Owner</b> of House Property <b>u/s 27</b> &amp; Income from such House Property is taxed in the hands of the transferor.</p> <p>❖ <b>CAPITAL GAIN</b> on Transfer of such House Property → <b>Clubbed</b> in hands of Transferor.</p>
<p><b>2.</b> Marriage should exist both at the time of Transfer &amp; when Income is Accrued.</p> <p>❖ <b>[Transfer before Marriage &amp; After Divorce → No Clubbing]</b></p>
<p><b>3.</b> If Any <b>Property</b> is acquired by the Wife out of the <b>Pin Money</b> → <b>No Clubbing</b>.</p>
<p><b>4.</b> Transfer should be for inadequate Consideration. <b>[Adequate Consideration → No Clubbing]</b>. Transfer of Asset <b>in connection with Agreement to Live Apart</b> → Deemed to be transfer with Adequate Consideration &amp; thus, <b>No Clubbing</b>. (If Consideration is Payable in Parts → Only Proportionate Income shall be clubbed)</p>
<p><b>5. CHANGE IN IDENTITY OF TRANSFERRED ASSET:</b> If transferred asset has changed the shape &amp; Identification, then Income from such Changed Asset shall be Clubbed. <b>Ex:</b> Mr. PC gifted shares to his wife. His wife sold the shares &amp; acquired a house which was let out, the income from house property shall be clubbed in the hands of Mr. PC.</p>
<p><b>6. NO CLUBBING ON ACCRETION OF INCOME</b> Income from Transferred Asset is to be Clubbed. But Income on Income is Not Clubbed: Income derived on the accretion of transferred property cannot be clubbed. <b>Ex:</b> X transfer 10,000 bonds of IDBI to his wife Mrs. X. Mrs. X receive interest of 70,000 p.a on the bonds. Rs. 70,000 is to be clubbed in the hands of Mr. X. However, if Mrs. X accumulates 50,000 out of the interest income &amp; deposits it with the company at an interest of 10% p.a, then interest of Rs. 5,000 p.a received by her on the deposit will not be clubbed in Income of Mr. X.</p>

## APPROPRIATION WHEN TRANSFERRED ASSET IS INVESTED IN A BUSINESS

1. Find Total Investment of the Transferee (spouse) in the business on 1 <sup>st</sup> day of PY.
2. Find out the amount Invested by the transferee (spouse) out of the assets transferred to her for Inadequate consideration on 1 <sup>st</sup> day of PY in the said business.
3. Find out Taxable Income from Business. [If transferee becomes Partner of a Firm by investing the said Asset (Capital Contributino), only Interest is considered (because Share of Profit from firm is Exempt)]
4. Amount which shall be included in the hands of Transferor is determined as follows: $\left[ \frac{2 \times 3}{1} \right]$

**CQ4.** X & Y form a partnership from 1 April 2018 (PSR - 2: 3) by investing Rs. 10 Lacs & Rs. 15 Lacs respectively. The investment has been financed from the following sources.

Particulars	X	Y
Gift from Mrs. X	6,60,000	-
Gift from Mrs. Y	-	8,00,000
Past savings of X & Y	3,40,000	7,00,000
<b>For the year ending March 31, 2019, Share of Profit from the firm is as follows:</b>		
Interest on Capital @ 12%	1,20,000	1,80,000
Salary as working partner	24,000	24,000
Share of Profit	1,08,000	1,62,000

Find out the Income chargeable to tax in the hands of X & Mrs. X

**Solution:**

Particulars	Mr. X	Mrs. X
Share of profit [Exempt u/s 10(2A)]	Nil	-
Salary from Firm	24,000	-
Interest on Capital $[(Rs. 1,20,000 \times Rs.6.6 \text{ lacs})/Rs. 10 \text{ lacs}]$	40,800	79,200*
Business income	64,800	79,200

**CQ5.** Mr. Vaibhav started a proprietary business on 1.04.2017 with a capital of Rs. 5,00,000. He incurred a loss of Rs. 2,00,000 during PY 2017-18. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of Rs. 5,00,000 on 1.4.2018, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of Rs. 4,00,000 during PY 2018-19. Compute the amount to be clubbed in the hands of Mrs. Vaishaly for AY 2019-20. If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?

**Solution:** Income to be clubbed in the hands of Mrs. Vaishaly for AY 2019-20 is computed as under:  
Since Mr. Vaibhav has incurred loss of Rs. 2,00,000, remaining amount of Rs. 3,00,000 is the amount of Capital he has in the business on 1.4.2018.

Total Capital Contribution on 1.4.2018 = Rs. 8,00,000 [Includes Rs. 5,00,000 taken from his wife]

Profit of PY 2018-19 = Rs. 4,00,000.

Amount to be clubbed in the hands of Mrs. Vaishali =  $\left[ \frac{\text{Investment made out of Spouse Money}}{\text{Total Investment on first day of PY}} \times \text{Profit} \right]$

$$= \left[ \frac{Rs. 5,00,000}{Rs. 8,00,000} \times Rs. 4,00,000 \right] = Rs. 2,50,000$$

**Thus Rs. 2,50,000 shall be clubbed in the hands of Mrs. Vaishali.**

## CLUBBING OF INCOME FROM ASSET TRANSFERRED TO SON'S WIFE FOR INADEQUATE CONSIDERATION [SECTION 64(1)(vi)]

➤ If Individual Transfers any Asset to his/her son's wife for Inadequate Consideration → Income from such Asset shall be clubbed in Total Income of the Transferor.

**Ex:** Mr. PC transfers debentures of X ltd to his son's wife for inadequate consideration. Interest income on such debentures shall be clubbed in the hands of Mr. PC.

**Note:** All Provisions relating to Transfer of Asset to Spouse shall also apply to Son's Spouse.

## CLUBBING OF INCOME FROM ASSETS TRANSFERRED TO ANY PERSON FOR BENEFIT OF SPOUSE/SON'S WIFE: [Section 64(1)(vii)/(viii)]

- When Individual transfers any assets to Any Person/AOP for **Inadequate consideration**, Income from such transferred Assets shall be clubbed in the Income of the transferor (to the extent of benefit which accrues to the spouse/son's wife).

**Ex:** X transfers a house to Y with a direction that 50% of Rental Income is to be used for the benefit of his wife Mrs. X & 50% for others, then Rental Income to the extent of 50% shall be included in the total income of X.

**CQ6.** Mrs. Dimple transferred her Immovable property for Inadequate consideration to RSA Co. Ltd. subject to a condition that, a sum of Rs. 5,00,000 per annum out of the rental income shall be utilized for the benefit of her son's wife. Mrs. Dimple claims that she will not be held taxable as she no longer owned the property. State whether the contention of Mrs. Dimple is valid in law.

**Answer:** In case of transfer of any asset, directly or indirectly, to any person otherwise than for adequate consideration, the income arising from such asset for the immediate or deferred benefit of the son's wife shall attract clubbing provisions u/s. 64(1)(viii). Such income shall be included in the computation of total income of the transferor. Therefore Mrs. Dimple shall be liable to tax.

## CLUBBING OF INCOME OF A MINOR CHILD [SECTION 64(1A)]

- All Income which accrues to Minor Child → Clubbed in the hands of **Either of his Parents**.
- **Clubbing in Father's or Mother's Hands:** Income of Minor shall be clubbed in the hands of that **Parent whose Total Income** (excluding Income of Minor) is **Greater**.
- **If Marriage of his Parents does not Subsist:** Income shall be clubbed in the hands of that **Parent who maintains the minor child in the PY**.
- **If Both Parents are Dead:** Income of Minor **cannot** be assessed in hands of his grandparents.
- **Rs. 1500 Exemption to Minor's Parent u/s 10(32):** Parent in whose Income, the income of Minor is clubbed will get Exemption of **(a) Rs. 1,500** OR **(b) Amount of Income Clubbed** (whichever is less) in respect of **each minor child**.

### NO CLUBBING:

1. Income has been earned by the Minor due to his **own Skills**.
2. **Minor is suffering from disabilities** referred in **Section 80U**.

### Points to Remember:

1. Section 64(1A) **apply even** to **Minor Married Daughter**. Thus, Income arising to Minor Married Daughter would also be clubbed.
2. **If Minor attains Majority during PY** → Income till the date he was minor in that PY is clubbed.

**CQ7.** The following details are furnished in respect of Mr. X & his family members. Determine their GTI:

Particulars	Mr. X	Mrs. X	Minor Child
Income as child Artist in films	-	-	60,000
Business Income (Own)	(40,000)	-	-
Salary from X Ltd. in which Mr. X holds 25% Voting power	-	30000	-
Share of profit from Firm AB & Co.	80,000 (40%)	-	20,000 (10%)
Commission from AB & Co.	-	20,000	--
Interest Income	8000	5000	4000

### Note:

1. Mrs. X possesses B.Com degree & works as accountant of X Ltd.
2. Mrs. X does not render any services to M/s. AB & Co.
3. Interest income received by Mrs. X is from an investment of Rs. 40,000 gifted by Mr. X & Rs. 40,000 invested from her own resource.

**Answer:**

**Computation of Gross Total Income for AY 2019-20**

Particulars	Mr. X	Mrs. X	Minor Child
Salaries: Salary from X Ltd	-	30,000	--
Profits & gains from business/ Profession: Income /(Loss)	(40,000)	--	60,000
<b>Income from other sources:</b>			
(i) Interest income Own (Mr. X) 8,000		2,500	
Add: Spouse –sec 64(1) [5000*40,000/80,000] 2,500	10,500	--	--
<b>Total Income for Clubbing of Minor's Income</b>	<b>(29500)</b>	<b>32,500</b>	<b>-</b>
Interest Income of Minor Child Rs. 4,000	--	2,500	--
<b>Less: Exempt u/s. 10(32) (Rs. 1,500) 2,500</b>			
Commission income of spouse u/s. 64(1)	20,000	--	--
Gross Total Income	(9,500)	35,000	60,000

**Notes:** 1. Share of profit from firm is exempt from tax u/s. 10(2A).

2. Income of the minor child will be clubbed in the hands of the parent whose income before such clubbing is greater. In this case, thus the interest income of minor child is clubbed in the hands of Mrs. X.

**INCOME FROM SELF-ACQUIRED PROPERTY CONVERTED TO HUF PROPERTY [S. 64(2)]**

- If Self-acquired Property of Individual is converted into HUF Property for Inadequate Consideration → Income derived by HUF from such property is Clubbed in Income of transferor.

**Ex:** X owns a house property from which he derives an income of Rs. 6,00,000 p.a. If he converts this property as the property of an HUF of which he is a member, the income shall henceforth be received by the HUF but it shall be deemed to be the individual income of X & shall be included in computation of his total income u/h 'Income from House Property'.

- **CLUBBING AFTER PARTITION:** If converted property is subsequently transferred amongst the members of the family, Income from such converted property which is received by Spouse of Transferor + Minor Child (subject to T&C) shall be clubbed in the hands of the transferor.

**Ex:** In the example given above, if there is partition in the family & there are 5 members entitled to a share in the HUF property i.e. Mr. X, Mrs. X, a minor child of X & two major sons of X assuming they decide to share the property equally then the income from the property shall be treated as follows:

- (a) Income from 1/5<sup>th</sup> share of X Rs. 120000;  
(b) Income from 1/5<sup>th</sup> share of Mrs. X 1,20,000 (to be clubbed with the income of X);  
(c) Income from 1/5<sup>th</sup> share of minor child of X 1,20,000 (to be clubbed with the income of X or Mrs. X, whose income is higher, u/s 64(1A). However, X can claim exemption upto Rs. 1,50,000);  
(d) Income from 2/5<sup>th</sup> share of other members shall be taxable in the hands of the major sons individually.

**CLUBBING OF LOSSES → Income includes Loss.** Thus, Losses shall also be Clubbed.

**RELEVANT HEAD FOR CLUBBING**

- Firstly, Income will be computed in the hands of Actual Recipient under applicable head as if Actual recipient is liable to pay the tax on such Income.  
➤ Then after Computation of Income in the hands of Actual Recipient, it will be clubbed under the same head in the hands of other person in whose hands such income is to be clubbed.

**SECTION 61 VIS-À-VIS SECTION 64**

- **SECTION 61:** Section 61 applies only to Revocable transfer made by ANY Person.  
➤ **SECTION 64:** It applies to Revocable & Irrevocable Transfers made only by Individuals.



## CROSS TRANSFERS

- ❖ **Instances:** Two transactions are **Inter-connected** in such a way that they **seem to be two different transactions** but **in reality**, they are the **parts of the same transaction**.

**Ex:** A making gift of Rs. 50,000 to the wife of his brother B for the purchase of a house by her & a simultaneous gift by B to A's Minor son of shares in a foreign company of Rs. 50,000.

- ❖ **In case of Cross Transfers** → Income from transferred assets would be assessed in the hands of the deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other.

Thus, in above case, transfers have been made by A & B to persons who are not their spouse or minor child so as to evade the provisions of this section, showing that such transfers constituted consideration for each other.

- ❖ **CIT v. Keshavji Morarji [1967] 66 ITR 142:** The Supreme Court observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of Clubbing provisions would be attracted.

Thus, Income arising to Mrs. B from the house property should be clubbed in Income of B & Dividend from shares transferred to A's Minor son would be taxable in the hands of A.

This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

**CQ8.** Mr. Vasudevan gifted a sum of Rs. 6 Lacs to his brother's wife on 14-6-2018. On 12-7-2018, his brother gifted a sum of Rs. 5 Lacs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2018 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother.

**Answer:** In the given case, Mr. Vasudevan gifted a sum of Rs. 6 Lacs to his brother's wife on 14.06.2018 and simultaneously, his brother gifted a sum of Rs. 5 Lacs to Mr. Vasudevan's wife on 12.07.2018. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in CIT vs. Keshavji Morarji (1967) 66 ITR 142.

Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 64(1), to the extent of amount of cross transfers i.e., Rs. 5 Lacs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of Rs. 5 Lacs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of Rs. 6 Lacs, since the cross transfer is only to the extent of Rs. 5 Lacs.

## **MASTER QUESTION ON CLUBBING OF INCOME**

**MQ.** During the previous year 2018-19 the following transactions occurred in respect of Mr. X.

- (a) Mr. X had a fixed deposit of Rs. 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 01.04.2018 to 31.03.2019 to the savings bank account of Mr. B, son of his brother, to help him in his education.
- (b) Mr. X holds 75% share in a partnership firm. Mrs. X received a commission of Rs. 25,000 from the firm for promoting the sales of the firm. Mrs. X possesses no technical or professional qualification.
- (c) Mr. X gifted a flat to Mrs. X on April 1, 2018. During the previous year the flat had income under the head House Property Rs. 52,000 to Mrs. X.
- (d) Mr. X gifted Rs. 2,00,000 to his minor son who invested the same in a business and he got a share income of Rs. 20,000 from the investment.
- (e) Mr. X's minor son derived an income of Rs. 20,000 through a business activity involving application of his skill and talent.

During the year Mr. X had no other income. Mrs. X received salary of Rs. 20,000 per month from a part time job. Discuss the tax implications of each transaction & compute the total income of Mr. X, Mrs. X & their minor child.

### **Answer:**

(a) As per Section 60 of the Income Tax Act, if any person has transferred any income without transferring the asset in such case clubbing provision shall be applicable.

In the given case, Mr. X transferred interest on fixed deposit to Mr. B (son of his brother) without transferring the fixed deposit, such income shall be clubbed in the hands of Mr. X as per section 60. Amount to be clubbed = Rs.  $5,00,000 \times 9\% = \text{Rs. } 45,000$

(b) As per Section 64(1) of the Income Tax Act, if any person is getting salary, commission etc. from a concern in which his or her spouse has substantial interest and further salary etc. is received without any professional or technical qualification, in such case, salary etc. so received shall be clubbed in the income of the spouse having substantial interest.

In the given case Mr. X is having substantial interest in the partnership firm and Mrs. X received a commission of Rs. 25,000 from the firm for promoting the sales of the firm without any technical or professional qualification. So the commission shall be clubbed in the hands of Mr. X

(c) As per section 27, An individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart shall be deemed to be the owner of the house property so transferred.

In the given case Mr. X transfers flat to Mrs. A without adequate consideration on April 1, 2018.

So Mr. X shall be deemed to be the owner of the house property and income Rs. 52,000 shall be considered as income of Mr. X.

(d) As per section 64(1A), if any income accrues or arises to a minor child, such income shall be clubbed in the income of mother or father whosoever has higher income before taking in to consideration the income to be clubbed. So in the given case, income of Rs. 20,000 shall be clubbed in the income of mother or father whosoever has higher income before taking in to consideration the income to be clubbed. Amount to be clubbed =  $20,000 - 1500 = \text{Rs. } 18,500$

(e) As per section 64(1A), if any minor child has income from manual labour or through activity involving application of his skill, talent or specialized knowledge and experience, such income shall not be clubbed but if such income has been invested further, any new income shall be clubbed in the income of mother or father.

In the given case clubbing provision is not applicable as Mr. X's minor son derived an income of Rs. 20,000 through a business activity involving application of his skill and talent.

## 6. SET-OFF & CARRY FORWARD OF LOSSES

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### INTRODUCTION

- **TOTAL INCOME** earned by the Assessee during the PY is taxable under Income Tax Act.
- It is worthy to be noted that **TOTAL INCOME from ALL SOURCES/HEADS** is to be taxed & not the Income from Individual source/head.  
Thus, it becomes Important to know Mechanism of Set off & Carry forward of Losses.  
**Ex:** Mr. PC carries on two businesses. He gets loss in one business & profit in another one. His PGBP income will be the net income i.e. after an adjustment of the loss.
- It might also happen that Net Result from a Particular Source/Head of Income may be Loss. This Loss can be Set off against other Source/Head in a Specified Manner.
- Thus, it can be said that **Loss from one Source/Head can be Adjusted against Income from other Source/Head Subject to Certain Conditions.**

### MEANING OF SET-OFF & CARRY FORWARD

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**SET OFF:** Adjustment of Losses against Profits from Another Source/Head of Income in Same AY.

**CARRY FORWARD OF LOSS:** If Losses cannot be Set-off in Same Year due to Inadequacy of Eligible Profits, then such Losses are Carried Forward to Next AY for Adjustment against Eligible Profits of that year.

### THIS TOPIC CAN BE DIVIDED INTO 2 PARTS:

(A) Set off of Loss in Same Year

1. **Intra-Head/Inter-Source Adjustments** [Set off **within Same Head** of Income]
2. **Inter Head Adjustments** [Set off **against other Head** of Income]

(B) Carry Forward & Set off of Loss in Next Year.

## A. SET OFF OF LOSSES

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### 1. INTRA HEAD/INTER SOURCE ADJUSTMENT [SECTION 70]

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**General Rule:** **Loss from Any Source** can be set off (**Adjusted**) against **Income from Any Other Source under SAME HEAD.**

#### Examples:

1. Loss from one house property can be set off against the Income from another house property as both these sources of income fall under one head of income.
2. If the assessee has two house & income from one house is Rs. 30,000 while loss from other house is Rs. 10,000, then such loss shall be adjusted against other income from same source & after set off, income u/h HP = Rs. 20000.
3. Loss from one business (textiles) can be set off against income from any other business (printing) in same year as both these sources of income fall under one head of income.

**Exceptions to Intra Head/Inter Source adjustment:** In following cases, Loss from one source cannot be adjusted against Income from another source although both falls under Same head:

Nature of Loss	Details
<b>Speculation Business Loss – [Sec 73(1)]</b>	<ul style="list-style-type: none"> <li>Speculative Business Loss <b>CANNOT</b> be set off from Normal Business Income (Non- Speculative Business Income).</li> <li>Speculation Business Loss can be <b>set off</b> against Income of <b>ANY other Speculation Business only</b>.</li> </ul>
<b>Loss of Specified Business u/s 35AD - [Sec 73A]</b>	<ul style="list-style-type: none"> <li>Loss of Specified Business <b>CANNOT</b> be set off against Normal /Speculative Business Income.</li> <li>Loss of Specified Business can be <b>set off</b> against Income of <b>ANY Specified Business only</b>.</li> </ul> <p><b>Note:</b> Normal business losses can be set off against specified business income.</p>
<b>Loss from Activity of Owning &amp; Maintaining Race Horses [Sec 74A]</b>	<ul style="list-style-type: none"> <li>Such Loss can be set-off only against Income from Activity of Owning &amp; Maintaining Race Horses only.</li> </ul>
<b>Long Term Capital Loss – [Sec 70(3)]</b>	<ul style="list-style-type: none"> <li>LTCL can be set off against <b>LTCG only</b> &amp; NOT even against STCG.</li> <li>However, <b>STCL</b> can be set off against both STCG &amp; LTCG.</li> </ul>
<b>Loss from Lottery, Puzzles, Card Games</b>	<ul style="list-style-type: none"> <li><b>NO SET OFF</b> against any Income. It is <b>Taxable @ 30%</b>.</li> <li>Expenditure Incurred for Buying Lottery Ticket → Not Deductible.</li> </ul>
<b>Exempt Source</b>	<ul style="list-style-type: none"> <li>Loss from Exempt Source cannot be set-off against Profits from Taxable Source of Income.</li> </ul>

**CQ1.** R carries two businesses A & B. Business A is a manufacturing business while business B is a speculative business. State whether the loss can be set off in the following two situations:

Particulars	Situation I	Situation II
Manufacturing Business	(+) 3,00,000	(-) 15,00,000
Speculation Business	(-) 1,40,000	(+) 2,00,000

**Solution:**

**Situation I:** Set off is NOT Possible as speculation loss can be set off only against speculation Income.

Thus Loss from speculation business cannot be set off against Normal business Income & it will be carried forward to Next year & will be adjusted against profit from speculation business (if any).

**Situation II:** Set off is **Possible** since Loss from Normal Business can be set off against profit form Speculative Business. Thus Normal business loss of Rs. 2,00,000 can be adjusted against Speculation Business Income.

Remaining Business loss of Rs. 13,00,000 will be carried forward to Next year & will be adjusted against profit from Normal Business only (if any).

**CQ2.** Give the provisions regarding Set off & Carry forward in the following situations:

Particulars	Situation I	Situation II
Short-term Capital Gain	(-) 5,00,000	(+) 3,00,000
Long-term Capital Gain	(+) 7,00,000	(-) 2,00,000

**Solution: Situation I:** STCL of Rs. 5,00,000 can be set off against LTCG. Hence, Net LTCG = Rs. 2,00,000;

**Situation II:** LTCL can be set off from LTCG only. It cannot be set off from STCG.

Hence, STCG of Rs. 3,00,000 shall be taxable & Rs. 2,00,000 of LTCL will be carried forward to Next year & adjusted against LTCG only (if any).

## 2. INTER HEAD ADJUSTMENT [SECTION 71]

**General Rule:** Loss from one Head can be set off against Income from Another Head.

**Ex:** Mr. X has loss from Business/Profession of Rs. 3,00,000 & Income from House Property of Rs. 5,00,000. In such case, Loss from business (One head) can be set off against Income from House Property (Another Head).

### Exceptions to Inter head adjustment:

<b>1. Loss u/h Capital Gains</b>	<ul style="list-style-type: none"><li>Loss u/h Capital Gains can be set off against Income u/h <b>Capital Gains only</b>.</li><li>Loss u/h 'Capital Gains' <b>CANNOT be set-off</b> against Income under <b>Any other Head</b>.</li></ul>
<b>2. Loss u/h PGBP</b> [Sec 71(2A)]	<ul style="list-style-type: none"><li>Loss u/h PGBP <b>CAN</b> be <b>set off</b> against Income from <b>Any Head of Income Except Income from Salary</b>.</li></ul>
<b>3. Loss u/h "House Property"</b> can be set off against <b>any Head upto Rs. 2 Lacs</b> only. <b>Maximum Loss from House Property which can be set-off = Rs. 2 lacs.</b>	
<b>4. Since Intra-Head Adjustment is NOT Permitted in the following cases &amp; thus Inter-Head Adjustment is ALSO NOT Permitted</b> (a) Loss from Speculation Business; (b) Loss from Specified Business u/s 35AD; (c) Loss from Activity of owning & Maintaining Race Horses; (c) Loss of Lottery, Crossword Puzzles, Card Games; (d) Loss from Exempt Source of Income.	

### Points to Remember

- Loss from any Head (*other than Capital Gain & PGBP*) can be adjusted against Income from **ANY Head of Income**, including Capital Gain & Salary in **Same AY**.
- Assessee may choose to set off the losses in the manner which is Most Beneficial to him.
- It is Mandatory to Set off Loss if Eligible Income is there. Assessee cannot ignore it.

## B. CARRY FORWARD OF LOSSES

- If **Loss cannot be set off** either under Same Head or under other Heads of Income **due to Absence of Eligible Income in Same AY**, it shall be **carried forward** & **Set off against Income from Same Head** in next AYs subject to prescribed Time Limit.

### Note:

- Once a Loss is carried forward, it can be set off only against Income from Same Head.
- Loss from **Lottery cannot** be **set off nor Carried Forward**.

## TREATMENT OF VARIOUS LOSSES IN DETAIL

Loss u/h	Combined Provisions of Set off & Carry Forward
<b>House Property</b> [Section 71B]	<ul style="list-style-type: none"> <li>Firstly Loss from one House Property shall be adjusted against Income from Another House Property.</li> <li>If still there is Unabsorbed Loss, it shall be <b>set-off against</b> income from <b>any other head upto Rs. 2,00,000 only</b>.</li> <li>Remaining (Unabsorbed) Loss will be carried forward to Next Year.</li> <li>Such Brought Forward Loss can be set-off against Income u/h 'House Property' only &amp; not against any other Head.</li> </ul>
<b>Normal Business Loss</b> [Section 72]	<ul style="list-style-type: none"> <li>Firstly, Normal business loss can be set off against income u/h PGBP.</li> <li>If still there is unabsorbed Loss, it can be set off against Income under any other head <b>Except "salaries"</b>.</li> <li>If still there is a loss, it can be carried forward &amp; can be set-off against "income u/h PGBP" in Next Year.</li> </ul> <p><b>Points to Remember:</b></p> <ul style="list-style-type: none"> <li>❖ Unabsorbed Depreciation can be set off against ANY HEAD OF INCOME.</li> <li>❖ It is not necessary that Business whose Loss is being set off must be continued.</li> <li>❖ Business Losses can be set off only by the assessee who has incurred loss: Only the person who has incurred the loss is entitled to carry forward or set off the loss. Thus, successor of a business cannot carry forward or set off losses of his predecessor.</li> </ul>
<b>Specified Business Loss</b> [Section 73A]	<ul style="list-style-type: none"> <li>Specified business loss u/s 35AD can be set off only against income of any other specified business.</li> <li>Unabsorbed loss will be carried forward to next AY &amp; set off against income from any Specified Business.</li> </ul> <p><b>Note:</b> Loss from one specified business can be set-off against Profit of another specified business u/s 73A even if the second specified business is NOT Eligible for deduction u/s 35AD.</p> <p><b>Ex:</b> Assessee can set-off Losses of Hospital/Hotel Business which is eligible for deduction u/s 35AD against Profits of Existing Business of Hotel (Above 2 star) even if Hotel business is not eligible for deduction u/s 35AD.</p>
<b>Speculation Business Loss</b> [Section 73]	<ul style="list-style-type: none"> <li>Speculation Business Losses can be set off only against any other Speculation Business Income.</li> <li>If there is no other Speculation Income, it can be carried forward to subsequent years &amp; set-off only against income from any speculation business carried on by the assessee.</li> </ul> <p><b>Note:</b> It is not necessary that same speculation business must continue in AY in which Loss is to be set off.</p> <p><b>Note:</b> Loss from the activity of trading in derivatives is not to be treated as speculative loss.</p>
<b>Capital Loss</b>	<ul style="list-style-type: none"> <li>STCL can be set off against both STCG &amp; LTCG.</li> <li>LTCL can be set-off only against LTCG &amp; <b>Not</b> against <b>STCG</b>.</li> <li>Carry Forward: <ul style="list-style-type: none"> <li>(a) <b>STCL:</b> It can be set off against ANY Capital Gains.</li> <li>(b) <b>LTCL:</b> It can be set off <b>ONLY</b> against <b>LTCG</b>.</li> </ul> </li> <li><b>Capital Loss cannot</b> be set off against Income under any other Head.</li> </ul>
<b>Owning &amp; Maintaining Race Horses –</b> [Section 74A]	<ul style="list-style-type: none"> <li>Losses from Activity of owning &amp; Maintaining Race Horses can be set off <b>only against Income from Activity of owning &amp; Maintaining race horses only</b>.</li> <li>Loss = Stake money – Revenue Expenditure for Maintaining Race Horses.</li> </ul>



**CQ3.** Compute the Taxable Income in following situation:

	Situation I	Situation II
Long term capital gain/loss	30,000	(3,00,000)
Short term capital gain/loss	(50,000)	1,10,000
Business income/loss	(80,000)	(90,000)

**Solution:**

Particulars	Situation I	Situation II
Long term capital Gain/Loss	30,000	(3,00,000) [Note 4]
Short term capital Loss/Gain	(50,000)	1,10,000
<b>Income u/h Capital Gain after Set off</b>	<b>Nil</b> [Note 1]	<b>1,10,000</b> [Note 2]
Set off of Business Income/Loss	Nil [Note 4]	(90,000) [Note 3]
<b>Total income</b>	<b>Nil</b>	<b>20,000</b>

**Note:**

1. STCL can be set off against LTCG. Thus STCL of Rs. 30,000 will be set off against LTCG. Remaining STCL will be carried forward to next year & will be set off in next year against income u/h "Capital Gains".
2. LTCL can only be set off against LTCG. It cannot be set off against STCG also. Thus LTCL of Rs. 3,00,000 will be carried forward & set off in next year against LTCG.
3. Business Loss can be set off against Income under any head except salary. Thus Business loss can be set off against Income u/h Capital Gains.
4. Business Loss of Rs. 80,000 will be carried forward & will be set off in next year against income u/h "PGBP".

**CQ4.** Compute Total Income of Mr. A for AY 2019-20 from the following details:

Income from salary	4,00,000
Loss from Self-occupied property	(70,000)
Loss from Let-out property	(1,50,000)
Business Loss	(1,00,000)
Bank Interest (FD) received	80,000

**Solution:**

**Computation of Total Income of Mr. A for AY 2019-20**

Particulars	Amount	Amount
Income from salary	4,00,000	
Loss from House Property of Rs. 2,20,000 to be restricted to Rs. 2 Lacs [Sec 71(3A)]	(2,00,000)	2,00,000
<b>Balance loss of Rs. 20,000 from house property will be carry forward to next AY</b>		
Income from other Sources (Interest on fixed deposit with bank)	80,000	
Business Loss Set-off	(1,00,000)	-
<b>Business loss of Rs. 20,000 to be carried forward</b>		
<b>Gross total income/Total Income [See Note below]</b>		<b>2,00,000</b>

**Note:** GTI includes salary of Rs. 2,00,000 after adjusting loss of Rs. 2,00,000 from house property. Balance loss of Rs. 20,000 from house property will be carried forward. Business loss of Rs. 1,00,000 is set off against bank interest of Rs. 80,000 & remaining business loss of Rs. 20,000 will be carried forward as it cannot be set off against salary.

**CQ5.** Compute the taxable income in the following two situations.

Particulars	Situation I	Situation II
Income from Manufacturing business (Normal Business)	1,50,000	(3,60,000)
Income from Speculation Business	(80,000)	3,50,000
Loss from a Specified Business u/s 35AD	(40,000)	40,000
Short Term Capital Gains	(1,70,000)	(1,70,000)
Agricultural Income	(40,000)	60,000

**Solution:**

Particulars	Situation I	Situation II	Notes for Situation II
Income from manufacturing business	1,50,000	(3,60,000)	Loss from Normal Business can be set off against Speculative Income & specified business Income also
Income from speculation business	Nil [Note 1]	3,50,000	
Loss from specified business	Nil [Note 1]	40,000	
<b>Total income</b>	<b>1,50,000</b>	<b>30,000</b>	

- Note:**
1. Loss from Speculation Business/Specified Business can be set off only against Income from Speculative Business/Specified business respectively. Thus Loss of Rs. 80,000 & Rs. 40,000 will be carried forward to next year & will be set off in next year against Speculative business Income/Specified Business Income respectively.
  2. STCL cannot be set off from any other head. It will be carried forward & set off against "Capital Gains".
  3. Loss from Exempt Source cannot be set off against any Income & No loss can be set off from Agriculture Income.

**CQ6.** Compute the total income of A for AY 2019-20:

Income from Salary	1,80,000
Income from House Property	40,000
Business Loss	(1,90,000)
Loss from Specified Business	(60,000)
Short-term capital Loss	(60,000)
Long-term capital Gain	2,40,000

**Solution:**

**Computation of total income of A for AY 2019-20**

<b>(i) Income u/h "Salary"</b>		1,80,000
<b>(ii) Income u/h "House Property"</b>	<b>40,000</b>	
<b>Less: Business loss adjusted against House property Income</b>	(10,000)	30,000
<b>(iii) Business Loss</b>	<b>(1,90,000)</b>	
<b>Less: Set off against Capital Gain</b>	1,80,000	
<b>Less: Set off against House Property Income</b>	10,000	Nil
<b>Loss from specified business not allowed to be set off</b>	<b>(-) 60,000</b>	
<b>(iv) Income u/h "Capital Gain"</b>		
Long-term Capital Gain	<b>2,40,000</b>	
<b>Less: Short-term capital loss</b>	(60,000)	
<b>Less: Business loss adjusted</b>	(1,80,000)	Nil
Gross total income/Total Income		2,10,000

**Note:** 1. Business loss should **first** be set off from LTCG as LTCG is taxable @ 20% whereas Income from house property, in this case, is taxable @ 10%.

2. Business loss cannot be set off against income under the head salary.

**CQ7.** Mr. B, a resident individual, furnishes the following particulars for the PY 2018-19:

Income from salary (Net)	45,000
Income from house property	(24,000)
Income from business – non-speculative	(22,000)
Income from speculative business	(4,000)
Short-term capital losses	(25,000)
Long-term capital gains	19,000

What is the total income chargeable to tax for the AY 2019-20?

**Solution:**

**Total income of Mr. B for AY 2019-20**

Particulars	Amount	Amount
Income from salaries	45,000	
Income from house property	(24,000)	21,000
<b>Profits &amp; gains of business &amp; profession</b>		
Business loss to be carried forward [Note 1]	(22,000)	
Speculative loss to be carried forward [Note 2]	(4,000)	
<b>Capital Gains</b>		
LTCG	19,000	
STCL	(25,000)	
STCL to be carried forward [Note 3]	(6,000)	
Taxable income		21,000

**Note 1:** Business loss cannot be set-off against salary income. Therefore, loss of Rs. 22,000 from the non-speculative business cannot be set off against the income from salaries. Hence, such loss has to be carried forward to the next year for set-off against business profits, if any.

**Note 2:** Loss of Rs. 4,000 from the speculative business can be set off only against the income from the speculative business. Hence, such loss has to be carried forward.

**Note 3:** STCL can be set off against both STCG & LTCG. Therefore, STCL of Rs. 25,000 can be set-off against long-term capital gains to the extent of Rs. 19,000. The balance STCL of Rs. 6,000 cannot be set-off against any other income & has to be carried forward to the next year for set-off against capital gains, if any.

## SET-OFF OF BROUGHT FORWARD LOSSES & MAXIMUM TIME LIMIT

Nature of Loss to be c/f	Income against which Brought Forward Loss can be set-off	Maximum Period for Carry Forward of Losses
House Property Loss	Any Income u/h House Property	8 AYs
Normal Business Loss	Any Income u/h PBGP.	8 AYs
Speculation Business Loss	Any Speculation Business Income	4 AYs
Specified Business Loss	Any Specified Business Profit	Indefinite Period
Long Term Capital Loss	Long Term Capital Gains	8 AYs
Short Term Capital Loss	STCG/LTCG	8 AYs
Loss from Activity of owning & Maintaining Race Horses	Income from Activity of owning & Maintaining Race Horses.	4 AYs

## ORDER OF SET-OFF OF LOSSES – SECTION 72(2) - IMP

1. Current year Depreciation/ <del>Current year Capital Expenditure on Scientific Research</del>
2. Brought Forward Business Loss [Section 72(1)]
3. Unabsorbed Depreciation of Earlier Years [Section 32(2)]
4. <del>Unabsorbed Capital Expenditure on Scientific Research of Earlier Years [Section 35(4)]</del>
5. <del>Unabsorbed Expenditure on Family Planning of Earlier Years [Section 36(1)(ix)].</del>

## COMPULSORY FILING OF ROL BEFORE DUE DATE U/S 139(1) [SEC 80]

- Return of Loss u/s 139(3) shall be filed within Time Limit of Sec 139(1) to Carry Forward Losses.
- However, Loss u/h “House Property” & Unabsorbed Depreciation & Loss from Specified Business u/s 35AD can be carried forward even if **Return of Loss is not filed within DD u/s 139(1).**

## BUSINESS LOSS CAN BE CARRIED FORWARD FOR MORE THAN 8 AY [Sec 41(5)]

- If Business/Profession is No Longer in Existence & there is Deemed Income Taxable u/s 41(1),41(3),41(4)/(4A) in respect of that Business/Profession, then
- Any Loss (Except Speculation Loss) of such Discontinued Business in the year of Discontinuance
- which **could not be set off** in the year of Discontinuance can be set off against Deemed Income u/s 41(1),41(3),41(4)/(4A).

## BROUGHT FORWARD LOSSES MUST BE SET OFF IN IMMEDIATELY SUCCEEDING YEARS WHEN ELIGIBLE INCOME IS AVAILABLE

- Losses which are carried forward must be set off against Eligible Income of Immediately succeeding year & if there is any balance still to be set off, it should be set off in Immediately Next succeeding years within the time allowed.
- If Losses are not set off against Income of Immediately Next year, it cannot be set off in Later year.

**CQ8.** R had incurred a business loss of 4,00,000 during PY 2018-19. During PY 2019-20, he has earned business income of: (a) 5,00,000; (b) 2,50,000. What will be the consequences if he does not set off the loss in AY 2019-20 & wishes to set off the same in AY 2020-21?

**Solution:** (a) R can set off the loss of Rs. 4,00,000 in AY 2019-20 against the income of Rs. 5,00,000. If he does not do so, he cannot carry forward such loss of 4,00,000 to AY 2020-21.

(b) R can set off the loss of Rs. 2,50,000 only out of loss of Rs. 4,00,000 in AY 2019-20. If he does not do so, he will not be able to carry forward & set off Rs. 2,50,000 in Next AY. However, he can carry forward the balance Rs. 1,50,000 which could not be set off due to insufficient income during AY 2019-20.

**CQ9.** During PY 2018-19, Mr. C has the following income and the brought forward losses:

Short term capital gains on sale of shares	1,50,000
Long term capital loss of AY 2017-18	(96,000)
Short term capital loss of AY 2018-19	(37,000)
Long term capital gain	75,000

What is the capital gain taxable in the hands of Mr. C for the AY 2019-20?

**Solution:** **Taxable capital gains of Mr. C for AY 2019-20**

(i) Short term capital gains on sale of shares	1,50,000	
<b>Less:</b> Brought forward Short-term capital loss of AY 2018-19	(37,000)	<b>1,13,000</b>
(ii) Long term capital gain	75,000	
<b>Less:</b> Brought Forward Long-term capital loss of AY 2017-18	(75,000)	<b>Nil</b>
<b>Total Taxable Capital Gains</b>		<b>1,13,000</b>

**Note:** LTCL cannot be set off against STCG. Hence, unadjusted LTCL of AY 2017-18 of Rs. 21,000 (i.e. Rs. 96,000 – Rs. 75,000) has to be carried forward to the next year to be set-off against LTCG of that year.

**CQ10.** Mr. D has the following income for the PY 2018-19:

Income from the activity of owning & maintaining the race horses	75,000
Income from textile business	85,000
Brought forward textile business loss	50,000
Brought forward loss from activity of owning & maintaining race horses (relating to AY 16-17)	96,000

What is the total income in the hands of Mr. D for the AY 2019-20?

**Solution:** **Total income of Mr. D for AY 2019-20**

Particulars	Rs.	Rs.
<b>(i)</b> Income from the activity of owning & maintaining race horses	75,000	
<b>Less:</b> Brought forward loss from the activity of owning & maintaining race horses	(96,000)	
<b>To be carried forward to Next AY</b>	<b>(21,000)</b>	
Income from textile business	85,000	
Less: Brought forward business loss from textile business.	50,000	35,000
<b>Total income</b>		<b>35,000</b>

**Note:** Loss from activity of owning & maintaining race horses cannot be set-off against any other source/head. Loss from activity of owning & maintaining race horses (relating to AY 16-17) can be set off only to the extent of Rs. 70,000. Thus Remaining Amount of Rs. 21,000 will be carried forward to AY 2019-20.

**CQ11.** Mr. E has furnished his details for the AY 2019-20 as under:

Income from salaries	1,50,000
Income from speculation business	60,000
Loss from non-speculation business	(40,000)
STCG	80,000
Long term capital loss of AY 2017-18	(30,000)
Winning from lotteries	20,000

What is the taxable income of Mr. E for the AY 2019-20?

**Solution:** **Computation of taxable income of Mr. E for AY 2019-20**

Particulars	Rs.	Rs.
Income from salaries		1,50,000
Income from speculation business	60,000	
<b>Less:</b> Loss from non-speculation business [Note 2]	(40,000)	20,000
Short-term capital gain		80,000
Winnings from lotteries		20,000
<b>Taxable income</b>		<b>2,70,000</b>

**Note:** 1. LTCL can be set off only against LTCG. Therefore, LTCL of Rs. 30,000 has to be carried forward to next AY since no LTCG is there in AY 2019-20.

2. Loss from Non-Speculation business (Normal Business) can be set off against speculation Income.

# 7. DEDUCTIONS FROM GROSS TOTAL INCOME

## INTRODUCTION

**Exempt Income:** Some Incomes are **NOT** at all **included** in Income Computation process (as seen in Section 10). Such Incomes are called **Exempt Incomes. They are NOT INCLUDED in GTI.**

**Deductions:** There are certain incomes which are first included in GTI & then they are allowed as deductions on certain basis while calculating Taxable Income. **Such Deductions are contained in Chapter VI-A** which are allowed as **deduction from GTI.**

**Note:** Deduction is allowed from GTI. **IF NO GTI → NO DEDUCTION**

**Gross Total Income (GTI):** Total Income computed under each of the **5 heads**, after applying Provisions for **Clubbing of Income & Set off of Losses** is known as **Gross Total Income.**

**Total (Taxable) Income:** Gross Total Income – Deductions under Chapter VI-A.

**Note:** Chapter VI-A Deductions are **NOT ALLOWED from** (i) Capital Gains (ii) Casual Incomes

## TYPES OF DEDUCTIONS

<b>INVESTMENT BASED</b>	Deductions given when certain <b>Payments &amp; Investments</b> are made.
<b>INCOME BASED</b>	Deductions given in respect of <b>Certain Incomes</b> included in GTI.

## BASIC RULES OF DEDUCTIONS

### (I) SECTION 80A:

- Deductions u/s 80C- 80U shall be allowed from GTI while computing TI of the Assessee
- **Total Amount of Deductions u/s 80C - 80U shall NOT Exceed GTI.** Thus, there cannot be a Loss as a result of Chapter VI-A deductions.
- **Deductions cannot be carried forward to next year if GTI < Eligible Deductions.**
- **Chapter VI-A Deductions shall be allowed ONLY IF they are claimed in ROI.**

**(II) SECTION 80AB:** For computing Profit/Income-Linked deductions, Net Income Calculated as per Income-tax Act ((before making deduction under Chapter VI-A) shall be regarded as the income received by the assessee & which is included in his GTI.

**(III) SECTION 80AC:** Income Based Deductions u/s 80 IA/IAB/IB/IC/ID/IE shall be allowed to the assessee **only if he furnishes a ROI on or before the due date** specified u/s 139(1).

**CQ1.** Examine the following statements with regard to the provisions of the Income-tax Act, 1961:

**(a)** For claiming deduction u/s 80-IB, filing of audit report is must for a corporate assessee; filing of return within DD laid down in section 139(1) is not required.

**Answer:** Incorrect. Section 80AC stipulates compulsory filing of ROI on or before DD u/s 139(1), as a pre-condition for availing the benefit of deduction u/s 80-IB.

**(b)** Filing of Belated ROI u/s 139(4) will debar an assessee from claiming deduction u/s 80-IE.

**Answer:** Correct. As per section 80AC, the assessee has to furnish his ROI on or before DD u/s 139(1), to be eligible to claim deduction u/s 80-IE.

## A. INVESTMENT/PAYMENT BASED DEDUCTIONS

### DEDUCTIONS OF PAYMENT OF LIC PREMIUM, DEFERRED ANNUITY CONTRIBUTION TO PF, SUBSCRIPTION TO CERTAIN EQUITY SHARES or DEBENTURES – (SEC 80C)

<b>Eligible Assessee</b>	Only Individual or HUF. (R/NR)
<b>Deduction</b>	► Amount Invested/Paid <b>OR</b> ► Rs. 1,50,000 ( <b>whichever is lower</b> )

#### Nature of Payment/Investment/Contribution Eligible for deduction u/s 80C

##### 1. PREMIUM PAID ON LIFE INSURANCE POLICY on the life of:

- Individual himself;
- Spouse;
- Any Child of such Individual. (Minor/Major/Married/Single/Dependent/Independent).

➤ **In case of HUF:** Premium shall be paid on **life** of any **Family Member**.

**Note:** This will include Life Insurance Policy & Endowment Policy also.

#### MAXIMUM AMOUNT OF PREMIUM ELIGIBLE FOR DEDUCTION U/S 80C

Premium paid on Insurance Policy ↓	Deduction u/s 80D
1. Issued before 1.4.2003	Upto <b>20%</b> of sum assured.
2. Issued b/w 1.4.2003 & 31.3.2012	Upto <b>20%</b> of sum assured.
3. Issued on/after 1.4.2012 but before 1.4.2013	Upto <b>10%</b> of sum assured.
4. Issued on/after 1.4.2013 on life of a person (a) with <b>Disability</b> referred <b>u/s 80U</b> or (b) <b>Suffering from Specified Disease u/s 80DDB</b>	Upto <b>15%</b> of sum assured.

**Note:** Sum assured shall **not** include any **bonus/premium** agreed to be returned.

#### Exemption on Receipts of Maturity Amount from LIC [Section 10(10D)]

(a) Maturity Amount received (including Bonus) under Life Insurance Policy is **NOT Exempt** if **Premium paid** for any year during the term of Policy **Exceeds SPECIFIED %** given in Sec 80C.

**Note:** Maturity Amount of Policy issued before 1.4.2003 → Always Exempt.

(b) Any Sum received u/s 80DD(3) & Keyman Insurance Policy → Not Exempt u/s 10(10D).

**CQ2.** Compute deduction u/s 80C for AY 19-20 on life insurance premium paid by Mr. G during PY 2018-19:

Date of Issue of policy	Person Insured	Sum assured	Premium Paid in PY 18-19
1.4.2011	Self	Rs. 3,00,000	Rs. 40,000
1.5.2014	Spouse	Rs. 1,50,000	Rs. 20,000
1.6.2016	Handicapped Son	Rs. 4,00,000	Rs. 80,000

**Solution:**

Date of Issue	Person Insured	Sum Assured	Premium Paid during PY 18-19	(restricted to % of Sum Assured)	Deduction u/s 80C
1/4/2011	Self	Rs. 3,00,000	Rs. 40,000	20%	Rs. 40,000
1/5/2014	Spouse	Rs. 1,50,000	Rs. 20,000	10%	Rs. 15,000
1/6/2016	Handicapped son	Rs. 4,00,000	Rs. 80,000	15%	Rs. 60,000
			<b>Total</b>		<b>Rs. 1,15,000</b>



<p><b>2. CONTRIBUTION TOWARDS SPF/PPF/RPF/SAF</b></p> <ul style="list-style-type: none"> <li>Contribution to be made → In Account of Individual/Spouse/Any Children.</li> <li><b>For HUF:</b> Contribution shall be made in the account of any member of the family.</li> </ul>
<p><b>3. Subscription to SUKANYA SAMRIDHI ACCOUNT Scheme in the name of:</b></p> <ul style="list-style-type: none"> <li>Girl child/Individual himself (in case assessee is a girl child).</li> </ul>
<p><b>4. SUBSCRIPTION TO</b></p> <ul style="list-style-type: none"> <li>National Saving Scheme, 1992/National Savings Scheme, 1992.</li> <li>National Savings Certificates (VIII or IX Issue).</li> <li>Bonds issued by NABARD.</li> <li>Approved Equity Shares/Debentures of wholly public company where such proceeds are utilized for infrastructure company. [Lock-in-period: 3 years].</li> <li>Notified units of MF/UTI</li> <li>Notified Deposit Scheme/Pension Fund set up by National Housing Bank. (Home Loan Account Scheme of the National Housing Bank has been notified).</li> </ul>
<p><b>5. Any sum deposited in -</b></p> <ul style="list-style-type: none"> <li>Account under the Senior Citizens Saving Scheme Rules, 2004.</li> <li>5 years time deposit in an account under the Post Office Time Deposit Rules, 1981.</li> <li>Term deposit for a fixed period of <b>not less than 5 years</b> with a scheduled bank.</li> </ul>
<p><b>6. Payment made by Individual for NON-COMMUTABLE DEFERRED ANNUITY on life of:</b></p> <p>(a) Individual himself; (b) Spouse &amp; (c) Any Child of such Individual.</p>
<p><b>7. Any Sum deducted from Salary of Government Employee for DEFERRED ANNUITY</b></p> <ul style="list-style-type: none"> <li><b>Maximum Sum deducted Eligible for deduction u/s 80C = 20% of Salary.</b></li> <li>Deferred Annuity shall be for the benefit of Individual, Spouse, Any Children.</li> </ul>
<p><b>8. Payment of TUITION FEES IN INDIA for FULL TIME EDUCATION [MAX. 2 CHILDREN]</b></p> <p>Any sum paid as tuition fees <b>excluding</b> any payment towards development fees or donation</p> <ul style="list-style-type: none"> <li>at any time on admission or afterwards.</li> <li>to any university, college, school or other educational institution in India.</li> <li>for full-time education.</li> <li>for <b>any 2 Children</b> of such Individual.</li> </ul>
<p><b>9. Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008</b></p>
<p><b>10. Contribution in Unit-Link Insurance Plan of UTI or LIC Mutual Fund</b></p> <p>Contribution may be made in the name of any person mentioned in (1) above.</p>
<p><b>11. Contribution to Approved Annuity Plan of LIC or any other insurer.</b></p> <p>(Notified Schemes → New Jeevan Dhara/I &amp; New Jeevan Akshay/I/II)</p>
<p><b>12. Subscription to Notified Deposit Scheme of:</b></p> <p>Public Sector Company engaged in providing LT finance for Construction/Purchase of houses in India for <b>Residential Purposes;</b></p> <p><b>[Ex: Public Deposit Scheme of HUDCO]</b></p>

### 13. REPAYMENT OF HOUSING LOAN including Stamp Duty, Registration Fee

Such payment may be made towards:

- (a) Installment of Amount due under any self-financing scheme or other notified scheme.
- (b) Installment of Amount due towards the cost of the house property allotted to him.
- (c) Repayment of the amount borrowed by the assessee from:
  - CG/SG/Bank, LIC, National Housing Bank.
  - Indian Public Company carrying on business of providing LT finance for construction or purchase of houses in India for residential purposes.
  - Public company/Co-operative society engaged in financing construction of Houses.
  - Employer of Assessee if such employer is Public Sector company/University/College.
- (d) Stamp Duty, Registration fee & other expenses for transfer of such house.

#### **FOLLOWING PAYMENTS ARE NOT ALLOWED AS DEDUCTION:**

- Admission Fee, Cost of Share of co-operative society & Initial Deposit
- Cost of Renovation/Repair/Alteration of the house after issue of completion certificate.
- Any Expenditure in respect of which deduction is allowable u/s 24.

#### **Points to Remember:**

1. Deduction u/s 80C is available on **Payment Basis**.
2. **Interest Accrued on NSC every year (except for Last Year) → Deemed to be Reinvested & Such Amount of Interest is also entitled for deduction u/s 80C.**
3. Such Payment/contribution/deposit can be made out of taxable Income or Exempt Income.

### **Termination of Insurance Policy or Unit Link Insurance Plan or Transfer of House Property or Withdrawal of Deposit**

If in any PY, an assessee:

1. **Terminates his contract of Insurance** by notice OR where the contract of insurance has ceased because of non-payment of premium & the assessee does not revive the contract
    - (a) In case of Single Premium Policy → Within 2 years after date of commencement of Insurance;
    - (b) In any other case → Before Premiums have been paid for two years.
  2. **Terminates ULIP** by notice OR where his participation has ceased because of non-payment of premium & assessee does not revive his ULIP before participation have been paid for 5 years.
  3. **Transfers House Property** before expiry of 5 years from the end of FY in which possession of such property is obtained by him,  
**then NO further Deduction will be allowed & Total Deductions allowed in earlier PYs is deemed to be the Income of the assessee of such PY & shall be taxed in AY relevant to such PY.**
  4. If the amount deposited under Senior Citizens Savings Scheme is withdrawn by the assessee before the expiry of 5 years from the date of its deposit,  
**then withdrawn amount is deemed to be the Income of the assessee of PY in which the amount is withdrawn. Amount so withdrawn is taxable in the AY relevant to such previous year.**
- ❖ If Interest received/withdrawn is taxed in earlier PYs → It will not be taxed again.
  - ❖ If Interest on deposit was not taxed in earlier PYs → Such Interest would be taxed.
  - ❖ Amount received by Legal heir on the death of assessee → Not taxable in hands of Legal Heir.

**CQ3.** Mr. A, aged about 61 years, has earned a lottery income of Rs. 1,20,000 (gross) during PY 2018-19. He also has interest on Fixed Deposit of Rs. 30,000. He invested Rs. 10,000 in PPF & Rs. 24,000 in NSC. What is the total income of Mr. A for AY 2019-20?

**Solution:** **Computation of Total Income of Mr. A for AY 2019-20**

Particulars	Rs.	Rs.
<b>Income from other sources</b>		
Interest on Fixed Deposit		Rs. 30,000
lottery income		Rs. 1,20,000
<b>Gross Total Income</b>		<b>Rs. 1,50,000</b>
Less: Deductions under Chapter VIA [See Note below]		
u/s 80C - Deposit in Public Provident Fund	Rs. 10,000	
- Investment in National Saving Certificate	Rs. 24,000	
<b>Total Eligible Investments for deduction u/s 80C</b>	<b>Rs. 34,000</b>	
But Deduction u/s 80C is restricted to		<b>(Rs. 30,000)</b>
Total Income		<b>Rs. 1,20,000</b>

**Note:** Even though eligible investment is Rs. 34,000, however, deduction under Chapter VIA is not available against casual Incomes. Therefore, maximum permissible deduction u/s 80C = Rs. 1,50,000 – Rs. 1,20,000 = Rs. 30,000

**CQ4.** Mr. Bharat furnishes you the following information. He has made the investments as given below:

- Fixed deposit with State Bank for two years Rs. 5,000.
- Investment in National Saving Certificates Rs. 7,000.
- Deposit in Public Provident Fund Account in the name of minor son Rs. 8,000.
- LIC Premium of major married independent daughter on 15.9.2018 Rs. 9,000. (Sum assured Rs. 1,00,000).
- LIC Premium of major married independent son on 11.11.2018 Rs. 5,000. (sum assured Rs. 20,000)
- Investment in Home Loan A/c Scheme of National Housing Bank Rs. 15,000 (Investment made from Past saving)
- Investment in units of MF notified u/s 10(23D) Rs. 25,000. (Investment was made from Exempt Income).
- Investment in Equity Shares of Infrastructure Companies Rs. 35,000.
- Payment of Tuition fees of his son to a private coaching centre for coaching in taxation Rs. 5,000.

Compute deduction u/s 80C for AY 2019-20.

**Solution:** **Computation of Deduction u/s 80C**

Fixed deposit with State Bank for two years	Nil
National Saving Certificate	Rs. 7,000
Public Provident Fund (Minor Son)	Rs. 8,000
LIC in name of Major married Independent daughter (10% of Sum assured is deductible)	Rs. 9,000
LIC policy in name of major married independent son [10% of Sum Assured is only allowed]	Rs. 2,000
Home Loan Account Scheme	Rs. 15,000
Units of Mutual Funds	Rs. 25,000
Equity Shares of Infrastructure Companies	Rs. 35,000
Tuition Fees (Since paid to private coaching centre)	Nil
<b>Total Deduction u/s 80C</b>	<b>1,07,000</b>

## CONTRIBUTION TO CERTAIN PENSION FUNDS [SEC 80CCC]

<b>Eligible Assessee</b>	Only Individuals (R/NR)
<b>Qualifying Payment</b>	<ul style="list-style-type: none"> <li>Amount Deposited during PY by such individual for any <b>Annuity Plan of LIC or any other Insurer</b> for receiving Pension out of his taxable income.</li> </ul> <p><b>Note:</b> Interest/Bonus accrued → Not deemed as Contribution &amp; thus No deduction will be available.</p>
<b>Deduction</b>	<p>(a) Amount Deposited (Excluding Interest/Bonus) <b>OR</b></p> <p>(b) <b>Rs. 1,50,000</b> (whichever is LOWER)</p>

### **Points to Remember:**

- Pension received is taxable in the PY of Receipt of Maturity Amount.
- If Deduction is Allowed u/s 80CCC, Deduction u/s 80C will NOT be available.

## CONTRIBUTION TO PENSION SCHEME NOTIFIED BY CG [SEC 80CCD]

<b>Eligible Assessee</b>	<ul style="list-style-type: none"> <li>Employee of CG (Compulsory to Join NPS)</li> <li>Any other employees (Optional to join NPS)</li> <li>Self-employed individual (Optional to join NPS)</li> </ul>
	<ul style="list-style-type: none"> <li>Meaning of Salary is same as that in the case of HRA.</li> <li>Employer's Contribution is firstly taxable as Salary Income in the hands of Employee.</li> <li><b>Atal Pension scheme</b> has been notified by CG till now.</li> </ul>
<b>Deduction</b>	<ol style="list-style-type: none"> <li><b>Employee's Contribution [Sec 80CCD(1)]: Upto 10% of Salary</b> is deductible.</li> <li><b>Employer's Contribution [Sec 80CCD(2)]: Upto 10% of Salary</b> is deductible.</li> <li><b>For Self-employed Individual: Upto 20% of GTI</b> is deductible.</li> </ol>
	<ul style="list-style-type: none"> <li>No deduction shall be allowed u/s 80C if deduction has been claimed u/s 80CCD.</li> </ul>
	<p><b><u>Additional Deduction of Rs. 50,000 u/s 80CCD(1B) – [To be studied after Section 80 CCE]</u></b></p> <ul style="list-style-type: none"> <li>Additional Deduction upto Rs. 50,000 of Payment under NPS is allowed u/s 80CCD(1B) over and above deduction u/s 80CCD(1).</li> </ul> <p><b>Note:</b> Deduction u/s 80CCD(1) is subject to overall limit of Rs. 1.50 lacs u/s 80CCE. But deduction u/s 80CCD(1B) is in addition to overall limit of Rs. 1.50 lacs u/s 80CCE.</p>

### TAXABILITY OF PENSION RECEIVED

1. Amount received on Closure of Account or opting out of NPS	<b>60% Taxable [Sec 10(12A)]</b>
2. If Amount is received by Nominee on the Death of Assessee	Exempt
3. Pension received out of NPS	Taxable
4. Amount received (Specified in 1,2,3) utilized for purchasing the annuity plan in same PY	Exempt
5. Pension received out of Annuity Plan specified in (4)	Taxable

**Note:** Partial withdrawal from NPS → 25% of Contributions is Exempt [Sec 10(12B)]

## MAXIMUM COMBINED CEILING u/s 80C, 80CCC & 80CCD(1) [Sec 80CCE]

➤ Total Deduction u/s 80C + 80CCC + 80CCD(1) → **Cannot Exceed Rs. 1,50,000.**

**Note:** Maximum Limit of Rs. 1,50,000 is Not Applicable to Employer's contribution u/s 80CCD(1B).

Section	Maximum Deduction	Max deduction (80CCE)
<b>80C</b>	Rs. 1,50,000	} <b>Rs 1,50,000</b>
<b>80CCC</b>	Rs. 1,50,000	
Employee's Contribution u/s <b>80CCD(1)</b>	10% of Salary	
Additional Deductions u/s <b>80CCD(1B)</b>	<b>Rs. 50,000</b>	<b>Not Applicable</b>
Employer's contribution u/s <b>80CCD(2)</b>	<b>10% of Salary</b>	<b>Not Applicable</b>

**CQ5.** Basic salary of Mr. A is Rs. 1,00,000 p.m. He is entitled to DA which is 40% of Basic Salary. 50% of DA forms part of retirement benefits. Both Mr. A & his employer contribute 15% of Basic Salary to Pension scheme referred in section 80CCD. Explain tax treatment of such contribution to Mr. A.

**Solution:**

**Tax treatment in the hands of Mr. A u/s 80CCD**

Basic Salary = Rs. 12 Lacs; DA = 40% of Rs. 12 lacs = Rs. 4.8 Lacs; DA (Retirement) = Rs. 2.4 Lacs  
Mr. A's contribution = 15% of Basic salary = Rs. 1,80,000; Employer's Contribution = Rs. 1,80,000.

**Salary for the purpose of deduction u/s 80CCD = Basic Salary + DA (Retirement) = Rs. 14.40 Lacs.**

**(a)** Employer's contribution would be treated as salary since it is specifically included in the definition of "salary" u/s 17(1)(viii). Therefore, Rs. 1,80,000 will be first included in Mr. A's salary.

Deduction u/s 80CCD(2) [Maximum of Upto 10% of Salary] = Rs. 1,44,000.

**Note:** Deduction u/s 80CCD(2), would also be restricted to Rs. 1,44,000, even though the entire employer's contribution of Rs. 1,80,000 is included in salary u/s 17(1)(viii).

However, this deduction of Employer's contribution of Rs. 1,44,000 would be outside the overall limit of Rs. 1,50,000 u/s 80CCE. It would be over & above the other deductions which are subject to the limit of Rs. 1,50,000.

**(b)** Mr. A's Contribution will be Deductible u/s 80CCD(1). However, the deduction is restricted to 10% of salary.

Deduction u/s 80CCD(1) [Upto 10% of Salary] = Rs. 1,44,000 (Even though Actual contribution is Rs. 1,80,000).

This would be subject to the overall limit of Rs. 1,50,000 u/s 80CCE.

**However, Addition Deduction u/s 80CCC(1B) Upto Rs. 50,000 will be allowed for Employee's Contribution.**

As per section 80CCD(1B), a further deduction of upto Rs. 50,000 is allowable. Therefore, deduction u/s 80CCD(1B) is Rs. 36,000 (Rs. 1,80,000 – Rs. 1,44,000).

Rs. 36,000 allowable as deduction u/s 80CCD(1B) is outside the overall limit of Rs. 1,50,000 u/s 80CCE.

Thus, we can say that if the employee's contribution is more than the specified limit of Section 80CCD(1) or 80CCE, he can avail additional deduction upto Rs. 50,000 u/s 80CCD(1B).

**ALTERNATE VIEW:** Rs. 50,000 can be claimed as deduction u/s 80CCD(1B). Balance Rs. 1,30,000 (Rs. 1,80,000 – Rs. 50,000) can be claimed as deduction u/s 80CCD(1).

**CQ6.** GTI of Mr. X for AY 2019-20 is Rs. 5,00,000. He has made following investments during PY 2018-19:

Contribution to PPF	110000
Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45000
Repayment of housing loan taken from Standard Chartered Bank	25000
Contribution to approved pension fund of LIC	105000

**Solution:** Computation of deduction under Chapter VI-A for the AY 2019-20

Particulars	Rs.
<b>A. Deduction u/s 80C</b>	
(1) Contribution to PPF – fully allowed, since it is within the limit of Rs. 1,50,000	1,10,000
(2) Payment of tuition fees to Apeejay School, New Delhi, for education of his son in Class XI	45,000
(3) Repayment of housing loan	25,000
Total Eligible Investment	1,80,000
<b>But Maximum Permissible Deduction u/s 80C is Rs. 1,50,000</b>	<b>1,50,000</b>
<b>B. Deduction u/s 80CCC</b>	
(4) Contribution to Approved Pension fund of LIC Rs. 1,05,000	1,05,000
<b>Deduction u/s 80 CCC</b>	<b>1,05,000</b>
<b>As per section 80CCE, Total deduction u/s 80C, 80CCC &amp; 80CCD(1) is restricted to Rs. 1,50,000. Thus, Deduction allowable under Chapter VIA for the AY 2019-20 = Rs. 1,50,000.</b>	

## DEDUCTION FOR INVESTMENT IN EQUITY SAVINGS SCHEME [80CCG]

<b>Eligible Assessee</b>	Resident Individual who is New Retail Investor with <b>GTI of upto 12 Lacs</b>
<b>Eligible Investment</b>	Investment in Listed Equity Shares/Listed units of Equity Oriented Fund
<b>Deduction</b>	<b>Lower</b> of: <b>(a)</b> 50% of Amount invested OR <b>(b)</b> Rs. 25,000
<b>Period of Deduction</b>	Deduction shall be allowed for <b>3 consecutive AYs</b> beginning with AY relevant to PY in which Investment is made.
<b>Conditions</b>	<b>(a)</b> GTI of a New Retail Investor for relevant AY $\leq$ Rs. 12 Lacs. <b>(b)</b> Investment is made in such listed equity shares/units of EOF. <b>(c)</b> Investment is locked-in for <b>3 years</b> from the date of acquisition.
<b>Consequences of Contravention</b>	Deduction Allowed $\rightarrow$ Deemed to be Income of the Assessee of the PY in which conditions are not fulfilled.

**PC Note:** This Section was in force for the last time in AY 2017 -18. Thus, only the investments made in the PY relevant to AY 2017-18 shall be allowed as deduction.

The deduction is available for 3 years for the investments made in the PY relevant to AY 2017-18.

So, if an Assessee has made investment in PY 2016-17, he will get deduction for such investments in AY 2017-18, AY 2018-19, AY 2019-20.

**No deduction under this section shall be allowed from AY 2018-19.**

However, deduction shall be allowed till AY 2019-20 to an assessee who has claimed deduction under this section for AY 2017-18 or earlier AYs, if he satisfies all other conditions to claim the deduction.

❖ **Rajiv Gandhi Equity Savings Scheme, 2013 is notified as eligible scheme for this section.**

**CQ7.** Mr. X, Mr. Y & Mr. Z, new retail investors for PY 2016-17 have made the following investment in equity shares/units of EOF of Rajiv Gandhi Equity Savings Scheme for PY 2018-19 as below:

Particulars	Mr. X	Mr. Y	Mr. Z
Investment in listed equity shares	20,000	45,000	30,000
Investment in units of equity-oriented fund	40,000	-	10,000
GTI (comprising of salary income & bank interest)	11,25,000	12,15,000	11,80,000

All has claimed deduction u/s 80CCG for AY 17-18 & AY 18-19. Compute deduction u/s 80CCG for AY 19-20.

**Solution:** **Computation of Deduction u/s 80CCG for the AY 2019-20**

Particulars	Mr. X	Mr. Y	Mr. Z
Deduction u/s 80CCG for AY 2019-20	Rs. 25,000 (50% of 65,000 = Rs. 32,500 but restricted to Rs. 25,000)	NIL (Since GTI > Rs. 12 lacs)	Rs. 20,000 (50% of Rs. 40,000)

**Note:** Mr. X & Mr. Z are eligible for deduction u/s 80CCG for AY 2019-20, since he has claimed deduction for AY 2017-18 & AY 2018-19 & fulfills the conditions for claim of deduction in AY 2019-20.



## DEDUCTION IN RESPECT OF MEDICAL INSURANCE PREMIUM [SEC 80D]

Eligible Assessee	Only Individual or HUF [Resident/Non-Resident]			
Mode of Payment	Any Mode other than Cash [Preventive Health Checkup → Cash is Allowed]			
MAXIMUM AMOUNT OF DEDUCTION:				
Particulars		INDIVIDUAL		HUF
For whose benefit payment shall be made →		Family	Parents	Member
1.	(a) Medical Insurance Premium	✓	✓	✓
	(b) Contribution to CG Health Scheme	✓	×	×
	(c) Preventive Health Check-up	✓	✓	×
❖ Maximum Deduction for (a), (b), (c)		Rs. 25000	Rs. 25000	Rs. 25000
❖ Additional Deduction on (a) when Medi- claim policy is taken on Life of Senior Citizen		Rs. 25,000	Rs. 25,000	Rs. 25,000
2.	Medical Expenditure on health of Super Senior citizen if NO Medical Insurance is paid on his health	✓	✓	✓
Maximum Deduction for (2)		Rs. 50,000	Rs. 50,000	Rs. 50,000
3.	Maximum Combined Deduction for 1 & 2	Rs. 50,000	Rs. 50,000	Rs. 30000

### Points to Remember

- ❖ Maximum Deduction for **Preventive Health-Check** up of **Family + Parents** → **Rs. 5,000**.
- ❖ Family = Individual + Spouse + Dependent Children.
- ❖ Parents = Father + Mother (Dependent or independent); **Father-in-Law & Mother-in-Law** → ✗
- ❖ Notified Scheme = Contributory Health Service Scheme of Department of Space.

### LUMPSUM HEALTH INSURANCE PREMIUM PAID FOR MORE THAN ONE YEAR

- **Deduction u/s 80D** for each PY shall be allowed on **Proportionate basis**.

**CQ8.** Mr. A, aged 40 years, paid medical insurance premium of Rs. 20,000 during PY 18- 19 to insure his health as well as the health of his spouse. He also paid medical insurance premium of Rs. 47,000 during the year to insure the health of his father, aged 63 years, who is not dependent on him. He contributed Rs. 3,600 to CG Health Scheme during the year. He has incurred Rs. 3,000 in cash on preventive health check-up of himself & his spouse & Rs. 4,000 by cheque on preventive health check-up of his father. Compute deduction u/s 80D for AY 2019-20.

**Solution:**

**Deduction allowable u/s 80D for the AY 2019-20**

	Particulars	Amt Paid	Deduction
<b>1</b>	<b>Premium paid &amp; medical expenditure incurred for self &amp; spouse</b>		
(a)	Medical insurance premium paid for self & spouse	20,000	20,000
(b)	Contribution to CGHS	3,600	3,600
(c)	Exp. on preventive health check-up of self & spouse	3,000	1,400
		<b>26,600</b>	<b>25,000</b>
<b>2</b>	<b>Premium paid &amp; medical expenditure incurred for father, who is a senior citizen</b>		
(a)	Medi-claim premium paid for father, who is over 60 years of age	47,000	47,000
(b)	Expenditure on preventive health check-up of father	4,000	3,000
		<b>51,000</b>	<b>50,000</b>
	<b>Total deduction u/s 80D (Rs. 25,000 + Rs. 50,000)</b>		<b>75,000</b>

**Notes:**

1. Total deduction for 1(a),(b),(c) above should not exceed Rs. 25,000. Therefore, expenditure on preventive health check-up for self & spouse would be restricted to Rs. 1,400 (Rs. 25,000 - Rs. 20,000 - Rs. 3,600).
2. Total deduction for 2(a)&(b) above should not exceed Rs. 50,000. Therefore, expenditure on preventive health check-up for father would be restricted to Rs. 3,000 (Rs. 50,000 - Rs. 47,000).
3. In this case, total deduction allowed on account of expenditure on preventive health check-up of self, spouse & father is Rs. 4,400 (Rs. 1,400 + Rs. 3,000), which is less than the maximum permissible limit of Rs. 5,000.

**CQ9.** Mr. Y, aged 40 years, paid medical insurance premium of Rs. 22,000 during PY 2018-19 to insure his health as well as the health of his spouse & dependent children. He also paid medical insurance premium of Rs. 33,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him. He incurred medical expenditure of Rs. 20,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him. He contributed Rs. 6,000 to Central Government Health Scheme during the year. Compute deduction allowable u/s 80D for the AY 2019-20.

**Solution:** Deduction allowable u/s 80D for the AY 2019-20

	Particulars	Rs.	Deduction
(i)	Medical Insurance Premium paid for self, spouse & Dependent children	Rs. 22,000	
(ii)	Contribution to CGHS	Rs. 6,000	
	Total Expenditure for Family	<b>Rs. 28,000</b>	<b>Rs. 25,000</b>
(iii)	Medi-claim premium paid for mother, who is over 60 years	Rs. 33,000	
(iv)	Medical expenditure incurred for father, who is over 60 years of age & not covered by any insurance	Rs. 20,000	
	<b>Total Expenditure for Parents</b>	<b>Rs. 53,000</b>	<b>Rs. 50,000</b>

**Total Deduction u/s 80D = Rs. 25,000 + Rs. 50,000 = Rs. 75,000.**

### DEDUCTION FOR MAINTENANCE/MEDICAL TREATMENT OF DEPENDANT DISABLED [SEC 80DD]

<b>Assessee</b>	Resident Individual/HUF
<b>Eligible Payment</b>	<ul style="list-style-type: none"> <li>➤ Expenditure for Medical Treatment (including nursing), training &amp; rehabilitation of a dependant disabled.</li> <li>➤ Amount paid under approved scheme for Maintenance of Dependant Disabled.</li> </ul>
<b>Deduction</b>	<ul style="list-style-type: none"> <li>➤ <b>Rs. 75,000;</b></li> <li>➤ <b>Rs. 1,25,000</b> for dependent person with <b>severe disability</b>.</li> </ul>

**Points to Remember:**

- ❖ Deduction u/s 80DD is allowed irrespective of the amount of Actual Expenditure incurred.
- ❖ **Meaning of 'Dependant'**
  - (a) For Individual → Spouse, Children, Parents, Brothers & Sisters of Individual
  - (b) For HUF: Any member of HUF dependant wholly/mainly on such individual/HUF for support & **who has not claimed any deduction u/s 80U during PY.**
- ❖ Person with **severe disability** = Person with **80%** or more of one or more disabilities.
- ❖ If Dependant Disabled dies before Assessee → Amount deposited is deemed as Income in PY of receipt.

**CQ10.** Mr. X is a resident individual. He deposits a sum of Rs. 50,000 with LIC every year for maintenance of his handicapped grandfather wholly dependent on him. A copy of certificate from the medical authority is submitted. Compute the deduction available u/s 80DD for AY 19-20.

**Solution:** Since the amount deposited by Mr. X was for his grandfather & grandfather is not covered in definition of relative u/s 80DD, he will not be allowed any deduction u/s 80DD.

**CQ11.** What will be the deduction if Mr. X had made this deposit for his dependant father?

**Solution:** Since the expense was incurred for dependent father who comes under the definition of dependant disabled relative, Mr. X will be entitled to claim a deduction of Rs. 75,000 u/s 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be Rs. 1,25,000.

## DEDUCTION IN RESPECT OF MEDICAL TREATMENT, ETC. [SEC 80DDB]

Eligible Assessee	Resident Individual/HUF	
Eligible Payment for Deduction	Expenditure on Medical Treatment of Specified Disease in Rule 11DD <b>for:</b>	
	Assessee	Expenditure for
	Individual →	Himself or Dependant
	HUF →	Member of HUF
Deduction	<p>➤ Amount Actually Paid or Rs. 40,000 (whichever is Lower)</p> <p>➤ <b>Senior Citizen:</b> Amount Actually Paid or Rs. 1,00,000 (whichever is Lower)</p>	
<p><b>Note:</b> If any amount is received under insurance or reimbursed by employer for Medical treatment, received amount shall be <b>reduced</b> from the deduction allowable under this section.</p>		

## INTEREST PAID ON LOAN TAKEN FOR HIGHER EDUCATION [SECTION 80E]

<b>Eligible Assessee</b>	Individuals only
<b>Source of Loan</b>	Loan must have been taken from: <b>(a) Bank (b) Financial institution (c) Approved charitable institution</b>
<b>Purpose of Loan</b>	<p>Loan must have been taken for pursuing higher education of</p> <p><b>(a)</b> Assessee himself;</p> <p><b>(b)</b> His Relatives (Spouse/Children);</p> <p><b>(c)</b> Student for whom the assessee is Legal Guardian.</p> <p><b>Note:</b> Courses after <b>Class XII or Equivalent</b> → Qualify for deduction.</p> <p>❖ Loan can be taken for study in India or Outside India also.</p> <p>❖ Course may be Full-time or Part-time.</p>
<b>Deduction</b>	<b>Interest paid during PY</b> on higher Education Loan out of taxable Income.
<b>Period of Deduction</b>	Deduction shall be allowed for <b>8 AYs</b> starting from the AY in which the assessee starts paying the interest on loan.

**CQ12.** Mr. B has taken three education loans on April 1, 2018. Compute deduction u/s 80E for AY 2019-20.

Particulars	Loan 1	Loan 2	Loan 3	Loan 4	Loan 5
For whose education loan was taken	B	Son of B	Daughter of B	Spouse	Y, his Friend
Purpose of Loan	MBA	B. Sc.	10 <sup>th</sup>	BA	CA
Amount of Loan	5,00,000	2,00,000	4,00,000	10,00,000	6,00,000
Annual repayment of Loan	1,00,000	40,000	80,000	2,00,000	1,20,000
Annual repayment of Interest	20,000	10,000	18,000	40,000	24,000

**Solution:** Deduction u/s 80E is available to Individual for any Interest paid by him in PY in respect of loan taken for pursuing higher education of himself/spouse/children. No deduction is available for loan taken for 10<sup>th</sup> class.

Therefore, Interest repayment of Loan 1, Loan 2, Loan 4 will qualify for deduction.

Deduction u/s 80E = 20,000 + 10,000 + 40,000 = Rs. 70,000.

## INTEREST ON LOAN TAKEN FOR ACQUISITION OF RESIDENTIAL HOUSE PROPERTY [SECTION 80EE]

<b>Eligible Assessee</b>	Individuals only [R/NR]
<b>Source of Loan</b>	Loan must have been taken from: <b>(a) Bank; (b) Financial Institution; (c) Housing finance company</b>
<b>Purpose of Loan</b>	Loan must be taken for <b>Acquisition of Residential House Property.</b>
<b>Conditions</b>	<ul style="list-style-type: none"> <li>➤ Loan must have been sanctioned in FY 2016-17.</li> <li>➤ Amount of Loan Sanctioned ≤ Rs. 35 Lacs.</li> <li>➤ Value of Residential House Property ≤ Rs. 50 Lacs.</li> <li>➤ Assessee does not own any Residential House Property on the Date of Sanction of Loan.</li> </ul>
<b>Deduction</b>	<b>LOWER of (a) Interest paid on Loan during FY or (b) Rs. 50,000.</b> This deduction is over & above deduction u/s 24(b) for interest paid in respect of loan borrowed for acquisition of a self-occupied property.
<b>PERIOD of Deduction</b>	Deduction is available <b>Till Repayment of loan</b> continues.

**CQ13.** Mr. A purchased a residential house property for self-occupation @ Rs. 45 lacs on 1.4.2017, in respect of which he took a housing loan of Rs. 35 lacs from Bank of India @ 11% p.a. on same date. Loan was sanctioned on 28<sup>th</sup> March 2017. Compute deduction u/s 80EE for AY 2019-20 assuming that the entire loan was outstanding as on 31.3.2019 & he does not own any other house property.

**Solution:** Total Interest payable for AY 2019-20 = 35 lacs × 11% = Rs. 3,85,000.

Deduction allowable u/s 24(b) while computing Income u/h "Income from house property" = Rs. 2,00,000.

Deduction u/s 80EE = Rs. 1,85,000 (3,85,000 – 2,00,000). But **Maximum Deduction u/s 80EE = Rs. 50,000.**

## DONATIONS TO CHARITABLE INSTITUTIONS/FUNDS [SEC 80G]

<b>Eligible Assessee</b>	<b>Any</b> Assessee (R/NR)
<b>Eligible Payment</b>	Donations made to specified funds which are approved u/s 80G.
<b>Mode of Payment</b>	<ul style="list-style-type: none"> <li>➤ Amount shall be paid by Any Mode <b>other than Cash.</b> However, <b>Donations ≤ 2000</b> can be made in <b>Cash.</b></li> <li>➤ <b>Donation in kind → No Deduction</b> (Donation should be made in Money).</li> <li>➤ Donations can be from Earlier year's Income/Exempt Income.</li> </ul>
<b>Adjusted GTI</b>	Adjusted GTI = <b>GTI as Reduced by the following:</b> <ul style="list-style-type: none"> <li>▪ LTCG u/s 112 &amp; 112A</li> <li>▪ STCG u/s 111A</li> <li>▪ All Permissible Deductions u/s 80C - 80U <b>[Except deduction u/s 80G]</b></li> <li>▪ Exempt Income</li> </ul>
<b>Qualifying Limit</b>	<b>Qualifying Limit = 10% of Adjusted GTI</b>
<b>Deduction</b>	Deduction u/s 80G = Total of Deductions permissible under A, B, C & D.

## AMOUNT OF DEDUCTION [Refer “How to calculate Deduction” Below]

### **(A) Donations Eligible for 100% Deduction WITHOUT QUALIFYING LIMIT**

- National Defence Fund/ National Foundation for Communal Harmony;
- Zila Saksharta Samiti/State/National Blood Transfusion Council;
- PM’s National Relief Fund/ [(Maharashtra CM’s/PM’s Armenia) Earthquake Relief Fund]
- Africa (Public Contributions India) Fund;
- Approved University/Educational Institution of National Eminence;
- Fund set up by SG of Gujarat for providing relief to Victims of Earthquake in Gujarat;
- Fund set up by SG to provide Medical Relief to Poor People;
- Army/Airforce Central Welfare Fund/Indian Naval Benevolent Fund;
- Andhra Pradesh CM’s Cyclone Relief Fund, 1996;
- CM’s Relief Fund/Lieutenant Governor’s Relief Fund in any State or Union Territory.
- National Illness Assistance Fund/National Sports Fund/National Cultural Fund;
- Fund for Technology Development & Application set up by CG.
- National Trust for Welfare of persons with Autism, Cerebral Palsy, Mental Retardation etc;
- National Fund for control of Drug Abuse (Inserted by FA, 2015 w.e.f. A.Y. 2016 -17)
- Donations made to Swachh Bharat Kosh/ Clean Ganga Fund set up by CG
- National Children’s Fund (Inserted by FA, 2015 w.e.f. A.Y. 2015 -16).

### **(B) Donations Eligible for 50% Deduction WITHOUT QUALIFYING LIMIT**

- Jawaharlal Nehru Memorial Fund/Prime Minister’s Drought Relief Fund.
- Indira Gandhi Memorial Trust/ Rajiv Gandhi Foundation.

### **(C) Donations Eligible for 100% Deduction SUBJECT TO QUALIFYING LIMIT**

- Donation to Government/Approved LA/Institution for Promoting Family Planning;
- Donations by Company to Indian Olympic Association/any other association established in India & notified by CG for Sponsorship/Development of Infrastructure for Sports & Games.

### **(D) Donations Eligible for 50% Deduction SUBJECT TO QUALIFYING LIMIT**

- Donation to Government/Approved LA/Institution for Any Charitable Purpose other than Promoting Family Planning.
- Authority constituted for satisfying the need for housing accommodation/ Improvement of cities, towns & villages.
- Corporation established by CG/SG specified u/s 10(26BB) for Promoting Interests of Minority
- Notified Temple, Mosque, Gurdwara, Church notified by CG to be of historic importance, for Renovation/Repair of such Place.

## **How to calculate Deduction u/s 80G**

1. Calculate Adjusted GTI.
2. Calculate Qualifying Limit [= 10 % of Adjusted GTI]
3. Eligible donations in C & D (which are subject to Qualifying Limit) should be Aggregated.
4. Qualifying Limit gives us “Total Amount of Donations” eligible for Deduction.

### **[It is mistaken that Qualifying Limit gives us Maximum Possible Deduction]**

5. Firstly, Donations eligible for 100% Deduction (C) should be adjusted against Qualifying Limit.
6. Balance Qualifying Limit shall be adjusted against Donations Eligible for 50% Deduction & then deduction of 50% shall be calculated.
7. **Total Deduction under (C) & (D) should be limited to Qualifying Limit (10% of Adjusted GTI)**
8. **Donations made under (A) & (B) are fully allowed as deduction without QUALIFYING LIMIT.**

**CQ14.** Mr. Shiva aged 58 years, has GTI of Rs. 7,75,000 comprising of Income from Salary & House Property. He has made the following payments & investments:

- (i) Premium paid to insure life of major daughter on 1.4.2018 (Sum Assured Rs. Rs. 1,80,000) - Rs. 20,000;
- (ii) Medical Insurance Premium for self - Rs. 12,000; Spouse- Rs. 14,000;
- (iii) Donation to a public charitable institution registered under 80G - Rs. 50,000 by way of cheque;
- (iv) LIC Pension Fund - Rs. 60,000;
- (v) Donation to National Children's Fund - Rs. 25,000 by way of cheque;
- (vi) Donation to Jawaharlal Nehru Memorial Fund - Rs. 25,000 by way of cheque;
- (vii) Donation to approved institution for promotion of family planning - Rs. 40,000 by cheque.
- (viii) Deposit in PPF - Rs. 1,00,000.

Compute the total income of Mr. Shiva for AY 2019-20.

**Solution:**

**Computation of Total Income of Mr. Shiva for AY 2019-20**

Gross Total Income		7,75,000
<b>Less:</b>		
<b>Deduction u/s 80C</b>		
Deposit in PPF	(1,00,000)	
Life insurance premium paid for insurance of major daughter (Maximum 10% of Sum Assured as the policy is taken after 31.3.2012)	(18,000)	
Deduction u/s 80CCC in respect of LIC pension fund	(60,000)	
Total Investment eligible for deduction u/s 80C	1,78,000	
<b>Deduction u/s 80C [Restricted to Rs. 1,50,000]</b>		<b>(1,50,000)</b>
<b>Deduction u/s 80D</b>		
Medical Insurance premium in respect of self & spouse (restricted to Rs. 25,000)		(25,000)
Deduction u/s 80G (See Working Note below)		(87,500)
<b>Total income</b>		<b>5,79,950</b>

**Working Note:**

**Computation of Deduction u/s 80G**

- (i) Adjusted GTI = GTI - All Deductions except 80G = Rs. 7,75,000 - Rs. 1,50,000 - Rs. 25,000 = **Rs. 6,00,000.**
- (ii) Qualifying Limit = 10% of Adjusted GTI = **Rs. 60,000.**

Particulars of donation	Donation	% of Deduction	Deduction u/s 80G
National Children's Fund	25,000	100%	25,000
Jawaharlal Nehru Memorial Fund	25,000	50%	12,500
Approved Institution for promotion of family planning	40,000	100%, subject to Qualifying Limit	40,000
Public Charitable Trust	1,50,000	50% subject to qualifying limit (See Note below)	10,000
<b>Total Deduction u/s 80G</b>			<b>Rs. 87,000</b>

**Note:** Firstly, donation of Rs. 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, should be adjusted against Qualifying Limit of Rs. 60,000.

Thus, Qualifying Limit left after such adjustment = Rs. 20,000 [Rs. 60,000 - Rs. 40,000]

Now, even though we have donated Rs. 1,50,000 to public charitable trust which qualify for 50% donation, only the balance qualifying limit of Rs. 20,000 shall be available for taking deduction.

Thus, we will calculate deduction as if we have contributed only Rs. 20,000 to public charitable trust.

Hence contribution of Rs. 1,50,000 to public charitable trust is restricted to Rs. 20,000 (Rs. 60,000 - Rs. 40,000) 50% of which would be the deduction u/s 80G.

Therefore, deduction u/s 80G in respect of donation to public charitable trust = Rs. 10,000 (50% of Rs. 20,000).



## DEDUCTIONS IN RESPECT OF RENT PAID [SECTION 80GG]

<b>Eligible Assessee</b>	<ul style="list-style-type: none"> <li>Any Self-Employed Individual OR</li> <li><b>Employed Individual</b> (Not in Receipt of HRA/Rent-Free Accommodation)</li> </ul>
<b>Eligible Payment</b>	Rent paid for his Residential Accommodation along with his family.
<b>Deduction</b>	<b>Least of the following:</b> (a) Rs. 5,000 Per Month (b) Excess of Rent paid over 10% of Adjusted GTI (c) 25% of Adjusted GTI
<b>Adjusted GTI</b>	Adjusted GTI for this purpose means <b>GTI as REDUCED by:</b> 1. LTCG which have been included in GTI. 2. STCG u/s 111A. 3. All Deductions u/s 80C-80U Except Deduction u/s 80G. 4. <del>Income referred in section 115A/AB/AC/115AD (Incomes of NRIs &amp; foreign companies)</del>
<b>Conditions</b>	<ul style="list-style-type: none"> <li>Assessee should not be receiving any HRA exempt u/s 10(13A).</li> <li>Rented House should be occupied by the assessee for his own residence.</li> <li>Assessee, spouse or minor child or HUF of which assessee is a member, does not own any residential accommodation at the place where assessee ordinarily resides or at the place where he works or carries on his business or profession.</li> <li>If assessee owns any residential accommodation at any place, other than the place of residence or work of the assessee, then the concession in respect of self-occupied property is not claimed by the assessee.</li> </ul>

**CQ15.** Mr. Ganesh, a businessman, whose total income (before allowing deduction u/s 80GG) for AY 2019-20 is Rs. 4,60,000. He paid house rent at Rs. 12,000 p.m. in respect of residential accommodation occupied by him at Mumbai. Compute the deduction allowable to him u/s 80GG for AY 2019-20.

**Solution:** Deduction u/s 80GG will be computed as follows:

(i) Actual Rent paid - 10% of Adjusted GTI = Rs. 1,44,000 - Rs. 46,000 = Rs. 98,000.

(ii) 25% of Adjusted GTI = 25% × Rs. 4,60,000 = Rs. 1,15,000.

(iii) **Rs. 5,000 × 12 Months** = Rs. 60,000.

Deduction u/s 80GG = Least of all the above = **Rs. 60,000.**

## DONATION FOR SCIENTIFIC RESEARCH/RURAL DEVELOPMENT [ 80GGA]

<b>Assessee</b>	Any Assessee <b>NOT having PGBP Income</b>
<b>Eligible Payment</b>	<b>Payment made during PY to the following:</b> <ul style="list-style-type: none"> <li>Approved Research Association/University/College to be used for Scientific or Social or Statistical Research or Rural Development as specified u/s 35CCA.</li> <li>Notified rural development fund/National Urban Poverty Eradication Fund.</li> <li>Public sector company/LA/Association/Institution approved by National Committee, for carrying out any eligible project/scheme specified in Sec. 35AC</li> <li>National Urban Poverty Eradication Fund (NUPEF)</li> </ul>
<b>Deduction</b>	100% of the Donation Paid.
<b>Mode of Payment</b>	<ul style="list-style-type: none"> <li>Amount shall be Paid by any mode <b>other than Cash.</b></li> <li>However <b>Donations ≤ 10000 can be made in Cash.</b></li> </ul>

**Note:** Deduction allowed to the assessee shall not be denied even if approval granted to any of the above institution is withdrawn after the payment of donation by the assessee.

## CONTRIBUTIONS GIVEN BY COMPANY TO POLITICAL PARTY [SEC 80GGB]

<b>Eligible Assessee</b>	Indian Companies only.
<b>Eligible Payment</b>	Any sum contributed in PY to any Political party or Electoral Trust. Expenditure on advertisement in Brochure of Political party → Eligible.
<b>Deduction</b>	<b>100%</b> of the <b>Donation Paid</b> .
<b>Mode of Payment</b>	Amount shall be paid by Any mode <b>other than Cash</b> .

**CQ16.** During PY 2018-19, ABC Ltd, Indian company contributed Rs. 2 lacs to an electoral trust & incurred Rs. 25,000 on advertisement in a brochure of political party. Is the company eligible for deduction u/s 80GGB?

**Solution:** Indian company is eligible for deduction u/s 80GGB in respect of any sum contributed by it in the previous year to any political party or an electoral trust.

Further, the word “contribute” in section 80GGB has the meaning assigned to it in section 293A of the Companies Act, 1956, & accordingly, it includes **expenditure incurred on advertisement in a brochure of a political party**. Therefore, ABC Ltd. is eligible for a deduction of Rs. 2,25,000 u/s 80GGB in respect of sum of Rs. 2 lacs contributed to an electoral trust & Rs. 25,000 incurred by it on advertisement in a brochure of a political party.

**Note:** There is a specific disallowance u/s 37(2B) in respect of expenditure incurred on advertisement in brochure of Political party. Therefore, the expenditure of Rs. 25,000 would be disallowed while computing business income/GTI. However, the said expenditure incurred by an Indian company is allowable as a deduction from GTI u/s 80GGB.

## CONTRIBUTIONS GIVEN BY ANY PERSON TO POLITICAL PARTY [80GGC]

<b>Eligible Assessee</b>	Any Person [Except Local Authority & Every AJP funded by Government]
<b>Eligible Payment</b>	Any sum contributed in PY to any Political party or Electoral Trust.
<b>Deduction</b>	<b>100%</b> of the <b>Donation Paid</b> .
<b>Mode of Payment</b>	Amount shall be paid by Any mode <b>other than Cash</b> .

**Note:** Government companies **cannot** give political donations.

## B. INCOME BASED DEDUCTIONS

### DEDUCTION OF "INTEREST ON DEPOSIT IN SAVING A/C" [SEC 80TTA]

<b>Eligible Assessee</b>	<b>Individual/HUF</b> whose <b>GTI</b> includes <b>Interest</b> on Deposits in <b>Saving A/c</b> in Bank/Co-operative Bank/Post office (Except Time Deposit repayable after Fixed Period)
<b>Deduction</b>	<b>Interest on Saving Deposits (other than Time Deposits) upto Rs. 10,000.</b>

**Note:** Interest from Deposit in Savings A/c held by firm/AOP/BOI → No Deduction to Partner/Member.  
Deduction u/s 80TTA is **not** available to **Resident Senior Citizen** eligible for deduction u/s 80TTB.

**Section 10(15)(i) → Saving A/c Interest in POST OFFICE is Exempt upto Rs. 3,500/Rs. 7,000.**

### INTEREST ON DEPOSITS IN CASE OF SENIOR CITIZENS [SEC 80TTB]

<b>Eligible Assessee</b>	<b>Resident Senior Citizen</b> whose <b>GTI</b> includes <b>Interest</b> on Deposits in Bank/Co-operative Bank/Post office.
<b>Deduction</b>	<b>Interest on Saving Deposits upto Rs. 50,000.</b>

**Note:** It may be Interest on Saving A/c, Fixed Deposit or Any other Interest.

### DEDUCTION IN RESPECT OF ROYALTY ON PATENTS [SECTION 80RRB]

<b>Eligible Assessee</b>	<b>Resident Individual</b> who is registered as True & First Inventor under the Patents Act, 1970, including co-owner of the patent.
<b>Deduction</b>	<b>Lower</b> of (a) Amount of <b>Royalty Received</b> or (b) <b>Rs. 3 lacs.</b>
<b>Income Eligible for Deduction</b>	Royalty Income including Consideration for: (i) Transfer of Rights in the Patent or (ii) Providing information for working or use in India. It includes <b>Advance Royalty</b> which is <b>Not Returnable</b> . <b>Note:</b> Exemption is not Available on Consideration for Sale of Product Manufactured using of Patented process/Article for Commercial Use.
<b>Royalty from Foreign Country</b>	Royalty brought to India in Convertible Foreign Exchange within 6 Months or extended period (by RBI) shall only be allowed as Deduction. Assessee is required to furnish a Prescribed Certificate along with ROI.
<b>Subsequent Revocation of Patent</b>	If Patent is Subsequently Revoked → <b>Deduction</b> allowed shall be deemed to have been <b>Wrongly Allowed</b> & Assessment shall be rectified u/s 155. <b>Note:</b> Period of 4 years for Rectification u/s 155 shall be reckoned from the end of PY in which order of the Revocation is Passed.

## ROYALTY INCOME OF AUTHORS OF BOOKS [SECTION 80QQB]

<b>Eligible Assessee</b>	<b>Resident Individual</b> who is an Author/Joint Author.
<b>Deduction</b>	<b>Lower</b> of (a) Amount of <b>Royalty Received</b> or (b) <b>Rs. 3 lacs.</b>
<b>Income Eligible for Deduction</b>	<b>Royalty Income.</b> ❖ Such book should be a work of Literary, Artistic or Scientific Nature. ❖ <b>Royalty Income from Textbook for Schools, Guides, Commentaries, Newspapers, Journals, Pamphlets → Not Eligible for Deduction.</b>
<p><b>Note:</b> Royalty Income (before allowing Expenses attributable to such income) shall <b>Not Exceed 15% of the value of books sold during PY.</b> [If it Exceed 15%, Excess amount is Not deductible]</p> <p>However, this condition is not applicable where Royalty is receivable in lumpsum in lieu of all rights of the author in the book.</p>	
<b>Royalty from Foreign Country</b>	Royalty brought to India in Convertible Foreign Exchange within 6 Months or extended period (by RBI) shall only be allowed as Deduction.  Assessee is required to furnish a Prescribed Certificate along with ROI

## C. OTHER DEDUCTIONS

### DEDUCTION IN CASE OF PERSON WITH DISABILITY [SEC 80U]

<b>Eligible Assessee</b>	<b>Resident Individual</b> who is certified by medical authority to be a person with disability at any time during PY.
<b>Deduction</b>	➤ <b>Rs. 75,000</b> [Person with disability]; ➤ <b>Rs. 1,25,000</b> [Person with <b>Severe Disability (over 80%)</b> ]
<b>Legal Requirement</b>	Assessee shall furnish a copy of Medical Certificate along with ROI.

### DEDUCTION FOR “EMPLOYMENT OF NEW EMPLOYEES” [SEC 80JJAA]

<b>Applicability</b>	<b>Assessee</b> to whom Section <b>44AB (Tax Audit)</b> Apply.
<b>Deduction</b>	<b>30% of Additional Employee Cost</b> incurred in the PY would be allowed for 3 AYs including the AY relevant to PY in which such Employment is provided.
<b>Conditions</b>	(a) Business should <b>Not</b> be formed by <b>Splitting up or Reconstruction of Existing Business.</b> (b) Business should <b>Not</b> be <b>Acquired</b> by the Assessee by way of <b>Transfer</b> from any other Person or as a result of any <b>Business Re-organisation.</b> (c) Prescribed <b>Audit Report</b> should be <b>furnished</b> along with <b>ROI.</b>

<b>AEC</b> (Additional Employee Cost)	<p>AEC = Total Emolument Paid to Additional Employees Employed during PY.</p> <p><b>A. In case of Existing Business: AEC = Nil if:</b></p> <p>(i) There is No Increase in Number of Employees from Total Number of Employees Employed on Last Day of Preceding Year; <b>[Even if New Employees are Employed]</b></p> <p>(ii) Payment is made <b>otherwise than</b> by A/c Payee Cheque/Draft/Netbanking.</p> <p><b>B. In case of New Business:</b></p> <p><b>AEC =</b> Emoluments Paid to Employees Employed during that PY.</p>
<b>Additional Employee</b>	<p><b>Employee who has been Employed during PY</b> &amp; his employment has increased Total No. of Employees on the last day of Preceding year <b>but does Not Include:</b></p> <p>(a) Employee whose <b>Total Emoluments &gt; Rs. 25,000 per Month;</b></p> <p>(b) Employee for whom <b>Entire Contribution is Paid by Government</b> under the Employees' Pension Scheme;</p> <p>(c) Employee <b>Employed for &lt; 240 days</b> during PY. [If Assessee engaged in Business of Manufacturing of <b>Apparel, Footwear, Leather Products</b> → <b>Employee employed for &lt; 150 days</b> during PY]</p> <p>(d) Employee who does <b>Not Participate in RPF.</b></p>
<b>Emoluments</b>	<p>Any Sum Paid/Payable to Employee for his Employment <b>but does Not Include:</b></p> <p>(a) Contribution Paid/Payable by Employer to Pension fund/PF/Any other Fund for the benefit of the Employee under any law;</p> <p>(b) Any Lump-sum Payment Paid/Payable to Employee at the time of Termination or Superannuation/Voluntary Retirement. <b>[Ex: Gratuity, Pension, VRS etc]</b></p>

**CQ17.** Mr. Kirshnan has commenced the operations of Manufacture of goods in a factory on 1.4.2018. He employed 105 New Employees during PY 2018-2019 as under:

- (a) 10 Employees who does not participate in PF benefits;
- (b) 30 Employees employed from 1.4.2018 to 30.3.2019;
- (c) 50 Employees employed on 1.5.2018, to whom Salary is paid at Rs. 30,000 per month;
- (d) 15 Employees employed on 1.9.2018.

Compute deduction available to Mr. A for AY 2019-20 if Salary paid to each employee at Rs. 10,000 p.m. except those employed on 1.5.2018 & Profits from the Manufacture of Goods in Factory for AY 2019-2020 is Rs. 4,75,000.

**Solution:**

**Computation of Deduction u/s 80JJAA**

Particulars	Additional Employee	Reason
(a) 10 Employees	No	Does not participate in RPF.
(b) 30 Employees employed from 1.4.2018 to 30.3.2019	30	Employed for more than 240 days
(c) 50 Employees employed on 1.5.2018 to whom wages are paid at Rs. 30,000 pm.	Nil	Total emoluments > Rs. 25,000 p.m
(d) 15 Employees employed on 1.9.2018	Nil	Employed for less than 240 days
Additional Employees	30	

Additional Employee Cost = Rs. 10,000 × 30 Employees × 12 months = Rs. 36,00,000.

**Deduction u/s 80JJAA = Rs. 36,00,000 × 30% = Rs. 10,80,000.**

## 8A. TAX DEDUCTION AT SOURCE

### DEDUCTION AT SOURCE & ADVANCE PAYMENT [SECTION 190]

We all know that Income of the Previous Year is assessed to tax during the next Assessment Year. [Income earned during PY 2018-19 will be assessed to tax in AY 2019-20 i.e. 1.4.2018-31.3.2019].

However Tax on such Income is taken from the assessee in the PY itself in following ways:

- (a) **TDS:** In case of some income, tax is deducted at source by the payer at the prescribed rate.
- (b) **TCS:** In some cases, tax is collected at source by the seller from buyer.
- (c) **Advance Tax:** Sometimes assessee is under obligation to pay Advance Tax.
- (d) Tax paid by the employer u/s 192(1A) on **Non-monetary perquisites** provided to the employee.

Taxes deducted/collected at source or paid as advance tax in PY itself are known as **pre-paid taxes**. Such prepaid taxes are deducted from the total tax due from the assessee.

**SAT u/s 140A:** At the time of filing ROI, Assessee has to pay **Self Assessment Tax u/s 140A**, after deducting (adjusting) TDS, TCS, Advance Tax & Tax paid u/s 192(1A).

**SAT payable u/s 140A** = Tax on total income – TDS/TCS/Advance tax/Tax u/s 192(1A)

**CQ1.** Income of Mr. Pranav Chandak is Rs. 10 Lacs. In this income, Rs. 50,000 was earned by way of Interest on which the payer of Interest deducted tax @ 10% (Rs. 5,000). He paid Advance Tax of Rs. 25,000 in different instalments. TCS collected at Source was Rs. 10,000. Calculate SAT to be paid u/s 140A at the time of filing ROI.

**Solution:**

(i) Total Tax liability on Rs. 10 Lacs = Rs. 1,12,500.

(ii) TDS + TCS + Advance Tax paid by Mr. Pranav Chandak = Rs. 5,000 + Rs. 25,000 + Rs. 10,000 = Rs. Rs. 40,000.

(iii) SAT payable u/s 140A = Rs. 1,12,500 – Rs. 40,000 = Rs. 72,500.

**Note:** Since the amount of tax has been already deducted at the time of payment of Interest to Mr. Pranav Chandak, he will get the credit of that amount while calculating Tax payable u/s 140A.

### DIRECT PAYMENT OF TAX BY THE ASSESSEE [SECTION 191]

In the following cases, income-tax is payable by the assessee directly:

- (a) Income on which No Tax is to be deducted at source OR **[Provisions of TDS → NA]**
- (b) Income on which tax is to be deducted at source but has not been deducted.

**[Provisions of TDS → Applicable but TDS ×]**

Recovery proceedings shall be initiated **against the assessee** whose tax was to be deducted but has not been deducted. **[To be Studied @ CA FINAL Level]**

Explanation to Section 191:

- **Assessee in default:** A person who was liable to deduct tax but does not deduct tax (whole/part) OR after deducting tax, does not pay tax to government, then the person liable to deduct tax shall be deemed to be assessee in default.
- However if the assessee (payee) pays tax on such income, person liable to deduct shall not be deemed to be assessee in default.



## SALARY [SECTION 192]

<b>Nature of Payment</b>	Salary (Taxable Salaries only).
<b>Deductor</b>	Employer
<b>Payee</b>	Employee having taxable salary.
<b>Exemption Limit</b>	<b>Basic Exemption Limit</b> (Rs 2,50,000). <b>No TDS</b> if Estimated Salary ≤ BEL (even if employee does not have PAN).
<b>Rate of TDS</b>	<ul style="list-style-type: none"> <li>Tax should be deducted @ Average rate of tax on total income.</li> <li><b>Average Rate of Tax</b> = <math>\frac{\text{Income Tax on Total Income using Slab Rate}}{\text{Total Income}}</math></li> </ul>
<b>Inclusion of Incomes &amp; Losses from other heads.</b>	On application by the employee, Employer shall consider <ul style="list-style-type: none"> <li>Income from All Heads (Considering any TDS on such income) &amp;</li> <li>Loss u/h House Property while calculating TDS of such employee.</li> </ul>
<b>Tax paid by Employer on Non-Monetary Perquisite given to Employee [192(1A)]</b>	<ul style="list-style-type: none"> <li>Employer may himself (at his option) pay tax on whole/part of Non-Monetary Perquisites to the government in lieu of TDS from the salary of the employee.</li> <li>Tax paid by the employer shall be taken as if it was a tax deductible at source from salary payable to the employee.</li> </ul>
<b>Relief u/s 89(1)</b>	Relief u/s 89(1) (if available) shall be considered while calculating TDS.

### When a person is employed by one or more employers during FY?

- In such case, tax will be deducted by the employer separately.
- However, employee will have choice to choose one employer & give details (in Form No. 12B) of other employment.
- The chosen employer will deduct the balance tax on Aggregate Salary.

**Ex:** Salary in 1<sup>st</sup> company = 10L & salary in 2<sup>nd</sup> company = 20L (Total salary received 30L).

Now; Employee will have to choose any one employer & give details about other employment.

Suppose he chooses Company 1 & gives details regarding his salary in Company 2 to Company 1.

Now Company 1 will deduct only balance amount of tax on Total Income & not the tax calculated on Rs. 20 Lacs.

(i) Tax on Total Income (Rs. 30 Lacs) = Rs. 7,25,000;

(ii) Tax on 10 Lacs deducted by Company 2 = Rs. 1,25,000;

(iii) Company 1 will deduct only Rs. 6,00,000 [Rs. 7,25,000 – Rs. 1,25,000].

**CQ2.** Mr. X is employed in ABC Ltd. getting salary Rs. 40,000 p.m. & he has invested Rs. 50,000 in NSC. In this case, TDS at the time of payment of salary shall be:

Gross Total Income	Rs. 4,80,000.
<b>Less:</b> Deduction u/s 80C [NSC]	(Rs. 50,000)
Total Income	Rs. 4,30,000
Tax + Cess on Rs. 4,30,000 using Slab rate	Rs. 9,360
<b>TDS to be deducted every month shall be (Rs. 9360/12)</b>	<b>Rs. 780</b>

If employer has deducted tax at source for April & salary was increased to Rs. 50,000 p.m. w.e.f. 1.5.2018, tax to be deducted in subsequent instalments shall be:

Salary (40,000 x 1) + (50,000 x 11)	Rs. 5,90,000
<b>Less:</b> Deduction u/s 80C [NSC]	(Rs. 50,000)
Total Income	Rs. 5,40,000
Tax + Cess on Rs. 5,40,000 using slab rate	Rs. 21,320
<b>Less:</b> Tax deducted at source in April	(Rs. 780)
Balance Amount of Tax [Rs. 21320 – Rs. 780]	Rs. 20450
<b>Tax to be deducted in subsequent months (Rs. 20450/11)</b>	<b>Rs. 1867</b>

## PREMATURE (TAXABLE) WITHDRAWALS FROM EMPLOYEES' PF [SEC 192A]

<b>Deductor</b>	Trustees of the payment of Employees' PF Scheme, 1952. [Trustee of RPF]
<b>Payee</b>	Employee.
<b>Eligible Payment for TDS</b>	<ul style="list-style-type: none"><li>Taxable Premature Withdrawal of Accumulated balance from RPF. [If period of continuous service &lt; 5 years].</li><li>Withdrawal of Accumulated balance is taxable in the following cases: <b>Refer Salary.</b></li></ul>
<b>Rate of TDS</b>	<b>10%.</b> (If PAN is not provided to the Deductor of Tax, then TDS @ MMR).
<b>No TDS</b>	If <b>Aggregate Payment &lt; Rs. 50,000.</b>

### For calculating 5 years time-limit, services rendered to previous employer shall be included:

1. If the **Previous employer maintained RPF & balance** of the employee in PF account was **transferred to him by the employer.**
2. If the employment has been terminated because of certain **reasons which are beyond his control.**
3. If the entire balance standing to the credit of the employee is transferred to his account under a pension scheme referred to in Sec 80CCD & notified by CG (NPS).

**Note:** Rule 9 provides that the tax on withdrawn amount is required to be calculated by re-computing the tax liability of the years for which the contribution to RPF has been made by treating the same as contribution to unrecognized provident fund.

## INTEREST ON SECURITIES [SEC 193]

<b>Deductor</b>	Every person paying Interest on securities.
<b>Payee</b>	<b>Resident</b> Non-corporate Assessee/Domestic company.
<b>Rate</b>	<b>10 %.</b>
<b>NO TDS</b>	<p>Any amount of interest payable on:</p> <ul style="list-style-type: none"><li>7-year National Savings Certificates (IV Issue);</li><li>National Development Bond/Notified Debentures by CG;</li><li>Securities of CG/SG [Except where Interest payable during the FY on <b>8% saving (taxable) bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 &gt; Rs. 10,000.</b></li><li>Debentures of Public Company, To Resident Individual/HUF, by A/c Payee Cheque + <b>Total interest in FY ≤ 5,000.</b></li><li>Payable to <b>LIC/GIC</b>/Any Insurance company on any securities owned by it.</li><li><b>Listed Securities</b> held in DEMAT form.</li></ul>

## DIVIDEND [SEC 194]

**PC Note:** Dividend from Domestic Company is not taxable in the hands of shareholders since the company pays DDT u/s 111-O on its distribution.

W.e.f 1.4.2018, even deemed dividend u/s 2(22)(e) is covered u/s 115-O. So Section 194 does not have any practical utility now.

## INTEREST OTHER THAN INTEREST ON SECURITIES [SEC 194A]

<b>Deductor</b>	(a) All Person (other than Individual/ HUF) & (b) Individual/HUF [if <b>Last year Tax Audit</b> is done u/s 44AB (a)(b)]	
<b>Payee</b>	<b>Resident</b> Non-corporate Assessee/Domestic company.	
<b>Rate</b>	<b>10 %</b>	
<b>Exemption</b>	<b>Aggregate Interest paid</b> by Bank/Co-operative Society/Post offices	<b>≤ Rs 10,000 ***</b>
	<b>Aggregate Interest paid</b> by any other person	<b>≤ Rs 5,000</b>

\*\*\* The Exemption Limit is Rs. 50,000 for a “Resident Senior Citizen”.

**Note:** Exemption Limit of Rs. 10,000 shall be computed with reference to **each Branch**.

But if **CBS is adopted**, limit of Rs. 10,000 shall be computed with reference to **Whole bank** (All branches) & not with reference to Individual Branch.

This apply on **Time Deposits including Recurring deposits**.

### NO TDS even if amount paid for following payments exceeds Rs. 5,000:

- Interest on loans given to **Banks/Fin. Institutions/LIC/UTI/Insurance company**.
- Interest paid by **Firm to partners**.
- Interest paid by a Co-operative society its member or to any other co-operative society;  
[However, Co-op. Banks → Members; TDS if interest credited/paid is > 10,000]
- Interest paid on Refund of Tax by Government.
- Interest paid by Primary Agricultural Credit society or a Primary Credit society or a co-operative Land Mortgage bank or Co-operative Land Development Bank in respect of deposits with them.
- Interest paid to Banks/Financial institutions**/UTI/National Skill Development Fund.
- Interest on compensation awarded by **Motor Accidents Claims Tribunal** & paid by Insurance company → **NO TDS on CREDIT** of any Interest & **NO TDS ON PAYMENT ≤ Rs. 50,000** in a FY.
- Interest on **ZCBs**.

**CQ3.** Examine the TDS implications u/s 194A in the cases mentioned hereunder:

(i) On 1.10.2018, Mr. Harish made a six-month fixed deposit of Rs. 10 Lacs @ 9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2019.

(ii) On 1.6.2018, Mr. Ganesh made three 9 months fixed deposits of Rs. 1 lac each carrying interest @ 9% with Dwarka Branch, Janakpuri Branch & Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2019.

(iii) On 1.4.2018, Mr. Rajesh started a 1-year recurring deposit of Rs. 20,000 per month @ 8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2019.

**Solution:**

(i) ABC Co-operative Bank has to deduct tax at source @ 10% on the interest of Rs. 45,000 (9% × Rs. 10 Lacs × ½) u/s 194A. TDS u/s 194A = Rs. 4,500.

(ii) XYZ Bank has to deduct tax at source @ 10% u/s 194A, since the aggregate interest on fixed deposit with the three branches of the bank is Rs. 20,250 [Rs. 1,00,000 × 3 × 9% × 9/12], which exceeds Rs. 10,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered.

(iii) Tax has to be deducted u/s 194A by PQR Bank on interest of Rs. 10,400 falling due on recurring deposit on 31.3.2019 to Mr. Rajesh, since -

(a) “recurring deposit” is included in the definition of “time deposit”; & (b) such interest exceeds Rs. 10,000.

## WINNING FROM LOTTERY etc. & HORSE RACE [SEC 194B & 194 BB]

<b>Rate of TDS</b>	<b>30%</b>
<b>Exemption Limit</b>	Total <b>Winning</b> ≤ Rs. 10,000.

- **Lottery in KIND:** Winner shall **pay tax first** & then lottery amount can be claimed.

## PAYMENTS TO RESIDENT CONTRACTOR & SUB-CONTRACTOR [SEC 194C]

<b>DEDUCTOR</b>	<ul style="list-style-type: none"> <li>➤ CG/SG/ LA/Statutory corporation;</li> <li>➤ Company, co- operative society, any statutory authority dealing with housing accommodation,</li> <li>➤ Society registered under the Societies Registration Act, 1860;</li> <li>➤ Trust or any university or any firm or any Government of a foreign State or foreign enterprise or any association established outside India;</li> <li>➤ Individual/HUF/AOP/BOI if tax audit u/s 44AB(a)/(b) is done in Last PY.</li> </ul>
<b>RATE (If Paid to)</b>	<ul style="list-style-type: none"> <li>➤ <b>Individual / HUF @ 1%</b></li> <li>➤ <b>Others @ 2%</b></li> </ul> <p>Tax should be deducted on</p> <p>(a) Invoice Value <b>excluding value of material</b> if value of material is shown separately in the Invoice)</p> <p>(b) Whole of Invoice Value (if Not Shown separately in the Invoice)</p>
<b>NATURE OF PAYMENT</b>	<p>Payment of ANY SUM for carrying out any work in pursuance of contract</p> <ul style="list-style-type: none"> <li>▪ Works Contract <b>including</b> Supply for Labour. (Not for Contract of SALE).</li> <li>▪ Advertisement</li> <li>▪ Broadcasting &amp; Telecasting (including production of programmes)</li> <li>▪ Catering Services</li> <li>▪ Transportation of Goods &amp; Passengers by any mode (other than by RAILWAYS)</li> <li>▪ <b>Manufacturing or supplying</b> a product according as per the <b>requirement or Specification of customer using materials purchased from the customer.</b></li> </ul>
<b>NO TDS in such cases</b>	<p>(a) <b>Single payment</b> to a person ≤ <b>Rs. 30,000</b> &amp; <b>Aggregate payment</b> to a person during a year ≤ <b>Rs. 1,00,000.</b></p> <p>(b) Contract of <b>Personal nature</b> for Individual/HUF.</p> <p>(c) Payment to <b>Contractor</b> in a business of <b>leasing/hiring goods carriages not owning more than 10 trucks</b> at <b>any time</b> &amp; who furnishes <b>PAN</b> to payer - 194C(6)</p>

### SUMMARY OF SECTION 194C

Payee	TDS rate
<b>Individual/HUF Contractor/Sub-Contractor</b>	1%
<b>Other than Individual /HUF contractor/Sub-Contractor</b>	2%
<b>Contractor in Transport Business (if PAN is furnished) (&lt; 10 trucks)</b>	Nil
<b>Sub-Contractor in Transport Business (if PAN is furnished) (&lt; 10 trucks)</b>	Nil

**CQ4.** ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during PY 2018-19: Rs. 20,000 on 1.5.2018; Rs. 25,000 on 1.8.2018; Rs. 28,000 on 1.12.2018. On 1.3.2019, a payment of Rs. 30,000 is due to Mr. X on account of contract work. Whether ABC Ltd. is liable to deduct tax at source u/s 194C from payments made to Mr. X.

**Solution:** In this case, Individual contract payments made to Mr. X does not exceed Rs. 30,000. However, since the aggregate amount paid to Mr. X during the PY 2018-19 exceeds Rs. 1,00,000 (on account of the last payment of Rs. 30,000, due on 1.3.2019, taking the total from 73,000 to 1,03,000), TDS provisions u/s 194C would get attracted. ABC Ltd. would be liable to deduct tax @ 1% on the entire amount of Rs. 1,03,000 from the last payment of Rs. 30,000 & the balance of Rs. 28,970 (i.e. Rs. 30,000 – Rs. 1,030) has to be paid to Mr. X.

#### Points to Remember:

- (i) Section 194C will apply only to '**Works Contracts**' & '**Labour Contracts**' & will not cover contracts for Sale of Goods.
- (ii) Separate provisions for "fees for professional services" have been made u/s 194J & thus Section 194C will not be attracted in such cases.

### INSURANCE COMMISSION [SEC 194D]

<b>Deductor</b>	Any person paying commission for soliciting or procuring insurance business
<b>Recipient</b>	A Resident person
<b>Rate</b>	<b>5%</b>
<b>Exemption</b>	Insurance Commission ≤ <b>Rs. 15,000</b> during a FY to a person on aggregate basis.

### PAYMENT OF MATURITY AMOUNT OF LIFE INSURANCE POLICY [SEC - 194DA]

<b>Deductor</b>	Insurance Companies
<b>Payee</b>	A resident person.
<b>Rate</b>	<b>1% of Payment including Bonus → [If it is not exempt u/s 10(10D)]</b>
<b>Exemption</b>	<b>&lt; Rs. 1,00,000</b> (on Aggregate basis to a person in a FY).

**CQ5.** Examine the applicability of the provisions for tax deduction at source u/s 194DA in the following cases -

- (a) Mr. X, a resident, is due to receive Rs. 4.50 Lacs on 31.3.2019, towards maturity proceeds of LIC policy taken on 1.4.2016, for which the sum assured is Rs. 4 Lacs & the annual premium is Rs. 1,25,000.
- (b) Mr. Y, a resident, is due to receive Rs. 2.75 Lacs on 31.3.2019 on LIC policy taken on 31.3.2012, for which the sum assured is Rs. 2.50 Lacs and the annual premium is Rs. 35,000.
- (c) Mr. Z, a resident, is due to receive Rs. 95,000 on 1.10.2018 towards maturity proceeds of LIC policy taken on 1.10.2013 for which the sum assured is Rs. 90,000 & the annual premium was Rs. 15,000.

#### Solution:

- (a) Since Annual premium > 10% of Sum Assured in respect of a policy taken after 31.3.2012, maturity proceeds of Rs. 4.50 lacs are not exempt u/s 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @ 1% u/s 194DA on the maturity proceeds of Rs. 4.50 Lacs payable to Mr. X. **TDS = Rs. 4500.**
- (b) Since Annual premium < 20% of Sum Assured in respect of a policy taken before 1.4.2012, Sum of Rs. 2.75 lacs due to Mr. Y would be exempt u/s 10(10D) in his hands. Hence, **NO TDS u/s 194DA to Mr. Y.**
- (c) Even though the Annual premium > 10% of Sum Assured in respect of a policy taken after 31.3.2012, & consequently, the maturity proceeds of Rs. 95,000 would not be exempt u/s 10(10D) in the hands of Mr. Z, TDS provisions u/s 194DA are not attracted since the maturity proceeds are **less than 1 lac.**

### NR SPORTSMEN/SPORTS ASSOCIATION [SEC 194E]

<b>Payee</b>	NR Sportsman/Athlete/Sports Association/Entertainer [Foreign Citizen]
<b>Eligible Payment</b>	Any payment referred to in section 115BBA.
<b>Rate</b>	<b>20.8 %</b> [20 % + 4% Health & Education Cess since paid to NR]

**CQ6.** Calculate TDS on payment made to Lara, WI cricketer, by a newspaper for contribution of articles Rs. 50,000.

**Solution:** As per Section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @ **20.8%**.

Therefore, TDS = Rs. 50,000 x 20.80% = Rs. 10,400.

#### **Income referred to in section 115BBA**

**[To be read once]**

- (i) Income received or receivable by a non-resident sportsman (including an athlete) by way of-
- Participation in any game or sport in India (However, games like crossword puzzles, horse races etc. taxable u/s 115BB are not included herein); or
  - Advertisement; or
  - Contribution of articles relating to any game/sport in India in newspapers, magazines or journals.
- (ii) Guarantee amount paid or payable to a non-resident sports association or institution in relation to any game or sport played in India. However, games like crossword puzzles, horse races etc. taxable u/s 115BB are not included herein.
- (iii) Income received or receivable by a non-resident entertainer (who is not a citizen of India) from his performance in India.

### PAYMENT OF DEPOSITS UNDER NATIONAL SAVING SCHEME [SEC 194EE]

<b>Rate</b>	<b>10%</b>
<b>Exemption</b>	<b>Aggregate Payment &lt; Rs 2,500</b> (on aggregate basis to a person in a FY)
<b>Deductor</b>	Post office
<b>Payee</b>	Any person.
<b>Payment</b>	Payment (Principal + Interest) out of national saving scheme, 1987.

**Note:** If payment is made to legal heirs of a deceased depositor, NO Tax shall be deducted.

### PAYMENT ON REPURCHASE OF UNITS BY MUTUAL FUND/UTI [SEC 194F]

<b>Rate</b>	<b>20%.</b>
<b>Deductor</b>	Mutual fund/UTI
<b>Payee</b>	Unit holders of MF/UTI u/s 80CCB.
<b>Payment</b>	Payment on account of repurchase of units referred in Section 80CCB.



### COMMISSION ON SALE OF LOTTERY [SEC 194G]

<b>Deductor</b>	Any person paying commission on sale of lottery tickets.
<b>Payee</b>	Any person.
<b>Rate</b>	<b>5%</b>
<b>Exemption</b>	<b>Commission ≤ Rs. 15000.</b>

**Note:** If an authorised lottery ticket agent purchases tickets in bulk at a discount from SG & sells the same at a price of his choice, Section 194G is not applicable.

### COMMISSION/BROKERAGE [SEC 194H]

<b>Deductor</b>	(a) All Person ( <b>other than Individual/ HUF</b> ) & (b) Individual/HUF (if <b>Tax Audit</b> is done u/s <b>44AB (a)/(b)</b> in <b>Last PY</b> )
<b>Rate</b>	<b>5 %</b>
<b>Exemption</b>	<b>Aggregate Commission ≤ Rs. 15,000</b> to a person during FY.
<b>NO TDS</b>	(i) Insurance Commission. (ii) Commission to Stock broker. (iii) Commission by BSNL/MTNL to their Public Call Office (PCO) franchisees. <b>This section is not applicable to professional services.</b>

### RENT [SEC 194I]

<b>Deductor</b>	(a) All person (other than Individual/ HUF) & (b) Individual/HUF (if <b>Tax Audit is done</b> u/s 44AB (a)/(b) in Last PY).
<b>Payee</b>	Resident person only
<b>Payment</b>	Rent of L & B (including factory building), P & M, F & F, Equipment.
<b>Rate</b>	➤ <b>P&amp;M, Equipments - 2%</b> ➤ <b>L&amp;B, F&amp;F, others - 10% [Excluding GST &amp; Municipal Taxes]</b>
<b>No TDS</b>	(a) <b>Aggregate of Rent</b> paid/credited ≤ <b>Rs 1,80,000</b> during a FY to a person. (b) Rent paid to GOVERNMENT/ <del>REIT</del> .

**CQ7.** Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of Rs. 1,00,000 per month. She charged GST @ 15% on lease Rent charges. Calculate TDS to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira.

**Solution:** GST paid by the tenant does not partake the nature of income of the landlord. The landlord only acts as a collecting agency for collection of GST. Therefore, TDS u/s 194-I would be required to be made on the amount of rent paid or payable excluding GST (i.e. TDS u/s 194-I on Rs. 12 lacs only). TDS = 12 Lacs × 10% = Rs. 1,20,000.

## PAYMENT ON TRANSFER OF IMMOVABLE PROPERTY OTHER THAN RURAL AGRICULTURAL LAND [SEC 194IA]

<b>Deductor</b>	Any person paying consideration for transfer of immovable property
<b>RATE</b>	<b>1%</b> [20% if no PAN is furnished by the payee]
<b>NO TDS</b>	<b>Consideration &lt; Rs. 50 lacs</b>

**Note:** TDS on Compulsory Acquisition of Immovable Property is covered u/s 194LA, Section 194-IA do not get attracted in that case.

### Procedural Part

[To be read once]

- ❖ No requirement to obtain TAN to the Deductor under this section.
- ❖ Deductor u/s 194-IA shall also furnish to DGIT (Systems) or any person authorized by him, a challan-cum-statement in **Form No. 26QB** electronically **within 30 days** from the end of the month in which the deduction is made [Rule 31A].
- ❖ Deductor u/s 194-IA shall furnish TDS certificate in Form No. **16B** to the payee **within 15 days** from DD of furnishing the challan-cum-statement in Form No. 26QB u/r 31A, after generating & downloading the same from the web portal specified by the DGIT (Systems) [Rule 31].

**Ex:** Mr. X has purchased one building for Rs. 65 Lacs. In this case amount of TDS shall be Rs. 65 lacs x 1% = Rs. 65,000. But if building was purchased for Rs. 47 Lacs, amount of TDS shall be nil since consideration < Rs. 50 Lacs.

## PAYMENT OF RENT BY INDIVIDUAL/HUF [SECTION 194-IB]

<b>Deductor</b>	Individual/ HUF (if last year tax audit was <b>NOT</b> done u/s 44AB (a)(b);
<b>Payment</b>	<b>Rent of Land or Building or Both</b>
<b>Rate</b>	<b>5%</b>
<b>Exemption</b>	If <b>Rent per month</b> or part of the month <b>≤ Rs. 50,000</b> during the PY.
<b>Time of TDS</b>	(a) At the time of <b>credit of the Rent for Last month of PY</b> or Last month of tenancy (if property is vacated during the year)] to the account of the payee <b>OR</b> (b) At the time of <b>Payment</b> , whichever is <b>earlier</b> .

**Note:** Deduction not to exceed rent for Last Month even if NO PAN is provided: Section 206AA requires providing of PAN of the deductee to the deductor, failing which tax shall be deducted @ 20%. Where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed rent payable for the last month of the PY or the last month of the tenancy.

**CQ8.** Mr. X, a salaried individual, pays rent of Rs. 55,000 per month to Mr. Y from June, 2018.

(a) Compute TDS; Time of deduction of Tax;

(b) Would your answer change if Mr. X vacated the premises on 31<sup>st</sup> December 2018?

What would be your answer if Mr. Y does not provide his PAN to Mr. X?

### Solution:

(a) Since Mr. X pays rent exceeding Rs. 50,000 per month in PY 2018-19, he is liable to deduct tax at source @ 5% of such rent for PY 2018-19 u/s 194-IB. Thus Rs. 27,500 [Rs. 55,000 x 5% x 10 months] has to be deducted from rent payable for the month of March 2019.

(b) If Mr. X vacated the premises in December 2018, then tax of Rs. 19,250 [Rs. 55,000 x 5% x 7] has to be deducted from rent payable for December 2018.

If Mr. Y does not provide his PAN to Mr. X → TDS @ 20%, instead of 5%.

In case (a), TDS = Rs. 1,10,000 [Rs. 55,000 x 20% x 10] but restricted to Rs. 55,000 only being rent for March 2019.

In case (b) TDS = 77,000 [Rs. 55,000 x 20% x 7] but restricted to Rs. 55,000 only, being rent for December 2018.

## PAYMENT UNDER SPECIFIED AGREEMENT [SEC 194-IC] \*\*

<b>Deductor</b>	Any person.
<b>Payment</b>	Consideration paid to a <b>resident</b> under a specified agreement u/s 45(5A).
<b>Rate</b>	<b>10% on Amount Paid.</b>

**Non-applicability of section 194-IA:** Since TDS provisions for specified agreement u/s 45(5A) is covered u/s 194-IC, provisions of Section 194-IA do not get attracted in such cases.

## FEES FOR PROFESSIONAL/TECHNICAL SERVICES [SEC 194J]

<b>Deductor</b>	(a) All person (other than Individual/ HUF) & (b) Individual/ HUF (if Tax Audit is done u/s 44AB (a)/(b) in Last Year).
<b>Payee</b>	Resident Person.
<b>Rate of TDS</b>	<b>10%</b> on total payment <u>excluding GST</u> . <b>AMD:</b> If a payee is engaged only in the <b>business of operation of call centre</b> , the tax shall be deducted at source @ <b>2%</b> [w.e.f. 1st June, 2017]
<b>NO TDS</b>	(a) On services provided <b>to Individual/HUF for Personal Purposes</b> . (b) Aggregate payment <b>≤ Rs 30,000</b> to a person in a FY <b>(Exemption Limit of Rs. 30,000 is available separately for Individual services)</b> . Thus, if payment to a person towards each of the above is < Rs. 30,000, no tax is required to be deducted at source, even though aggregate payment or credit exceeds Rs. 30,000. However, <b>NO Exemption Limit is available for "Director's fees"</b> .
<b>NATURE OF PAYMENT</b>	(a) Professional services (b) Technical services (c) Any Remuneration/fees/commission other than salary to directors of company. (d) Royalty/Non-Compete Fees referred in Section 28(va).

**CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:** *Sports Persons, Umpires & Referees, Coaches & Trainers, Team Physicians & Physiotherapists, Event Managers, Commentators, Anchors & Sports Columnists.* Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions.

### Meaning of "Fees for technical services"

It means any consideration (including any lump sum consideration) for rendering of any of the following services: Managerial services; Technical services; Consultancy services; Provision of services of technical or other personnel. It is expressly provided that the term 'fees for technical services' will not include following types of consideration:  
(i) Consideration for any construction, assembly, mining or like project, or  
(ii) Consideration which is chargeable under the head 'Salaries'.

**CQ9.** XYZ Ltd. makes a payment of Rs. 28,000 to Mr. X on 2.8.2018 towards fees for professional services & another payment of Rs. 25,000 to him on the same date towards fees for technical services. Discuss whether TDS provisions u/s 194J are attracted.

**Solution:** TDS provisions u/s 194J would not get attracted, since the limit of Rs. 30,000 is applicable for fees for professional services & fees for technical services, separately. It is assumed that there is no other payment to Mr. X towards fees for professional services & fees for technical services during PY 2018-19.

**PAYMENT OF COMPENSATION ON COMPULSORY ACQUISITION OF  
IMMOVABLE PROPERTY  
(OTHER THAN AGRICULTURAL LAND) [SEC 194LA]**

<b>Deductor</b>	Any person paying compensation.
<b>Payee</b>	Resident Person only.
<b>Payments</b>	Compensation/Enhanced Compensation on account of Compulsory Acquisition of Land & Building (other than Agricultural Land).
<b>Rate of TDS</b>	<b>10% of Initial/Enhanced Compensation.</b>
<b>No TDS</b>	Aggregate Payment ≤ Rs. <b>2.5 Lacs</b> during FY to a Person.

**INCOME PAYABLE NET OF TAX [SECTION 195A]**

- If **Tax** is to be **borne** by the **Payer** → Income of Payee = Income Received + Tax Paid by the payer.
- However, NO GROSSING UP is required in case of tax paid [u/s 192(1A)] by an employer on non-monetary perquisites provided to the employee.

**NO TDS ON ANY SUMS PAYABLE TO GOVERNMENT, RBI Etc. [SEC 196]**

No TDS on any sum payable to the following persons:

- Government; RBI.
- Corporation established by/under Central Act, which is exempt from Income-tax.
- Mutual Fund.

This provision for non-deduction is when such sum is payable to above entities by way of:

- (i) **Interest/Dividend** in respect of securities/shares owned (full beneficial interest) by them; **OR**
- (ii) **Any income accruing or arising to them.**

**CERTIFICATE FOR DEDUCTION OF TAX AT LOWER RATE [SECTION 197]**

- Section 197 is operative in Sections **192, 193, 194, 194A/C/D/G/H/I/J/LA.**
- In such cases, Assessee can make an application to AO for TDS at Lower rate/ NO TDS.
- If AO is satisfied that total income of the recipient justifies the deduction of income-tax at lower rates or no deduction of income-tax, he may give such certificate to the assessee.
- Where AO issues such a certificate, then the Deductor shall deduct income-tax at such **lower rates specified in the certificate or deduct no tax, until such certificate is cancelled by AO.**

**NO DEDUCTION TO BE MADE IN CERTAIN CASES [SEC 197A]**

- A **declaration in writing** in **duplicate** that the **tax** on his **estimated total income** of the PY in which is to be included will be **NIL.**

Payee	Section	Form No	Non-Applicability [197A(1B)]
Resident Individual	194 & 194EE	15G (15H by person ≥ 60 years of age)	Amount of such income or the aggregate of such incomes credited or paid or likely to be credited or paid during PY exceeds the BEL.
Person (other than Company or Firm)	192A, 193, 194A, 194D & 194DA, 194I.		
Deductor shall deliver or cause to be delivered to PCC or CC or PC, one copy of the declaration on or before 7 <sup>th</sup> day of the next month following the month in which the declaration is furnished to him.			

## TIME FOR DEDUCTION OF TAX AT SOURCE

Sections	Time when Tax should be deducted
Section 193, 194A/C/D/G/H/I/IA/IB/IC/J	(a) At the time of <b>Credit</b> of A/c of the payee (b) Date of <b>Payment</b> whichever is <b>earlier</b>
Section 192, 192A, 194, 194B/BB/DA/EE/LA	On the Date of <b>Payment</b>

**Note:** Account to which sum is credited may be called “Suspense Account” or by any other name

## SOME OTHER POINTS

**SEC 197A(1D):** No TDS on interest paid to **NR/RNOR** by **IFSC Banking Units** on deposit made on/after 1.4.2005 in India, or on borrowings made on or after 1.4.2005 from such persons.

**SEC 197A(1E):** No TDS shall be made from any payment to any person on behalf of NPS Trust.

**SEC 197A(1F):** NO TDS on following payments in case such payment is made **by a person to a bank** (excluding a foreign bank) or to any payment systems company authorised by RBI:

- Bank guarantee commission; credit card or debit card commission for transaction between the merchant establishment & acquirer bank, Depository charges on maintenance of DEMAT accounts;
- Cash management service charges; underwriting service charges; charges for warehousing services;
- Clearing charges (MICR charges) including interchange fee or any other similar charges charged at the time of settlement or for clearing activities under Payment & Settlement Systems Act, 2007.

**SEC 198:** Tax deducted is treated as **Income** of the payee & tax credit is available to him.

- However Tax paid by an employer u/s 192 (1A) on Non-monetary perquisites provided to the employees shall not be deemed to be income received by the assessee & no Tax Credit is available.

**SEC 199:** Credit for TDS → Amount of TDS shall be allowed as Set off in the year in which income is assessed.

- Any sum referred to in Section 192(1A) & paid to CG, shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

## DUTY OF PERSON DEDUCTING TAX [SECTION 200]

- Persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of CG within the prescribed time [Section 200(1)].
- An Employer paying tax on non-monetary perquisites provided to employees as per section 192(1A), should deposit the tax to the credit of CG within prescribed time or as the Board directs [Section 200(2)].

## TABLE A: DUE DATE FOR DEPOSIT OF TDS AMOUNT – Rule 30

	DEDUCTOR	Cases	Due Date
1	<b>Government</b>	Tax paid <b>without</b> production of Income Tax <b>Challan</b>	Same Day of TDS
2		Tax paid <b>accompanied</b> by Income Tax <b>Challan</b>	7 days from end of the month of TDS.
3	<b>Any other Person</b>	Deduction made in <b>April - February</b>	7 days from end of the month of TDS.
4		If income is credited/Paid in <b>March</b>	30 <sup>th</sup> April.

**Note:** Tax deducted u/s 194-IA/IB have to be remitted within 30 days from the end of the month of TDS. A challan-cum-statement in Form 26QB/26QC has to be furnished within 30 days.

**QUARTERLY PAYMENT OF TDS:** In special cases, AO may (with prior approval of JCIT) permit quarterly payment of TDS u/s 192/194A/D/H on/before 7<sup>th</sup> of the month following the quarter for 1<sup>st</sup> three quarters in the FY & 30<sup>th</sup> April in respect of the quarter ending on 31<sup>st</sup> March.

Every person responsible for deduction of tax shall deliver, or cause to be delivered, the following quarterly statements to the DGIT (Systems) or any person authorized by him, in accordance with section 200(3):

- (a) Statement of TDS u/s 192 in Form No.24Q;
- (b) Statement of TDS under other sections from section 193 in Form No.26Q in respect of all deductees other than a deductee being a non-resident not being a company or a foreign company or resident but not ordinarily resident in which case the relevant form would be Form No.27Q.

### TABLE B: DUE DATES FOR FILLING QUARTERLY STATEMENT - Rule 31A

Quarter ending on	Due date
30 <sup>th</sup> June	31 <sup>st</sup> July of FY
30 <sup>th</sup> September	31 october of FY
31 <sup>st</sup> December	31 January of FY
31 <sup>st</sup> March	31 <sup>st</sup> May of next FY of deduction.

### CORRECTION OF ARITHMETIC MISTAKES & ADJUSTMENT OF INCORRECT CLAIM DURING COMPUTERIZED PROCESSING OF TDS STATEMENTS [SECTION 200A]

- Following adjustments can be made during the computerized processing of statement of TDS:
  - Arithmetical Errors in the statement; or
  - Incorrect claim if such incorrect claim is apparent from any other information in the statement.
- “Incorrect claim apparent from any information in the statement”** shall mean claim:
  - which is **Inconsistent with another entry** of the same or some other item in such statement;
  - where **Rate of TDS is not in accordance** with the provisions of the Act.
- Interest** has to be computed on the basis of the **sums deductible as computed in statement**;
- Fee u/s 234E:** A fee of **Rs. 200 per day** is levied u/s 234E for late furnishing of TDS statement.
 

**From:** DD of furnishing of TDS statement.

**To:** Date of Actual furnishing of TDS statement.

Total fee u/s 234E shall not exceed Total Amount of TDS/TCS.

Such fee has to be paid before delivering the TDS statement.
- Sum payable by the deductor** should be determined **after Adjustment of Interest & Fee** against the amount paid u/s 200/201/234E & any other amount paid by way of Tax/Interest/Fee.
- Intimation will be sent to the deductor, specifying his tax liability or refund due within **1 year** from the end of FY in which statement is filed. Refund due shall be granted to the deductor.



## CONSEQUENCES OF FAILURE TO DEDUCT OR PAY TDS TO CG [SEC 201]

<b>Assessee in Default</b>	Any person who is: (a) Required to deduct Tax at Source. (b) Being an employer opts for payment of tax u/s 192 (1A) Does not <b>deduct</b> or <b>pay (whole/part)</b> the tax, Such person shall be <b>deemed to be an assessee in default</b> .
<b>Not Deemed as Assessee in Default</b>	<ul style="list-style-type: none"> <li>If a Resident Payee has filed ROI u/s 139 &amp;</li> <li>has included such sum in computing his total income in ROI &amp;</li> <li>has paid tax on such sum.</li> </ul>
<b>No penalty u/s 221</b>	If failure is due to good & sufficient reason.

### TIME LIMIT for deeming a person to be Assessee-in-default for failure to deduct tax at source:

☞ Order u/s 201(1) feeling a person Assessee in Default shall be passed at any time before 7 years from the end of the financial year in which the payment is made or credit is given.

### NO TIME LIMIT is prescribed deeming a person to be Assessee-in-default in following cases:

- Tax has been deducted but **not paid** to the government;
- Employer has failed to pay tax (wholly/partly) u/s 192(1A) [Since No question of deduction arises];
- Deductee is a Non-Resident [It may not be possible to recover the tax from NR].

## INTEREST FOR DELAY IN DEDUCTION OR PAYMENT [SEC 201(1A)]

➤ If No Tax is deducted OR Tax is deducted but not paid to the government;

### **(i) Simple Interest @ 1% per month or part of the month of Late Deduction:**

<b>From</b>	Date on which tax should have been deducted
<b>Upto</b>	Date on which such tax was actually deducted

### **(ii) Simple interest @ 1.5% per month or part of the month of Late Payment**

<b>From</b>	Date on which tax was deducted
<b>Upto</b>	Date on which such tax is actually paid to the government

**Ex:** Assessee deduct TDS on 10.10.2018 but pays TDS on 31.12.2018, Interest u/s 201(1A) shall be charged from 10.10.2018 to 31.12.2018 @ 1.5% per month i.e., for 3 months.

**Ex:** In the above case, if assessee has deducted tax at source on 31.12.2018 & assessee pays TDS on 17.01.2019, Interest u/s 201(1A) shall be charged in the manner given below:

- (i) Interest u/s 201 shall be charged for 3 months @ 1% for the period 10.10.2018 to 31.12.2018.
- (ii) Interest u/s 201 shall be charged for 1 month @ 1.5% per month from 31.12.2018 to 17.01.2019.

**Q10.** Rs. 40,000 was paid to Mr. X on 1.7.2018 towards professional fees w/o TDS. Subsequently, another payment of Rs. 50,000 was due to Mr. X on 28.2.2019, from which tax @ 10 % (Rs. 9,000) on entire amount of Rs. 90,000 was deducted. However this tax of Rs. 9,000 was deposited only on 22.6.2019. Compute Interest u/s 201(1A).

**Solution:**

### Computation of Interest u/s 201(1A)

Particulars	Rs
SI of 1% on tax deductible but not deducted [1 % on Rs. 4,000 for 8 months (1.7.2018 to 28.2.2019)]	320
SI of 1.5% on tax deducted but not deposited [1.5% on Rs. 9,000 for 4 months (28.2.2019 to 22.6.2019)]	540
<b>Total Interest u/s 201(1A)</b>	<b>860</b>

## DEDUCTION ONLY ONE MODE OF RECOVERY [SECTION 202]

- Recovery of tax through deduction at source is one of the methods of recovery of Tax.
- AO can use any other prescribed methods of recovery in addition to tax deducted at source.

## CERTIFICATE FOR TAX DEDUCTED [SECTION 203]

- **Deductor** shall **issue** a **certificate** to the **payee** of Income that tax has been deducted & specify the amount deducted, the rate at which tax has been deducted & such other prescribed particulars.
- Every Employer shall furnish to the employee a certificate (for Tax u/s 192(1A)) that tax has been paid & specify the amount of Tax paid, rate at which tax has been paid & such other prescribed particulars.

### TDS CERTIFICATE [Rule 31]

- **TDS u/s 192:** In Form No. **16** → Issued annually by 15<sup>th</sup> June of next FY.
- **Any other case:** In Form No. **16A** → Issued Quarterly within 15 days from DD for filing TDS statement u/r 31A.

## FURNISHING OF STATEMENT OF TAX DEDUCTED [SECTION 203AA]

- Prescribed Income - Tax Authority or person authorised by such authority shall **prepare & deliver** to every person from whose income, tax has been deducted/paid.
- Such statement should **specify** amount of **tax deducted or paid**.
- DGIT (Systems) has to deliver statement of TDS in Form 26AS by 31<sup>st</sup> July the following year.

**PC NOTE:** Rule Numbers & Form Numbers are only for the reference. No Need to memorize them.

## BAR AGAINST DIRECT DEMAND OF TAX FROM ASSESSEE [SEC 205]

- Assessee cannot be asked to pay the tax on income on which tax has already been deducted.
- **If Deductor has not paid tax to government, department cannot recover tax from assessee.**
- Only the person deducting the tax shall be liable to pay tax to the government.

## FURNISHING OF STATEMENTS IN RESPECT OF PAYMENT OF INTEREST TO RESIDENTS WITHOUT DEDUCTION OF TAX [SECTION 206A]

1. Every banking company or co-operative society or public company referred to in the proviso to section 194A(3)(i) shall prepare prescribed statements **if it is responsible for paying interest u/s 194 to a resident not exceeding Rs. 10,000 & Rs. 5,000 in any other case.**
2. Such persons should prepare & deliver or cause to be **delivered statements** within the prescribed time **to** the prescribed **income-tax authority** or the person authorized by such authority.
3. Such statements should be on floppy disk, magnetic tape, CD- ROM etc.

## MANDATORY REQUIREMENT OF FURNISHING PAN [SECTION 206AA]

- Both deductor & deductee have to compulsorily quote PAN of the deductee in all correspondence, bills, vouchers & other documents exchanged between them.
- In case of failure to provide PAN, **RATE OF TDS** shall be **higher** of the following rates:
  - (a) Rate prescribed in the Act
  - (b) Rate in force i.e., the rate mentioned in the Finance Act; or
  - (c) **20%.**
- Above provision is also applicable if taxpayer files a declaration in Form 15G/15H but does not provide PAN. Similar **No certificate u/s 197 will be granted by AO if PAN is not furnished.**
- If PAN provided is invalid or it does not belong to the deductee, it shall be deemed that the deductee has not furnished his PAN to the deductor.

## 8B. COLLECTION OF TAX AT SOURCE

### DIFFERENCE BETWEEN TDS & TCS

TDS	TCS
<ul style="list-style-type: none"> <li>TDS is Tax Deduction at Source</li> </ul>	<ul style="list-style-type: none"> <li>TCS is Tax Collection at Source.</li> </ul>
<ul style="list-style-type: none"> <li>Payer is required to deduct tax at source at the prescribed rate.</li> </ul>	<ul style="list-style-type: none"> <li>Seller of certain goods/services is responsible for collecting tax at source at prescribed rate.</li> </ul>
<ul style="list-style-type: none"> <li>Tax is required to be deducted at the time of credit or payment, whichever is earlier.</li> <li>However, in certain cases, tax is required to be deducted at the time of payment.</li> </ul>	<ul style="list-style-type: none"> <li>Tax is required to be collected at source at the time of debit or receipt whichever is earlier.</li> <li>In case of sale of Motor-Vehicle, tax shall be collected at the time of receipt of amount.</li> </ul>

### BASIC CONCEPTS & RATES OF TCS [SECTION 206C]

➤ As per Section 206C(1), specified percentage for collection of tax at source is as follows:

Nature of Goods/Services	% of TCS
<b>A. Sale of Goods</b>	
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 other mode than under a forest lease	2.5%
5. Any other forest produce not being timber or tendu leaves	2.5%
6. Scrap	1%
7. Minerals (Being Coal, Lignite or Iron Ore)	1%
<b>B. Leasing/Licensing Services</b>	
1. Parking lot/Toll Plaza/Mining/Quarry (Other than Mineral oil, Petroleum, Natural Gas) to any person other than Public Sector Company	2%
<b>C. Sale of Motor Vehicle</b> of value > Rs. 10 lacs [Only for Retail Level Sale]	1%
<b>Points to be Noted relating to Sale of Motor Vehicle: [Imp]</b> <ul style="list-style-type: none"> <li>✓ Mode of Payment is irrelevant to attract TCS in case of Sale of Motor Vehicle</li> <li>✓ No TCS on sale of Motor Vehicle by manufacturers to dealers/ distributors.</li> <li>✓ This Provision is applicable for ANY Motor Vehicles including Luxury Cars.</li> <li>✓ Limit of Rs. 10 Lacs is applicable to Single sale &amp; not to Aggregate value of sale made during FY.</li> </ul>	

### TIME OF TCS [SECTION 206C(1)/(1C)/(1F)]

➤ Tax should be collected at the time of debit or receipt of such amount whichever is earlier.

**Note:** Sale of Motor Vehicle → Tax shall be collected at the time of receipt of the amount.

## **NON-APPLICABILITY OF TCS [SECTION 206C(1A)]**

- No TCS if resident buyer furnishes to the collector a declaration in writing in duplicate that;
- Goods are to be utilised for Manufacturing/Processing/Producing articles or things or for generation of power &
- **not for trading purposes.**

## **Furnishing of copy of declaration within specified time [Section 206C(1B)]**

- ☞ Person responsible for collecting tax shall deliver one copy of declaration u/s 206C(1A) to CCIT/CIT on/before 7<sup>th</sup> of the month following the month in which declaration is given to him.

## **TIME LIMIT FOR PAYING TAX COLLECTED TO THE CG [RULE 37CA]**

Person	Circumstances	Time Limit
Government	Tax paid <b>without</b> production of Income Tax <b>Challan</b>	Same Day of TCS
	Tax paid <b>accompanied</b> by Income Tax <b>Challan</b>	7 days from end of the month of TCS
Other than Government		Within 1 Week from last day of Month of TCS.

## **MEANING OF SOME IMPORTANT TERMS**

<b>1. BUYER:</b> <ul style="list-style-type: none"><li>❖ <b>For Section 206C(1) &amp; 206(1C):</b> A person who obtains in any sale (Auction/Tender/Any other mode) goods specified above or right to receive any such goods <b>but does not include:</b><ul style="list-style-type: none"><li>(a) Public sector company, CG, SG &amp; Embassy, High commission, legation, commission, consulate &amp; the trade representation, of a foreign State &amp; a club, or</li><li>(b) <b>Buyer</b> in the <b>Retail sale</b> of such goods purchased by him for <b>personal consumption.</b></li></ul></li><li>❖ <b>For Section 206C(1F):</b> A person who obtains in any sale, goods of the nature specified therein, <b>but does not include:</b><ul style="list-style-type: none"><li>(a) CG, SG, &amp; Embassy, High Commission, legation, commission, consulate &amp; trade representation of a foreign State; or Local authority; or</li><li>(b) <b>Public sector company</b> which is <b>engaged</b> in the <b>business of carrying passengers.</b></li></ul></li></ul>
<b>2. SELLER</b> <ul style="list-style-type: none"><li>▪ Central Government or State Government or any local authority or corporation or</li><li>▪ Authority established by or under a Central, State or Provincial Act, or</li><li>▪ Any Company or a Firm or Co-operative society</li><li>▪ <b>Individual/HUF</b> [Tax audit u/s 44AB(a)/(b) is done in last PY].</li></ul>
<b>3. SCRAP:</b> Waste & scrap from manufacture or mechanical working of materials which is definitely not usable <b>as such</b> due to breakage, cutting up, wear & other reasons.

## **COMMON NUMBER FOR TDS & TCS [SECTION 203A]**

- Persons responsible for deducting tax or collecting tax at source should **apply to AO** for the allotment of a "Tax-deduction & Collection-account number".
- Documents/certificates/returns/challans in which TAN has to be compulsorily quoted:
  - Challans for payment of any sum in accordance with the provisions of section 200/206C(3);
  - Certificates furnished u/s 203/206C(5);
  - Statements prepared & delivered as per the provisions of section 200(3)/206C(3).
  - Returns delivered in accordance with the provisions of section 206/206C(5B); &
  - All other documents pertaining to such transactions prescribed in the interests of revenue.
- Requirement of obtaining & quoting of TAN shall not apply to such person notified by CG.

## 9A. ADVANCE TAX

### INTRODUCTION

- We know that income earned during PY 2018-19 shall be taxed in AY 2019-20.
- But assessee is required to pay tax, in advance, on taxable income of PY 2018-19 during PY 18-19 itself. Such tax paid is known as Advance Tax.
- Advance tax is payable on estimated current income in installments during the previous year.
- Such advance tax is in addition to TDS/TCS.
- **Credit for Advance Tax [Section 219]:** Advance tax paid by the assessee is treated as payment of tax for PY & Credit of Advance Tax paid is given to him while calculating tax payable u/s 140A.

### ☑ Advance Tax is payable on Estimated Current Income

- Estimated Current Income = Expected Income during current PY under 5 heads of Income.
- Thereafter, brought forward losses shall be set off.
- From Estimated GTI, deductions likely to be claimed u/s 80C to 80U will be deducted.

### WHO IS LIABLE TO PAY ADVANCE TAX?

- Any person whose **Advance Tax liability  $\geq$  Rs 10000** in the FY on estimated current income is liable to pay Advance Tax.

#### Exception:

- **Senior Resident Individual (Age  $\geq$  60 yrs during PY) & does not have any Income u/h PGBP**  
→ Not required to pay Advance Tax even if his Advance Tax liability  $\geq$  Rs. 10,000.

### How to calculate ADVANCE TAX LIABILITY

Tax on Estimated Total Income

**Less:** Rebate/Relief

**Add:** Surcharge + Health & Edu. Cess

**Less:** TDS/TCS

If this amount comes out to be  $\geq$  Rs. 10,000;  
then such person is liable to pay advance tax.

#### Points to Remember:

1. Assessee is not required to submit any estimate or statement of estimated income to AO unless he has been asked (served with notice) by AO to submit the estimates.
2. Proviso to Section 209(1)(d): Tax deductible but not so deducted cannot be reduced for computing Advance Tax liability of the payee.
3. Estimated Net Agricultural Income of the PY has to be considered for computing advance tax.

### INSTALLMENTS OF ADVANCE TAX & DUE DATES

#### A. ASSESSEE COMPUTING PROFITS ON PRESUMPTIVE BASIS U/S 44AD(1)/ADA(1):

☞ Pay **whole amount** of Advance Tax **on/before 15<sup>th</sup> March** of the PY in **one installment**.

## B. ASSESSEES OTHER THAN MENTIONED ABOVE IN (A)

### SCHEDULE OF PAYMENT OF ADVANCE TAX (Minimum Installments)

Payment date	All assessee (other than eligible person u/s 44ad)
15 June	15% of Advance Tax Liability
15 September	45% of Advance Tax Liability - Amount paid in 1 <sup>st</sup> Installment
15 December	75% of Advance Tax Liability - Amount paid in 1 <sup>st</sup> & 2 <sup>nd</sup> Installments
15 March	100% of Advance Tax Liability - Amount paid in 1 <sup>st</sup> , 2 <sup>nd</sup> & 3 <sup>rd</sup> Installments

#### Points to Remember:

**1. Revision of Estimated Income:** Each installment shall be calculated on estimated income on cumulative basis after revision of estimated income @ every date of payment (15<sup>th</sup> of June/Sep/Dec/March).

**2. Any amount paid by way of advance tax on or before 31<sup>st</sup> March shall also be treated as advance tax paid during each financial year on or before 15<sup>th</sup> March.**

**3. Assessed in Default:** Where the assessee does not pay any installment by the due date, he shall be deemed to be an assessee in default in respect of such installment.

**4. If Banks are closed** on Last day for Payment of any instalment of Advance Tax → Assessee can pay such installment **on next working day; No Interest u/s 234B/234C** will be charged.

**CQ1.** Following are the particulars of estimated income of Mr. Pranav Chandak for PY 2018-19:

	Particular	Rs.
(a)	Salary Income (after standard deduction of Rs. 40,000)	Rs. 5,00,000
(b)	Income u/h House Property @ Rs. 10,000 p.m.	Rs. 1,20,000
(c)	Income from Interest on Government securities	Rs. 50,000
(d)	Winnings from lotteries (Gross)	Rs. 40,000
(e)	Share of profit from the Income of HUF	Rs. 1,50,000

Calculate the amount of Advance Tax payable by him in various instalments. Tax of Rs. 12,000 has been deducted at source out of the lottery. He has deposited Rs. 10,000 in PPF.

**Solution:** **Computation of Total Income of Mr. Pranav Chandak for AY 2019-20**

Particulars	Rs.
Salary	Rs. 5,00,000
House Property (Rs. 1,20,000 - 30% of Rs. 1,20,000)	Rs. 84,000
Interest on Govt. Securities	Rs. 50,000
Winning of Lottery	Rs. 40,000
<b>Gross Total Income</b>	<b>Rs. 6,74,000</b>
Less: Deduction u/s 80C	(Rs. 10,000)
<b>Taxable Income</b>	<b>Rs. 6,64,000</b>

#### Computation of Advance Tax Liability

Tax on Lottery Income of Rs. 40,000 @ 30%	Rs. 12,000
Tax on other income of Rs. 6,24,000 [Rs. 12,500 + Rs. 24,800]	Rs. 37,300
Total Tax payable + Health & Education cess @ 4% of Tax	<b>Rs. 51,272</b>
<b>Less: TDS</b>	<b>(Rs. 12,000)</b>
<b>Advance Tax Payable (rounded off)</b>	<b>Rs. 39,270</b>

#### Computation of Minimum Installments of Advance Tax

1 <sup>st</sup> Installment [on/before 15.6.2018] (15% of Rs. 39,270)	<b>Rs. 5891</b>
2 <sup>nd</sup> Installment [on/before 15.9.2018] (45% of Rs. 39,270) - Rs. 5891	<b>Rs. 11780</b>
3 <sup>rd</sup> Installment [on/before 15.12.2018] (75% of Rs. 39,270) - Rs. 5891 - Rs. 11780	<b>Rs. 11781</b>
4 <sup>th</sup> Installment [on/before 15.3.2019] (100% of Rs. 39,270) - Rs. 5891 - 11780 - 11781	<b>Rs. 9818</b>
<b>Total Amount</b>	<b>Rs. 39270</b>



## SOME OTHER IMPORTANT POINTS TO BE NOTED

### Q1. CAN AO ISSUE ORDER TO AN ASSESSEE TO PAY ADVANCE TAX?

**Answer:**

- (a) If the person was required to pay advance tax & such person has not paid it. **OR**  
(b) If any person has been already assessed by way of regular assessment for any earlier PY, AO can serve an order u/s **210(3)** to such person to pay advance tax **specifying the amount of Advance Tax & Installments in which such advance tax is to be paid.**

Such order may be served at any time but latest by **last day of February.**

#### **What shall be the basis for computation of Advance Tax payable?**

For this purpose, basis for computation of advance tax payable shall be higher of (i) or (ii):

- (i) Total income of latest PY in which assessee has been assessed by way of regular assessment.  
(ii) Total income declared by assessee in any ROI for any subsequent PY of regular assessment.

### Q2. CAN AO REVISE DEMAND NOTICE SENT TO THE ASSESSEE?

**Answer:** If after making demand notice (order) by AO, but before 1<sup>st</sup> March of the FY,

(i) ROI is furnished by assessee u/s 139(1)/142(1);

(ii) Regular assessment is completed for any later PY for higher amount of income,

AO may revise such demand order u/s 210(4) on the basis of the computation of the returned income or assessed income. Such revision shall be made by AO before 1<sup>st</sup> March of the PY.

### Q3. WHETHER ASSESSEE HAS OPTION TO PAY LESS ADVANCE TAX THAN SPECIFIED BY AO IN NOTICE?

**Answer:** Such person to whom the order has been passed by AO has the option to show lesser liability of advance tax than specified by AO in demand order *by filing declaration in form no. 28A to AO & showing the calculation of his estimate on or before the due date of last installment.*

### Q4. WHETHER ASSESSEE HAS OPTION TO SHOW HIGHER LIABILITY THAN SPECIFIED BY AO IN NOTICE?

**Answer:** Option to show higher liability always exists & tax shall be paid on such higher income.

## SHORTFALL IN ADVANCE TAX DUE TO CAPITAL GAINS/CASUAL INCOMES

- It is not possible for an assessee to estimate certain incomes which are generally unexpected.
- Such incomes include:
  - ✓ Capital gains & Winnings from lotteries, crossword puzzles etc;
  - ✓ Dividend referred in **Sec 115BBDA** [Aggregate Dividend received in PY > Rs. 10 lacs].
  - ✓ **Income u/h "PGBP"** in cases where income accrues or arises for the **first time**.
- If any such **income arises after DD** of any installment, then **entire** amount of **advance tax** payable (after TDS) on such income, shall be **paid in remaining installments** of advance tax or **by 31<sup>st</sup> March** of the relevant PY (if **no installment is remaining**).
- If the entire amount of tax payable is paid, then **No Interest u/s 234B or 234C** shall be payable.

**CQ2.** Mr. Amol Chandak estimates his income for PY 2018-19 at Rs. 5,00,000. Besides this income, he has LTCG of Rs. 1,00,000 on transfer of gold on 1.12.2018. He has won a lottery on 25<sup>th</sup> March 2019 of Rs. 2,00,000. Compute the advance tax payable by Mr. Amol Chandak in various instalments.

**Solution:** In this question, Amol Chandak has LTCG on 1.12.2018 which falls after payment of 2 installment of advance Tax. Thus, for calculating first 2 installments, LTCG will not be considered.

**Computation of Tax Liability of Mr. Amol Chandak for AY 2019-20 for 1<sup>st</sup> & 2<sup>nd</sup> Installment**

Tax on Rs. 5,00,000	Rs. 12,500
Add: Health & Education cess @ 4% of Tax	Rs. 500
<b>Total Tax Liability</b>	<b>Rs. 13,000</b>

(i) **First Installment** of Advance Tax payable on 15.6.2018 = 15% of Rs. 13,000 = **Rs. 1950**.

(ii) **Second Installment** of Advance Tax payable on 15.9.2018 = 45% of Rs. 13,000 – Rs 1950 = **Rs. 3900**.

**Computation of Tax Liability of Mr. Amol Chandak for AY 2019-20 for 3<sup>rd</sup> & 4<sup>th</sup> Installment**

Tax on Rs. 5,00,000	Rs. 12,500
Tax on LTCG of Rs. 1 Lac @ 20%	Rs. 20,000
Add: Health & Education cess @ 4% of Tax	Rs. 1,300
<b>Total Tax Liability</b>	<b>Rs. 33,800</b>

(iii) **Third Installment** payable on 15.12.2018 = 75% of Rs. 33,800 – Rs 1950 – Rs. 3900 = **Rs. 19,500**.

(iv) **Fourth Installment** payable on 15.03.2019 = 100% of Rs. 33,800 – Rs 1950 – Rs. 3900 – Rs. 19,500 = **Rs. 8450**

Now, Mr Amol has won a lottery on 25<sup>th</sup> March 2019 which falls after the payment of all installments.

Thus, he will have to pay the tax on such amount before 31<sup>st</sup> march. If paid before 31<sup>st</sup> march, it will be considered to have been paid before the due date & thus No interest u/s 234B or 234C will be levied.

Tax on Rs. 2 Lacs @ 30% = Rs. 60,000. Thus Mr. Amol has to pay Rs. 60,000 as tax on lottery before 31<sup>st</sup> March 2019. Otherwise Interest u/s 234B & 234C will get attracted.

Since Tax on Lottery would have been deducted (TDS) @ 30% [i.e Rs. 60,000]. Mr Amol effectively will not be required to pay any tax. He will only have to give the details about this transaction (Income & TDS) to the prescribed authority.

**Note:** If MR. Amol receives any Income after 15<sup>th</sup> March on which provisions of TDS are not applicable, he will have to pay the tax on such income before 31<sup>st</sup> March 2019.

## 9B. INTEREST UNDER SECTION 234 A/B/C

### INTEREST FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234A]

<b>Circumstances</b>	► If No ROI is filed; OR ► ROI is filed after the Due Date u/s 139(1).		
<b>Consequences</b>	<b>Simple Interest @ 1% per month (or part of the month) is payable on Tax on Assessed Income - TDS/TCS - Advance Tax.</b>		
<b>Time for Levy of Interest</b>	<b>From</b>	Next day following the Due Date for filing ROI.	
	<b>Upto</b>	<b>(i) If ROI IS FILED AFTER DD</b>	Date of filing ROI
		<b>(ii) If NO ROI IS FILED</b>	Date of Completion of Assessment u/s 144.

#### Points to Remember:

- No Interest u/s 234A** shall be charged **on SAT u/s 140A** paid by assessee **on/before DD** of filing ROI (even if ROI is submitted after DD of filing ROI).  
If SAT u/s 140A is paid after DD of filing ROI, Interest u/s 234A is applicable.
- Interest payable u/s 234A shall be reduced by Interest paid on SAT u/s 140A towards interest u/s 234A.

**CQ1.** Determine the interest payable u/s 234A in the following cases:

Particulars	X	Y	Z
DD of filing ROI	31/07/2019	31/07/2019	30/09/2019
Date of filing ROI	15/08/2019	6/11/2019	15/12/2019
Tax on Assessed Income by AO	Rs. 109,000	Rs. 60,000	Rs. 65,000
Advance Tax + TDS	Rs. 74,000	Rs. 35,000	Rs. 35,000
SAT paid u/s 140A	Rs. 25,000	Rs. 20,000	Rs. 20,000
Date of Payment of SAT	25/07/2019	25/07/2019	10/10/2019

**Solution:**

Particulars	X	Y	Z
Tax on Assessed Income – (Advance Tax + TDS)	Rs. 35,000	Rs. 25,000	Rs. 30,000
<b>Less:</b> SAT u/s 140A paid before DD of filing ROI	(Rs. 25,000)	(Rs. 20,000)	(Rs. 20,000)
Balance Tax payable	Rs. 10,000	Rs. 5,000	Rs. 10,000

#### Calculation of Interest u/s 234A

- In case of Mr. X:** Entire outstanding amount is paid by way of SAT on 25/7/2017 (before DD of filing ROI). However, ROI is submitted after DD. Thus, since whole amount has been paid before DD of filing ROI by way of SAT, Interest u/s 234A is not applicable.
- In case of Y:** SAT is paid partly (Rs. 20,000) before DD of filing ROI & ROI is filed belatedly. Thus, Interest u/s 234A is payable on Rs. 5,000 for 4 months @ 1% per month.
- In case of Z:** SAT is paid partly (Rs. 20,000) after DD of filing ROI & ROI is filed also belatedly. Thus, Interest u/s 234A is payable on Rs. 30,000 @ 1% for 1 month (part thereof) [till date of payment of SAT] & on the remaining balance of tax of Rs. 10,000 for 2 Months @ 1% per month till ROI is filled. Thus, Interest u/s 234A = Rs. 300 = Rs. 200 = Rs. 500.

## FEE FOR DEFAULT IN FURNISHING RETURN OF INCOME [SECTION 234F]

❖ If a person who is required to file ROI u/s 139 does not file ROI within DD u/s 139(1), fee =

Circumstances for payment of fees	Amount of Fees
If ROI is filed on/before 31 <sup>st</sup> December of AY	<b>Rs. 5,000</b>
Any other case	<b>Rs. 10,000</b>

**Note:** If Total Income of the person  $\leq$  **Rs. 5 lacs**, fees payable shall **not exceed Rs. 1,000**.

## INTEREST FOR NON-PAYMENT/SHORT-PAYMENT OF ADVANCE TAX [SEC 234B]

<b>Circumstances</b>	<p>► No Advance Tax is paid <b>OR</b></p> <p>► Advance Tax paid is <math>&lt; 90\%</math> of Assessed Tax</p>				
<b>Consequences</b>	<p><b>SI @ 1% per month (or part)</b> is payable <b>on</b> Assessed Tax – Advance Tax paid</p> <p><b>Note:</b> Assessed Tax = Tax on Total Income - TDS/TCS – Advance Tax.</p>				
<b>Time for Levy of Interest</b>	<table border="1"> <tr> <td><b>From</b></td><td>1<sup>st</sup> April of the relevant AY</td></tr> <tr> <td><b>Upto</b></td><td>Date of determination of total income u/s 143(1).</td></tr> </table>	<b>From</b>	1 <sup>st</sup> April of the relevant AY	<b>Upto</b>	Date of determination of total income u/s 143(1).
<b>From</b>	1 <sup>st</sup> April of the relevant AY				
<b>Upto</b>	Date of determination of total income u/s 143(1).				

## INTEREST FOR DEFERMENT OF ADVANCE TAX [SECTION 234C]

### 1. ASSESSEES OPTING FOR PRESUMPTIVE SCHEME U/S 44AD OR 44ADA

**Interest u/s 234C = [Advance Tax Payable – Advance Tax paid]  $\times$  1%.**

### 2. ASSESSEES OTHER THAN (1)

DD	Adv Tax	INTEREST PAYABLE u/s 234C
15 June	15%	S.I @ 1% p.m for 3 months on shortfall from 15%. <b>(No Interest if Advance Tax paid <math>\geq</math> 12%)</b>
15 Sep	45%	S.I @ 1% p.m for 3 months on shortfall from 45%. <b>(No Interest if Advance Tax paid <math>\geq</math> 36%)</b>
15 Dec	75%	S.I @ 1% p.m for 3 months on shortfall from 75%.
15 Mar	100%	S.I @ 1% p.m for 1 month on shortfall from 100%.

**Shortfall = [Advance Tax Payable – Advance Tax paid]**

**CQ2.** A Firm made the following payments of Advance Tax during PY 2018-2019: 15.06.2017: Rs. 4 Lacs; 15.09.2017: Rs. 5 Lacs; 15.12.2018: Rs. 9 Lacs; 15.03.2018: Rs. 12 Lacs. The Income returned by the Firm is Rs. 100 Lacs u/h PGBP & Rs. 10 Lacs by way of LTCG on sale of a property effected on 01.03.2019. What is the interest payable by the Assessee u/s 234B & 234C for AY 2019- 2020? Assume that the Return of Income is filed on 31.07.2019 and Tax is fully paid upon self- assessment.

**Solution:**

**1. Computation of Actual Tax Payable by the Firm**

Particulars	Rs.	Rs.
Profits and Gains of Business or Profession		100,00,000
Capital Gains – Long Term Capital Gain		10,00,000
Total Income		110,00,000
Tax on TI including Surcharge & HEC @ 4% on LTCG of Rs. 10 Lac at 20%	2,08,000	
On Business Income of Rs. 100 Lacs @ 30% + HEC @ 4%	31,20,000	
Net Tax Payable		33,28,000

**Calculation of Interest u/s 234B**

Particulars	Rs.
Total Tax Payable	33,28,000
90% of the Tax Payable ( Rs. 33,28,000 x 90%)	29,95,200
Advance Tax paid (given)	30,00,000
Therefore, Interest u/s 234B does not arise in this case.	NIL

**Calculation of Interest u/s 234C**

Due date	Advance Tax payable	Cumulative Advance Tax actually paid before DD	Difference (2) less (3)	Months	Interest at 1 % per month
(1)	(2)	(3)	(4)	(5)	(6) = (4) x (5) x 1%
15.06.2017	15% of Rs. 31,20,000 = Rs. 4,68,000	Rs. 4,00,000	Rs. 68,000	3	2,040
15.09.2017	45% of Rs. 31,20,000 = Rs. 14,04,000	Rs. 9,00,000	Rs. 5,04,000	3	15,120
15.12.2017	75% of Rs. 31,20,000 = Rs. 23,40,000	Rs. 18,00,000	Rs. 5,40,000	3	16,200
15.03.2018	100% of Rs. 33,28,000 = Rs. 33,28,000	Rs. 30,00,000	Rs. 3,28,000	1	3,280
					49,560

**Note:**

1. Tax on Business Income alone considered for computation of 1st and 2nd & 3rd installments.
2. Tax on LTCG has been considered only for the 3rd instalment, as such gain had arisen only on 01.03.2019.

# 10. RETURN OF INCOME

## MEANING OF RETURN OF INCOME

- ROI is a **format** in which assessee **furnishes information** regarding his **Total Income & Tax payable** on such Total Income.
- Return of Income is the **Declaration of Income** by the assessee in prescribed format.
- Particulars of the Income earned under 5 different heads, GTI, Deductions from GTI, Total Income & Tax payable by the assessee are generally required to be furnished in ROI.
- The format for filing of ROI by different assesseees is notified by the CBDT.

## PROVISION REGARDING FILING OF RETURN OF INCOME – SECTION 139(1)

<b>(I) COMPANIES &amp; FIRMS</b>	<ul style="list-style-type: none"> <li>➤ Companies &amp; Firms are <b>compulsorily required to file ROI</b> for every PY on or before the due date in the prescribed form.</li> <li>➤ <b>Even in case of Loss</b>, they are compulsorily required to file ROL.</li> </ul>
<b>(II) OTHERS</b>	<ul style="list-style-type: none"> <li>➤ Person other than a company or a firm are required to file ROI only if his <b>Total Income</b> or total income of “any other person” in respect of which he is assessable under this Act during PY <b>exceeds Basic Exemption Limit before claiming Chapter VI-A deductions</b>.</li> </ul>
<p><b>CQ1.</b> Mr. X, a non-resident (aged 82 years) having total income of Rs. 1,60,000 after deduction of Rs. 1,20,000 u/c VI-A. His total income comprises of property &amp; interest income. Whether he is required to file ROI.</p> <p><b>Answer:</b> As per section 139(1), every person, whose total income without giving effect to the provisions of Chapter VI-A exceeds BEL, is required to furnish ROI for the relevant AY on/before the due date.</p> <p>GTI of Mr. X (before deduction under Chapter VI-A) is Rs. 2,80,000 which exceeds the BEL of Rs. 2,50,000 applicable to a NR Individual. Therefore, Mr. X has to furnish his ROI for AY 2019-20.</p> <p><b>Note:</b> Even though Mr. X is over 80 years of age, he is not entitled to BEL of Rs. 5 lacs, since he is a NR.</p> <p><b>Note:</b></p> <ol style="list-style-type: none"> <li>1. Total Income for determining whether a person is required to file ROI or not = Income before claiming deductions under Chapter VI-A &amp; Section 10A, 10AA.</li> <li>2. ‘Any other person’ includes “Representative assesses” &amp; “Legal Representatives”.</li> </ol>	
<b>ROR holding Foreign Assets - 4<sup>th</sup> Proviso to Section 139(1)</b>	<ul style="list-style-type: none"> <li>▪ A Resident &amp; ordinarily resident in India,</li> <li>▪ who is not required to furnish ROI u/s 139(1) in normal circumstances,</li> <li>▪ would be required to file ROI or ROL for the PY,</li> <li>▪ If such person, at any time during the previous year -               <ul style="list-style-type: none"> <li>(a) <b>holds</b> (as a beneficial owner or otherwise) any <b>asset located outside India</b> or has a <b>signing authority</b> in any <b>A/c located outside India</b>;</li> <li>(b) is a <b>beneficiary</b> of any <b>asset located outside India</b>.</li> </ul> </li> </ul> <p><b>Note:</b> Asset includes any financial interest in any entity o/s India.</p> <p>❖ <b>This proviso is not applicable to RNOR.</b></p>
<b>5<sup>th</sup> Proviso to Section 139(1)</b>	<ul style="list-style-type: none"> <li>▪ An Individual who is a beneficiary of any asset located outside India → <b>Not required to file ROI</b> under 4<sup>th</sup> proviso to section 139(1), <b>if such income is includible in the Income of the Beneficial owner.</b></li> </ul>



- ☞ **Beneficial owner** → Individual who has paid consideration for acquiring the asset for the immediate or future benefit of himself or any other person.
- ☞ **Beneficiary** → Individual who derives benefits from the asset during PY & consideration for acquiring such asset has been provided by any other person.

**Note:** Assessee can furnish his ROI even if his Total Income < Basic Exemption Limit.  
The Law doesn't prohibit the assessee to file ROI if his total income does not exceed BEL.

**CQ2.** Paras is resident of India. During FY 2018-19, interest of Rs. 2,88,000 was credited to his Non-resident (External) Account with SBI. Rs. 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned Rs. 3,000 as interest on this saving account. Is Paras required to file ROI? What will be your answer, if he owns one shop in Kerala having area of 150 sq. ft.?

**Answer:** Individual is required to furnish a ROI u/s 139(1) if his total income, before giving effect to the deductions under Chapter VI-A & exemption u/s 10(38), exceeds BEL.

#### Computation of Total Income of Mr. Paras for AY 2019-20

Income from other sources	
Interest earned from Non-resident (External) Account Rs. 2,88,000 [Exempt u/s 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	NIL
Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
<b>Gross Total Income</b>	<b>33,000</b>
Less: Deduction u/s 80TTA (Interest on saving bank account)	3,000
<b>Total Income</b>	<b>30,000</b>

Since total income of Mr. Paras for AY 2019-20, before giving effect to the deductions u/c VI-A, is less than BEL of Rs. 2,50,000, he is not required to file return of income for AY 2019-20.

**Owning a shop having area of 150 sq.ft in Kerala would not make any difference to the answer.**

**Note:** In the above solution, Interest of Rs. 2,88,000 earned from NR (External) A/c has been taken as exempt assuming that Mr. Paras, a resident, has been permitted by RBI to maintain aforesaid account.

However, if he is not permitted, interest would be taxable. In such case, his total income, before giving effect to the deductions under Chapter VIA, would be Rs. 3,21,000 (Rs. 30,000 + Rs. 2,88,000 + Rs. 3,000), which is higher than BEL of Rs. 2,50,000.

Consequently, he would be required to file ROI for AY 2019-20. Ownership of shop in Kerala is immaterial.

### DUE DATE FOR FILING ROI [SECTION 139(1)]

Assessee		Due date
1	Assessee who is required to furnish Transfer Pricing Report u/s 92E relating to International transaction/Specified Domestic transaction.	<b>30 November</b> of relevant AY
2	<ul style="list-style-type: none"> <li>▪ <b>Any Company</b> (other than company required to furnish TPR u/s 92E);</li> <li>▪ Any <b>other person</b> whose <b>books of A/cs</b> are required to be <b>audited</b> under this Act or under any other law for the time being in force; or</li> <li>▪ <b>Working Partner of Firm</b> whose <b>Accounts</b> are required to be <b>Audited</b> under this Act or under any other law for the time being in force.</li> </ul>	<b>30 September</b> of relevant AY
3	Any other Assessee.	<b>31 July</b> of relevant AY.

#### Points to Remember:

1. DD of filing ROI in case of Non-working partner → **31<sup>st</sup> July of AY** whether A/cs of the firm are required to be audited or not.
2. **Firm whose A/cs are not required to be audited** → **Last date for filing ROI** by firm as well as partners (whether working or non-working) shall be **31<sup>st</sup> July of the AY**.
3. If last date of filing of ROI/ROL is **public holiday** → Assessee can file ROI/ROL on **next working day**.

**Ex:** Mr. X has his own business & his turnover for PY 2018-19 is Rs. 102 lacs. In this case, the last date of filing the return of income shall be 30.09.2019, but if turnover is Rs. 97 lacs, the last date shall be 31.07.2019.

## RETURN OF LOSS [SECTION 139(3)]

- ROL is required to be furnished if a person wants to carry forward his losses.
- **ROL** shall be furnished in same manner as of ROI within the time allowed u/s 139(1).
- If any person has sustained any loss in PY & he wants to carry forward following losses:
  - Business loss u/s 72(1);
  - Speculation business loss u/s 73(2);
  - Loss from specified business u/s 73A(2);
  - Loss under the head "Capital Gains" u/s 74(1);
  - Loss from the activity of owning & maintaining race horses u/s 74A(3);he shall mandatorily furnish a ROL within the time prescribed u/s 139(1) to carry forward loss.
- Section 139(3) r/w section 80 require the assessee to file ROL in the same manner as in the case of ROI within the time allowed u/s 139(1) & all the provisions of this Act shall apply to ROL as if it is a ROI u/s 139(1).

**Note:** It is not mandatory to file ROL (Except in case of Company/Firm) as there is No Income.

**Requirement of Section 80:** In order to carry forward the above losses, assessee shall file ROL u/s 139(3) on/before DD specified u/s 139(1).

### **Losses which can be carried forward even if ROL is filed after DD u/s 139(1)**

- (i) Loss u/h "Income from house property" u/s 71B &
- (ii) Unabsorbed depreciation u/s 32.

### **Points to Remember:**

1. Section 139(3) r/w section 80 does not prohibit the set off of losses of the current year even if ROI is filed after the due date u/s 139(1). It only prohibits the carry forward of such losses.  
Thus, Loss can be set off (Inter - Source Set off u/s 70 & Inter - Head Set off u/s 71) even if the ROL is filed after the DD u/s 139(1).
2. Loss of Current Year cannot be Carried Forward unless ROL is submitted before the Due Date.  
But Brought Forward Losses can be carried forward (Loss of earlier years for which ROL was filed within DD in that year) even if No ROL is filed in Current Year.
3. Belated ROL filed u/s 139(4) cannot be said to be filed in accordance with section 139(3) & thus loss cannot be carried forward. However, the assessee may seek remedy by making an application to CBDT for relaxation of time to carry forward the loss. – Circular 8/2001.

### **CONCEPTUAL QUESTIONS**

**CQ3.** Whether loss can be carried forward if ROI is furnished after DD specified in section 139(1)?

**Answer:** Section 80 r/w section 139(3) provides that the loss u/s 72(1)/73(2)/73A(2)/74(1)/74A(3) cannot be carried forward if ROL is filed after DD u/s 139(1). However HP loss & unabsorbed depreciation can be carried forward even if ROI is furnished after DD of filing ROI.

**CQ4.** Can loss be set off if ROI is furnished after the due date specified in Section 139(1)?

**Answer:** Section 80 r/w section 139(3) prohibits the "carry forward of losses" if ROI is filed after DD u/s 139(1). It does not prohibit the set off of losses. Therefore, losses can be set-off even if ROI is furnished after DD.

**CQ5.** DD of filing ROI is 30.09.2019 of Mr. A. ROI is filed on 15 Oct 2019 as follows: Loss from Business: (Rs. 8 Lacs); IFOS: Rs. 6 Lacs; Total Income: (Rs. 2 lacs). Is set off of loss u/h "PGBP" correct as per Section 80 r/w Sec 139(3)?

**Answer: Yes.** Loss can be set off (Inter- source Set off u/s 70 & Inter-Head set off u/s 71) even if the ROL is filed after the DD u/s 139(1). However, loss of Rs. 2 Lacs cannot be carried forward.

**CQ6.** Due Date of filing ROI is September 30, 2019 in case of Mr. C. ROI is filed on October 15, 2019 as follows: Current Year Business Loss: (Rs. 1 Lacs); B/F losses for AY 2018-19 (ROL filed w/I DD): (Rs. 3,00,000). Whether losses can be carried forward?

**Answer:** Losses of AY 2018-19 of Rs. 3,00,000 are carried forward to AY 2019-20 as ROI for AY 2018-19 has been filed within the due date. However, Loss of AY 2019-20 shall not be carried forward to AY 2020-21.

## BELATED RETURN [SECTION 139(4)]

- If any person has **not furnished a ROI within time allowed u/s 139(1)**, he may still furnish the ROI for any PY at any time
- (a) **Before the end of the relevant AY** or
- (b) Before the completion of Assessment u/s 144, **whichever is earlier.**

**Ex:** Last date for filing ROI for PY 2018-19 (AY 19-20) is 30.9.2019; but a belated return may be filed at any time on or before 31.3.2020 (before the end of AY 2019-20 or before the assessment is completed, whichever is earlier).

**Completion of Assessment** means date of passing Assessment order & not date of service of order. Thus, ROI submitted after assessment is completed but before the notice of demand is served would be invalid.

### CONCEPTUAL QUESTIONS

**CQ7.** For PY 2018-19, upto what date can the assessee file ROI if no ROI has been filed & no assessment order has been made u/s 144 till date.

**Answer:** Belated ROI can be filed before the end of AY 2019-20. i.e before 31.3.2020.

**CQ8.** For PY 18-19, no ROI has been filed. AO makes a BJA u/s 144 on 31.12.2019. Upto what date can assessee file Belated ROI u/s 139(4).

**Answer:** Belated ROI can be filed before the end of AY 2019-20. (i.e before 31.3.2020) OR before completion of assessment (i.e before 31.12.2019) whichever is earlier. Thus, belated ROI can be filed before 31.12.2019.

## REVISED RETURN [SECTION 139(5)]

**When a ROI can be revised:** If an assessee after filing ROI,

- (a) u/s 139(1) → [Original ROI]
- (b) u/s 139(4) → [Belated ROI]

Discover any **omission or wrong statement** in the return filed, he may furnish a revised return.

**Time Limit of filing Revised ROI:** Such revised return can be filed at any time:

- (a) **Before the end of the relevant AY** or
- (b) Before the completion of assessment u/s 143(3) or u/s 144 (**whichever is earlier**)

**Ex:** If ROI is filed by the assessee for AY 2019-20 on 15.9.2019 & he afterwards discovers some mistake, he can file a revised return at any time upto 31.3.2020 or before the completion of the assessment, whichever is earlier.

### Points to Remember:

1. ROL u/s 139(3) is deemed as ROI u/s 139(1). Thus, **ROL can be revised u/s 139(5).**
2. **If original ROL is revised** as per section 139(5), then **Revised ROL** shall **substitute the original ROL** from the date original ROI is filled & such revised ROL shall be deemed to be filed within time limit of section 139(1) & **loss claimed in revised ROL can be carried forward.**
3. Revised return substitutes the original return.
4. There is no provision in Income Tax Act to enable assessee to revise his income by filing a revised statement of income to AO. The only option available to the assessee is to file revised return.
5. **Belated Return u/s 139(5) can be revised.**
6. Even a **Revised Return** can be **revised again** within the time limit of section 139(5).

### QUESTIONS

**CQ9.** Mr. X filed a ROI for PY 2018-19 on 31.7.2019. He later files a revised return on 15.12.2019 declaring a loss of Rs. 1,00,000. Can the loss be allowed to be carried forward?

**Answer:** Revised return substitutes the original return. Since original ROI was filed within DD u/s 139(1), revised ROL shall be deemed to have been filed within DD & thus loss of Rs. 1,00,000 shall be allowed to be carried forward.

**CQ10.** Original return for PY 2018-19 was submitted by X on 15.6.2019. Return was processed u/s 143(1) on 5.8.2019. X wishes to file revised return. (a) Upto what time can he do? (b) What if regular assessment is completed on 31.8.2019.

**Answer:** (a) He can file a revised return, processing of return u/s 143(1) is not treated as assessment for this purpose. Revised return can be filed at any time before the end of AY 2019-20 i.e upto 31.3.2020.

(b) In this case revised return can be filed before completion of Assessment i.e. upto 30.8.2019.

**CQ11.** How many times can a return be revised? **Any Number of times but within the time limit of Section 139(5).**

**CQ12.** Can a return filed within time extended by CBDT u/s 119 be revised?

**Answer:** Yes, as return filed within the extended time limit is deemed to be filed within time limit of 139(1).

**CQ12.** Explain with brief reasons whether ROI can be revised u/s 139(5) in the following cases:

(i) Belated return filed u/s 139(4). (ii) Return already revised once u/s 139(5). (iii) ROL filed u/s 139(3).

**Solution:** (i) A belated return filed u/s 139(4) can be revised.

(ii) A return revised earlier can be revised again as the first revised return replaces original return. Therefore, if the assessee discovers any omission or wrong statement in such revised return, he can furnish 2<sup>nd</sup> revised return within prescribed time i.e. before end of relevant AY or before completion of assessment, whichever is earlier.

(iii) ROL filed u/s 139(3) is deemed to be return filed u/s 139(1) & thus can be revised u/s 139(5).

### **DEFECTIVE RETURN [SECTION 139(9)]**

<b>Power of AO</b>	AO has the <b>power to call</b> upon the <b>assessee</b> to <b>rectify a defective return</b> .
<b>Intimation of defect</b>	If AO considers that ROI filed by assessee is defective, he may intimate the defect <b>to assessee</b> & give him an <b>opportunity to rectify defect within 15 days</b> from the date of such intimation.
<b>Extension of Time by AO</b>	AO has the discretion to <b>extend the time beyond 15 days</b> on <b>application by assessee</b> .
<b>Consequences of Non-rectification</b>	If the <b>defect is not rectified within 15 days</b> or such further extended period as allowed by AO, then the return would be treated as an <b>invalid return</b> and it <b>would be deemed that the assessee had failed to furnish the return</b> .
<b>Condonation of Delay</b>	Where the assessee <b>rectifies the defect after the expiry 15 days</b> or the further extended period, <b>but before assessment is made</b> , AO <u>may</u> can <b>condone the delay</b> & <b>treat</b> the return as a <b>valid return</b> .

### **ROI SHALL BE REGARDED AS DEFECTIVE IN THE FOLLOWING CONDITIONS:**

- Annexures, Statements & columns in ROI** relating to computation of income chargeable under each head of income, computations of GTI & total income have **NOT** been **duly filled** in.
- ROI is NOT Accompanied** by the following:

(a) **Statement showing the computation of tax payable** on the basis of the return.

(b) **Audit Report u/s 44AB**. (If such report has been furnished prior to furnishing ROI, a copy of such report & the proof of furnishing the report should be attached).

(c) **Proof regarding the tax claimed** to have been **deducted or collected at source** & **Advance tax & SAT** claimed to have been paid.

(However, the return will not be regarded as defective if (a) TDS/TCS certificate was not furnished u/s 203/206C to the person furnishing his ROI, (b) such certificate is produced within 2 years).

(d) **Proof** of the amount of **compulsory deposit claimed** to have been **paid** under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974;

3. **If Regular books of A/c are maintained by Assessee → ROI is NOT Accompanied by:**

- (i) Copies of Manufacturing account;
- (ii) Trading account,
- (iii) P&L A/c or Income & Expenditure A/c;
- (iv) Balance sheet;
- (v) Personal accounts as detailed below:

Proprietary Business/Profession	Personal Accounts of the proprietor
Firm/AOP/BOI	Personal Accounts of Partners (Members)
Partner or member of a firm, AOP/BOI.	Partner's Personal account in Firm; Member's Personal Account in AOP/BOI.

4. **Regular books of A/c are not maintained by assessee → ROI is NOT Accompanied by**

- (i) Statement indicating Amount of turnover or gross receipts, gross profit, expenses; & net profit.
  - (ii) Basis on which such amounts mentioned in (i) above have been computed,
  - (iii) Amount of total sundry debtors, sundry creditors, SIT & cash balance as at the end of PY.
5. Copies of Audited P&L A/c, Balance sheet & Auditor's report.
6. Cost Audit Report (If Cost A/c of an assessee have been audited u/s 148 of CA, 2013).

## PERMANENT ACCOUNT NUMBER [SECTION 139A]

### APPLICATION FOR PAN - SECTION 139A(1)

#### 1. LEGAL REQUIREMENT:

- Every person who has not been allotted a PAN shall (within such time as may be prescribed) apply to AO for the allotment of PAN in the following cases:
  - (i) If his **total income** or total income of any other person in respect of which he is assessable under this Act **during any PY exceeds BEL**; or
  - (ii) If he is carrying on any **business or profession** whose **total sales, turnover or gross receipts** are or is likely to **exceed Rs. 5,00,000** in any PY; or
  - (iii) Every Resident Person (other than Individual) which enters into a **financial transaction** of **aggregate amount ≥ Rs. 2,50,000 in a FY**.
  - (iv) Managing director, director, partner, trustee, author, founder, karta, CEO, Principal officer or office bearer of the person mentioned in (iii) above or his agent.

#### 2. POWER OF CG:

- CG is empowered to specify any class/classes of persons by whom tax is payable by notification in OG for allotment of PAN. Such persons are required to apply within prescribed time in notification for the allotment of a PAN [Sub-section (1A)].
- For collecting any useful/relevant information, CG may notify any class or classes of persons & such persons shall apply to AO for allotment of a PAN [Sub-section (1B)].

#### 3. POWER OF AO:

- AO may allot PAN to any other person having regard to nature of transactions (whether any tax is payable by him or not) in the prescribed manner.

#### 4. SUO MOTO APPLICATION BY THE ASSESSEE:

- Any person (other than mentioned above) may apply to AO for allotment of PAN.



## QUOTING OF PAN

A Person must quote PAN in all the following documents:

- (a) All Returns to any authority/All challans for the payment of any sum due under the Act;
- (b) All documents pertaining to the following transactions entered into by any person.

## TRANSACTIONS WHERE QUOTING OF PAN IS COMPULSORY

### (A) PURCHASE OR SALE OF ASSET

#### (i) SECURITIES

Nature of transaction	Value of transaction
Sale or Purchase of securities	Transaction Value > Rs. 1 lac
Sale/purchase of Unlisted shares from open market	Transaction Value > Rs. 1 lac
Payment for Purchase of units of MF	Transaction Value > Rs. 50,000.
Payment for acquiring Debenture/Bonds issued by company	Transaction Value > Rs. 50,000
Payment to RBI for acquiring Bonds issued by it	Transaction Value > Rs. 50,000

#### (ii) OTHER ASSETS

Nature of transaction	Value of transaction
Sale/Purchase of Immovable property	If SC/SDV referred in 50C > Rs. 10 lacs.
Sale/Purchase of Goods or Services	Transaction Value > Rs. 2 lacs
Sale/Purchase of Motor Vehicle which requires registration (other than two-wheeler)	All Transactions.

### (B) TRANSACTION WITH BANKING COMPANY/CO-OPERATIVE BANK/POST OFFICE

Nature of transaction	Value of transaction
Opening a <b>Bank account</b> (other than Time Deposit)	All Transactions
Making Application for <b>Issue of Credit/Debit Card</b>	All Transactions.
Opening <b>Demat</b> Account	All Transactions.
<b>Cash Deposit</b> with Bank	Total Cash Deposit > Rs. 50,000 in a day
<b>Note:</b> Cash Deposits > Rs. 2,50,000 during 9 <sup>th</sup> Nov 2016 - 30 <sup>th</sup> Dec 2016 → PAN required	
Purchase of <b>Bank Draft/Pay orders/Cheque</b>	Payment in cash > Rs. 50,000 in one day.
<b>Time deposit</b> with (i) Banking company/Co-operative bank/Post office (ii) Nidhi Company [Ref. in Sec 406 of CA, 2013] (iii) Registered NBFC.	Deposit > Rs. 50,000 at a time <b>OR</b> Total Deposit > Rs. 5 Lacs during a FY.
Payment for <b>Prepaid Payment Instruments</b> to Banking company/Co-operative bank.	Total Payment in cash/bank draft/pay order > Rs. 50,000 during the FY.

### (C) OTHER TRANSACTIONS

Nature of Transactions	Value of Transaction
<b>Hotels/Restaurants bills</b> at any one time	Cash Payment > Rs. 50,000
Payment for <b>Travel to Foreign</b> Country or Payment for Purchase of Foreign Currency at any one time	Cash Payment > Rs. 50,000
Payment of <b>Life Insurance Premium</b> to Insurer	Total amount >Rs 50,000 in a FY



**Note:** In case of **Change** in Address/Name & Nature of Business → **Intimate** such change to **AO**.

- ❖ **MINOR** → shall quote **PAN of his Parent or Guardian** while entering into above transactions.
- ❖ **PERSON NOT HAVING PAN** → **Declaration in Form No. 60** giving details of such transaction.
- ❖ **NON-APPLICABILITY:** Provisions of this rule shall not apply to: (i) **CG/SG**; (ii) Consular Offices.

**Meaning of Some Terms:**

**[To be Read Once]**

- 1. Payment in connection with travel:** Payment towards fare, or to a travel agent or a tour operator, or to an authorized person as defined in section 2(c) of the Foreign Exchange Management Act, 1999
- 2. Travel agent or tour operator:** A person who make arrangements for air, surface or maritime travel or provides services relating to accommodation, tours, entertainment, passport, visa, foreign exchange, travel related insurance or other travel related services either severally or in package
- 3. Time deposit:** Any deposit which is repayable on the expiry of a fixed period.

**INTIMATION OF PAN TO DEDUCTOR OF TDS - [Sub-section (5A)]**

- Every Payee (person who receives any amount from which tax has been deducted at source) shall intimate his PAN to the deductor (person responsible for deducting such tax).

**QUOTING OF PAN IN CERTAIN DOCUMENTS - [Sub-section (5B)]**

- Where any amount has been paid after deducting tax at source, deductor shall quote the PAN of payee (person to whom the amount was paid) in the following documents:
  - Statement furnished u/s 192(2C) giving particulars of Perquisites/Profits in lieu of salary;
  - Certificates for Tax Deducted issued to the person to whom payment is made (payee);
  - Returns made to the prescribed income-tax authority u/s 206;
  - Statements prepared & delivered in accordance with section 200(3).

**Exception to sub-sections (5A) & (5B):** Above sub-sections (5A) & (5B) shall NOT apply to:

- (i) Person who does not have taxable income or
- (ii) Person who is not required to obtain PAN;

if such person furnishes a **declaration u/s 197A** that **Tax** on his Total Income for PY will be **NIL**.

**COMPUTERIZED PAN**

- CBDT had introduced a new scheme of allotment of computerized 10-digit PAN.
- Such PAN comprises of **10 Alphanumeric characters** & is issued in the form of laminated card.
- All person who were allotted PAN earlier (Old PAN) & all person who were required to apply for PAN & did not apply, shall apply to AO for new series PAN within specified time.
- Once the new series PAN is allotted to any person, the old PAN shall cease to have effect.
- No person who has obtained the new series PAN shall apply, obtain or process another PAN.

## QUOTING OF AADHAR NUMBER [SECTION 139AA]

<b>Mandatory Quoting of Aadhar No.</b>	Every person eligible to obtain Aadhar Number <b>must mandatorily quote</b> Aadhar Number in: <b>(a) Application form for Allotment of PAN; (b) ROI.</b>
<b>NO Aadhar → Quote Enrolment Id</b>	If a person does not have Aadhar Number, he is required to quote <b>Enrolment ID of Aadhar application form.</b> <b>Enrolment ID:</b> 28 Digit Enrolment Identification Number issued to a resident at the time of enrolment for Aadhar.
<b>Update Aadhar No. to Authorities</b>	Every person who has been allotted PAN & who is eligible to obtain Aadhar Number, shall <b>intimate his Aadhar No. to the prescribed authority</b> before date notified by CG.
<b>Consequences of Failure</b>	If a person fails to intimate Aadhar Number, <b>PAN allotted to such person shall be deemed to be invalid</b> & Provisions of the Act shall apply, as if the person had not applied for allotment of PAN.

**Exceptions:** Provisions of Sec 139AA would not apply to Individual who does not possess Aadhar number or Enrolment ID & is:

- (a) Residing in States of Assam, Jammu & Kashmir and Meghalaya;
- (b) Super Senior Citizen [Age ≥ 80 years at any time during PY;
- (c) Non-Resident;                      (d) Not a Citizen of India.

## SUBMISSION OF ROI THROUGH TAX RETURN PREPARERS [SECTION 139B]

### OBJECTIVE OF FRAMING THE SCHEME

- To enable **any specified class or classes of persons** to prepare & furnish their ROI through TRP authorized to act as TRP under the Scheme.
- **TRP shall** assist the persons furnishing ROI in a manner that will be specified in the Scheme & shall also **affix his signature on such ROI.**

### NOTIFIED SCHEME

- CBDT has framed the Tax Return Preparer Scheme, 2006, which came into force from 1.12.2006.
- **TRP → Any Individual who has been issued a TRP Certificate & Unique Identification Number** to carry on the profession of preparing ROI as per the provisions of this Scheme.

#### **Scheme may provide for the following:**

- Manner & Time Period for which TRPs shall be authorized;
- Educational & other qualifications, & training etc. to act as a TRP;
- Code of conduct for TRP;
- Duties & Obligations of TRP;
- Circumstances under which authorization given to TRP may be withdrawn; &
- Any other relevant matter as may be specified by the Scheme.

### EDUCATIONAL QUALIFICATION FOR TAX RETURN PREPARERS

- Individual, who holds a bachelor's degree from recognised Indian University/institution, or
- Individual who has passed Intermediate level exam conducted by ICAI, ICSI, ICAI(CMA).

Tax Return Preparer can be any Individual, **OTHER THAN**

- (a) Officer of Scheduled bank in which assessee maintain current A/c or has regular dealings.
- (b) Legal practitioner who is entitled to practice in any civil court in India.
- (c) Chartered Accountant.
- (d) Employee of “Specified class of Person”.**

**SPECIFIED CLASS OF PERSONS → ANY PERSON OTHER THAN**

- (a) Company;
- (b) Person whose accounts are required to be audited u/s 44AB & is required to furnish ROI.

**PC Note:** We have studied that Employees of “specified class of persons” cannot act as TRP. & we know that “Specified class of persons” excludes Company & Person whose accounts are required to be audited u/s 44AB & who is required to furnish ROI.

**Thus, Employees of companies & persons whose accounts are required to be audited u/s 44AB can act as TRP.**

**FOLLOWING PERSONS CANNOT FURNISH ROI THROUGH TRPs:**

- (a) Any Person other than Individual & HUF. **[Only Individual & HUF are eligible person]**
- (b) Individual/HUF carrying out Business or Profession during PY & their Accounts are required to be **audited u/s 44AB** or under any other law for the time being in force; or
- (c) Individual/HUF who is a **Non-Resident in India** during the previous year.

**Note:** Eligible person cannot furnish a **Revised ROI** for any AY through a TRP unless he has furnished original ROI for that AY through such or any other Tax Return Preparer.

**CQ13.** Mrs. Hetal, an individual engaged in the business of Beauty Parlour, has got her books of account for FY ended on 31.03.2019 audited u/s 44AB. Her total income for AY 2019-20 is Rs. 3,35,000. She wants to furnish her ROI for AY 2019-20 through a tax return preparer. Can she do so?

**Answer:** Section 139B provides a scheme for submission of ROI for any AY through a TRP. However, it is not applicable to persons whose books of account are required to be audited u/s 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for AY 2019-20 through a TRP.

**POWER OF CBDT TO DISPENSE WITH FURNISHING DOCUMENTS WITH THE ROI & FILING OF ROI IN ELECTRONIC FORM [SECTION 139C & 139D]**

- CBDT has power to may make rules to exempt any class/classes of persons from the requirement to furnish documents, statements, receipts, certificate, audit reports etc, along with ROI.
- However, on demand, the said documents, statements, receipts, certificate, reports of audit or any other documents have to be produced before the Assessing Officer – [Section 139C]

**Section 139D empowers the CBDT to make Rules related to:**

- (a) Class or classes of persons who shall be required to furnish ROI in electronic form;
- (b) Form & Manner in which ROI in electronic form may be furnished;
- (c) Documents, statements, receipts, certificates or audited reports which may not be furnished along with ROI in electronic form but have to be produced before AO on demand;
- (d) Computer resource or Electronic Record to which ROI in electronic form may be transmitted.

## PERSONS AUTHORISED TO VERIFY RETURN OF INCOME [SECTION 140]

ROI u/s 139 shall be verified:

Assessee		ROI Verified by:
<b>1</b>	<b>Individual</b>	<b>Himself</b>
	Individual is Absent from India	Person duly authorised by him in this behalf holding a valid power of attorney from such individual. (Such power of attorney should be attached to ROI).
	Individual is Mentally Incapacitated from attending to his affairs	His guardian; or Any other person competent to act on his behalf
	Individual cannot to verify ROI for any other reason	Any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to ROI).
<b>2</b>	<b>Hindu Undivided Family</b>	<b>Karta</b>
	Karta is Absent from India or Mentally Incapacitated from Attending to his affairs	Any other adult member of the HUF.
<b>3</b>	<b>Company</b>	<b>Managing Director</b>
	There is <b>No MD</b> or <b>MD cannot verify</b> ROI for any unavoidable reason	By any Director
	Company is <b>Non- Resident</b>	Any person who holds Valid Power of Attorney. Such Power of attorney should be attached to ROI.
	Company in Liquidation/Winding up	The Liquidator
	Company's Management is taken over by CG/SG.	The Principal Officer.
	Where an application for corporate Insolvency Resolution Process has been admitted by Adjudicating Authority under the Insolvency & Bankruptcy Code, 2016.	Insolvency Professional appointed by such Adjudicating Authority
<b>4</b>	<b>Firm/LLP</b>	<b>Managing Partner/ Designated partner</b>
	There is No MP/DP or MP/DP cannot verify ROI for unavoidable reason	Firm: Partner of the firm not being a minor. LLP: Any Partner
<b>5</b>	<b>Local authority</b>	<b>Principal officer thereof</b>
<b>6</b>	<b>Political party</b>	CEO of such party (whether known as Secretary or by any other designation).
<b>7</b>	<b>Any other association</b>	Any Member of Association or Principal Officer.
<b>8</b>	<b>Any other person</b>	Such Person or his Agent.

## SELF-ASSESSMENT TAX [SECTION 140A]

<b>Payment of Tax, Interest &amp; Fee before filing ROI</b>	<ul style="list-style-type: none"> <li>➤ If any tax is payable on the basis of Total Income in ROI filed u/s 139(1), such tax shall be paid by the assessee himself after taking credit of (i) Any Tax already paid. (ii) TDS/TCS (iii) Advance Tax.</li> <li>➤ Any Interest u/s 234A/B/C or Fees payable for any delay in filing ROI or any default Shall also be paid with the tax payable before filing ROI.</li> <li>➤ <b>ROI shall be accompanied by Proof of Payment.</b></li> </ul>
<b>Order of Adjustment of Amount paid by the Assessee</b>	<ul style="list-style-type: none"> <li>➤ If <b>SAT</b> paid u/s 140A(1) &lt; <b>Tax + Interest + Fees</b>; then</li> <li>➤ Amount so paid shall first be adjusted towards <b>[Order of Adjustment]</b> <ul style="list-style-type: none"> <li>▪ <b>fees</b> payable &amp;</li> <li>▪ thereafter towards <b>Interest</b> &amp;</li> <li>▪ <b>Balance</b> amount shall be adjusted towards <b>Tax payable.</b></li> </ul> </li> </ul>
<b>Consequence of Failure to Pay Tax/Interest/Fee</b>	<ul style="list-style-type: none"> <li>➤ Assessee shall be deemed to be <b>Assessee in Default</b> in respect of such unpaid Tax or Interest or fees.</li> </ul>

## BEST JUDGMENT ASSESSMENT [SECTION 144] – Theory Question [2M]

**AO** shall **make assessment of Total Income or Loss** to the **best of his judgment** & determine tax payable by the assessee, if:

- (a) Assessee does **not file ROI** u/s 139.
- (b) Does **not comply with notice issued u/s 142** to file ROI/books/furnish required information.
- (c) Does **not** get his **Accounts Audited** as **directed** by AO.
- (d) **Does not comply** with all the **terms of a notice** issued u/s 143(2).

## SOME OTHER RESIDUAL SECTIONS

### OPTION TO FURNISH ROI TO THE EMPLOYER - SECTION 139(1A)

- Salaried employee of **eligible employer** has the option to file ROI for any PY to his employer, in accordance with the scheme notified by CBDT & subject to specified conditions.
- Such employer shall furnish all the ROIs received by him on/before DD in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM) & manner specified in that scheme.
- Any employee who has filed ROI to his employer is deemed to have filed ROI u/s 139(1).

#### Specified Terms & Conditions are:

- This option is not available to employee having PGBP income.
- 'Eligible Employer' means an employer having minimum 50 employees with income exceeding BEL & who has been **allotted Tax Deduction Account number (TAN)**.

### TAX RETURN THROUGH COMPUTER READABLE MEDIA [SEC 139(1B)]

- It enables taxpayer to file ROI in computer readable media, without interface with the department.
- Such person may furnish ROI in accordance with scheme notified by CBDT, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM) & manner as may be prescribed.
- Such return shall be deemed to be a return furnished u/s 139(1).

### POWER OF CG TO EXEMPT SPECIFIED PERSONS FROM FILING ROI [SEC 139(1C)]

- CG may by notification in OG exempt any class or classes of persons from filing ROI subject to satisfying prescribed conditions.

**Note:** This section has been inserted for reducing the compliance burden of small taxpayers.

### PARTICULARS TO BE FURNISHED WITH THE RETURN [SECTION 139(6)]

The prescribed form of the return shall require the assessee to furnish the particulars of:

- Income exempt from tax;
- Assets of the prescribed nature & value, held by him as a beneficial owner or otherwise or in which he is a beneficiary;
- His bank account & credit card held by him;
- Expenditure exceeding the prescribed limits incurred by him under prescribed heads; &
- Such other outgoings as may be prescribed.

### PARTICULARS TO BE FURNISHED WITH ROI BY ASSESSEE ENGAGED IN BUSINESS/PROFESSION [SECTION 139(6A)]

- Audit Report referred to in section 44AB.
- Particulars of the location & style of the principal place where he carries on the business or profession & all the branches thereof.
- Names & addresses of his partners in such business or profession.
- If he is a member of AOP/BOI:
  - ✓ Names of the other members of AOP/BOI &
  - ✓ Extent of the share of the assessee & the shares of all such partners or members in the profits of the business or profession.



# 11. MISCELLANEOUS TOPICS

## DEVICES FOR TAX PLANNING

### A. BOND WASHING TRANSACTION (INTEREST STRIPPING) [SECTION 94(1)]

<b>Circumstances</b>	<ol style="list-style-type: none"> <li>1. If owner of any securities (say Mr. X) <b>sells</b> them <b>before due date</b> of interest to another person (Mr. Y);</li> <li>2. Such <b>other person</b> (Mr. Y) <b>receives interest on such securities on due date</b>; &amp;</li> <li>3. The owner <b>buy back</b> such securities <b>after due date</b> of Interest &amp;</li> <li>4. <b>Interest</b> on such securities <b>received by the other person</b> to whom such securities were sold <b>is not taxed/taxed at lower rate</b>.</li> </ol>
<b>Consequences</b>	<ul style="list-style-type: none"> <li>▪ <b>Interest received</b> by other person on such securities shall be <b>included in Total Income of original owner</b>.</li> </ul> <p><b>Note:</b> If any person has had beneficial interest in securities at any time during PY &amp; the result of transaction relating to securities(sale) is that → No income is received or less income is received than what would have been actually receivable on day to day basis, then such proportionate income shall be clubbed in his hands.</p> <p><b>Ex:</b> A security has been held for 7 months &amp; then sold; then 7 months interest shall be clubbed in his hands.</p>
<b>Exception</b>	If AO is satisfied that <b>no tax has been avoided or Avoidance was exceptional</b> & not systematic & there has been no such avoidance in his case for any 3 preceding years.

### B. DIVIDEND STRIPPING [ 3 → 3/9]

<b>Applicability</b>	Any securities/units of MF.
<b>Circumstances</b>	<b>Buy</b> → 3 Months before Record Date & <b>Sell</b> → 3 Months (Securities)/9 months (Units of MF) after Record Date & <b>Dividend/Income</b> on securities/ units received by such person has been <b>Exempt</b> .
<b>Consequences</b>	Loss arising on sale shall be reduced by Dividend/ Income received/ receivable.

**CQ1.** W purchases 1000 shares of a company for Rs. 30,000 on 1.4.2018. The company declares dividend on 31.05.2018 at Rs. 5 per unit. W sells the entire 1000 units on 30.6.2018 for Rs. 27,000. Discuss Tax implications.

**Solution:** Income of Rs. 5,000 is exempt from Tax & to this extent, the loss on sale of shares will be reduced.

The capital gain or loss on transfer of the securities will be calculated as under:

Sale consideration	Rs. 27,000
<b>Less:</b> Cost of acquisition	(Rs. 30,000)
Short Term Capital Gain	(Rs. 3,000)
<b>Add:</b> Dividend Income Received	Rs. 5,000
Net STCG	Rs. 2,000

### C. BONUS STRIPPING [3 → 3/9]

<b>Applicability</b>	Units ONLY
<b>Circumstances</b>	<b>Buy</b> → 3 Months before Record Date & <b>Receive bonus units</b> on such units bought. <b>Sell</b> → All/Any of original Units within 9 months of Record Date & continue to hold bonus units.
<b>Consequences</b>	Loss arising on account of sale of original units shall be ignored for his income computation & shall be deemed to be <b>Cost of bonus units</b> .

## **ABOUT THE BOOK**

- ❖ This book covers whole syllabus of ICAI Module in a relatable sequence so that students shall be able link them.
- ❖ Conceptual questions have been given after the concepts for better conceptual understanding.
- ❖ “To be read once” section covers the part which author feels to be less important from exam point of view.
- ❖ Video on “How to read this book” has been uploaded on our YouTube channel @ CA PRANAV CHANDAK.

## **ABOUT THE AUTHOR**



- ❖ Teaching Experience of more than 6 years.
- ❖ Secured Exemptions in ALL Subjects of CA-IPCC with 500 Marks.
- ❖ Started teaching at the age of 19.
- ❖ Mentored 2000+ Students.
- ❖ 12 AIRs including AIR 7.
- ❖ Known for his unique teaching Style in Direct Tax & Law.

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